

City of Davis

# Independent Police Auditor Report:

Third-party Complaint Regarding Handling of  
Arrest

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## Factual Background

A father submitted a written complaint to express his disappointment over the way DPD officers had handled a recent incident that had resulted in the arrest of his adult daughter for drunk driving. Without disputing the validity of the arrest itself, the father asserted that officers could and should have handled the situation differently, to the point where he characterized it as a "set up."

The relevant police contact began in the early morning hours, when two DPD officers detained and ultimately arrested the young woman's boyfriend. He had been driving her car and initially attracted police attention for both equipment and moving violations. The young woman interacted with the officers during the stop, which included her acknowledging that she had been drinking herself.

After an investigation, one of the officers arrested the boyfriend for DUI and transported him from the scene. The other officer also drove away but parked nearby — only to observe the same car being driven with no headlights. He pulled the car over and arrested the complainant's daughter after establishing (through testing in the field) that she, too, was impaired within the meaning of the law.

The father maintained that it was wrong for the officers to leave her at the original scene in a situation where it was foreseeable that she would attempt to drive herself the short distance home. He wondered, for example, why they hadn't offered to give her a ride, or to otherwise ensure that she had a safe alternative as a now-solitary woman, instead of leaving her with the car keys — and then arresting her as she drove off.

## DPD Investigation

The Department evaluated the relevant police reports and body-worn camera recordings, and assessed the particulars of the complaint through the lens of applicable law and policy. The investigation determined that the arrest had been lawful and that the officers had acted appropriately in their decision-making and communications. Accordingly, allegation of misconduct (which the Department framed in relation to its "Neglect of Duty" policy) was "Unfounded."

The investigative memo included a detailed, thoughtful analysis. It pointed out that the car had been legally parked in the aftermath of the first traffic stop (and thus was fine to be left there). It cited the fact that the officers did not have an initial basis for taking the young woman into custody or keeping possession of her car keys. And it pointed out that an officer had ended the first encounter by saying that he "highly suggested" that she not drive.

Nothing about the initial contact had established a legal duty for the officers to take action towards the woman, nor had she requested assistance in the form of a ride or

other intervention.<sup>1</sup> The memo also listed some of the reasonable alternatives that were available to the woman and that she had refrained from utilizing (presumably in the belief, as she told the arresting officer, that she was capable of safely driving).<sup>2</sup>

## IPA Analysis

We had the opportunity to review the investigation file, including recordings of the respective stops that led to the two arrests. We concurred with the Department's disposition of the complaint. The complainant's frustration was understandable in our view, given how avoidable his daughter's arrest seemingly was. However, the investigation established that the officers' behavior did not rise to the level of misconduct.

The case memo states that officers are generally instructed to avoid transporting passengers when safety is not an apparent issue.<sup>3</sup> Moreover, the woman's focus while engaging with the officers at the first stop was on learning what was going to be happening with the boyfriend. She persisted in her questions and desire to speak with/accompany the boyfriend to the point where the officers seemed to become mildly exasperated, but their treatment of her remained professional. And, without definitively determining her status, they advised her not to drive on multiple occasions. That she chose to do so was unfortunate, but not a function of misconduct on the part of the officers.

That being said, the concerns raised by the complainant merit a discussion of whether the ultimate result was optimal for this encounter. While DPD correctly notes that the woman did not ask for transportation assistance from the officers, the circumstances certainly lent themselves to an inquiry from the officers as to her plans. As we know from experience in other jurisdictions, an outcome worse than her ultimate arrest was foreseeable, and in that event the officers' approach here would have merited understandable public concern.

In Davis, the public expects DPD officers to aspire to and hopefully achieve the optimal result for each civilian encounter. In this case, more consideration for ensuring that the

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<sup>1</sup> Though towing the vehicle or taking the keys would obviously have prevented the young woman from driving (to her ultimate benefit), the responding officers had no legal basis to do so.

<sup>2</sup> Though the stop occurred during early morning hours, the complaint case memo points out that the location was in a populated area of downtown, and that ride share options were presumably still available.

<sup>3</sup> To reiterate, at no point did she ask for a ride or otherwise express uncertainty about her options for getting home.

woman did *not* drive away intoxicated – even without a legal obligation – by inquiring about her transportation status would have been a worthwhile step. And, ideally, the complaint review process would have been a forum for identifying and addressing other options for future reference.