



The Chancellor's Independent Advisory Board on
Police Accountability and Community Safety
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IAB 2022-2023 Year-End Report

September 2023

Dear Chancellor Christ and the broader campus community,

We are pleased to present to you the 2022-2023 IAB Year-End Report. This report, the fourth since you appointed the IAB in 2019, is intentionally brief, and the majority of our perspectives and recommendations are contained in this summary letter. During the past three years, the IAB has monitored and advised progress toward changes in campus safety and police accountability that began in response to the inaugural IAB report (2019-2020). We are pleased that as the 2022-2023 academic year ended, substantial progress had been made on some core goals, including:

- Standing up alternatives to sworn officers in responding to mental health crises
- Continuing work toward a primary response to calls for routine service that does not involve sworn officers
- Replacing the previous mode of investigating and adjudicating complaints of UCPD misconduct

We have had the pleasure of meeting regularly with administrators and other staff leading these efforts and have confidence that in the coming year, these projects will come into full deployment with good prospects, able oversight, and necessary transparency.

We also note the successful completion in 2022-2023 of the hiring of a new leader for UCPD, Chief Yogananda Pittman. We appreciate Chief Pittman's engagement thus far with the IAB and look forward to working with her in the coming year. We believe that early and complete consultation with IAB on any and all policing initiatives is essential to the mission of the IAB and can only benefit the ultimate choices made by UCPD and the VCA. Unfortunately, this has not consistently been the case in the past with UCPD leadership, but we are optimistic that working with Chief Pittman can mark a new direction.

Our main focus in this report is on the future. All things considered, this year has been relatively quiet. The most serious safety incidents, the November 2022 fatal shooting on Durant Avenue and the lethal self-immolation on Bancroft Avenue in March 2023, were horrifying and set off waves of trauma and fear but were not followed by sequels. Political demonstrations, a healthy feature of democracy but with an always serious potential for over-policing and corresponding blow-back, have not happened this year (perhaps because the People's Park construction clearance has been put on hold by courts). The exception to this statement was the strike activities of fall 2023, during which campus felt the safest it has felt in years to the members of the IAB. This evidences the value of public space being a truly public place for gathering, enjoyment, organizing, and community, all of which create safety.

Large-scale armed violence, whether criminally motivated or insurrectionary, always a possibility in America in 2023, spared us this year. None of this can be taken for granted. We need to prepare now for the potential of more volatile circumstances ahead. With those future risks in mind, we note some features of the present in this report that we believe warrant the administration's awareness.

- Both regionally and nationally, there is a recruitment problem regarding police officers and comparable positions like sheriff's deputies. Hiring sworn officers for UCPD faces potentially high competition in incentives. It is crucial that the campus not compromise its standards in the face of this competition.
 - Realistically, we will have to adapt to fewer officers on campus, which we actually understand to be an opportunity for the strategic consideration of how to offload as many non-necessary duties as possible from sworn officers, support the initial spirit of campus safety measures articulated in the 2019-2020 IAB report and Chancellor's commitments, and avoid the high risks that comes with "burn out" in officer roles.
- While there is evidence that all things being equal, more police officers can produce less crime over time, this research is thin on what police actually do that most effectively reduces crime. Other research suggests that non-police actors are likely to be equally effective at interrupting patterns of high crime, and typically without the consequences of discriminatory policing, human caging, cycles of criminalization, and other forms of carceral state violence.
- The potential for police officers to reduce crime depends a lot on context and practice. For example, how police can impact safety in the US capital is surely different from how they can impact safety in the south east sector of Washington D.C. and surely different from how they impact safety on the UC Berkeley campus. Importantly, safety is not monolithic, and we must recognize that police activities can create safety for some - usually wealthier, whiter people and their assets - while creating threat for others.
- Given these realities and empirical evidence of the strategies that support safety and dignity for all, **we are resolutely opposed to an increase in the number of sworn officers on campus.**
- Furthermore, in recognition of the challenges facing policing and the importance of context, **the IAB in 2023-2024 proposes a close examination with the Chief of Police and the Vice Chancellor of Administration (VCA) of UCPD's current staffing, workload, and deployment along with patterns of safety threats facing campus and its environs.**
- **The IAB additionally proposes to cosponsor with the VCA a one-day campus conference in Spring 2024 on non-police strategies for improving safety, community, and resilience in higher education environments with campus administrators, community activists, academic experts, and other people affiliated with and/or living near campus.**
- The IAB has three additional recommendations to support work underway:
 - **Continue to fully fund the Mobile Crisis Response Team and continuum of care as the team prepares for a full launch.** It is important to note that the funding is for a mobile crisis team within a full continuum of care model. The approved proposal highlighted that an ethical mobile crisis program is one that includes prevention and

postvention programming as part of the continuum. The program cannot be successful without complete financial support, especially support for the protection of its budget from other worthy but auxiliary efforts. **Furthermore, maintain the separation of the Mobile Crisis Response Team from UCPD, as the Team's sovereignty, leadership, and methods in crisis situations are essential for positive outcomes.**

- **As related to changes in police investigation procedures (the new Police Accountability Board), we recommend that the material of investigations be proactively published,** rather than withheld until community members file Public Records Act requests (see e.g. SB 1421 and SB 16), since such requests are burdensome for all involved and take staff time. Additionally, this is an important step for transparency and accountability. However, the sovereignty and desires of complainants should be paramount when determining what to publish, and clear protocols should be established for what should not be proactively published based on the type of officer misconduct and the content of the investigation (for example, instances of officer dishonesty should generally be treated differently than instances of officer sexual assault).
- **Via an external entity, audit UCPD's crime logs and other records to ensure that UCPD is following campus policies on referring students to the Center for Student Conduct's Restorative Justice Pathways program, rather than citing and/or charging students.** Last year, the Associated Students of the University of California's Student Advocate's Office reports having supported students that UCPD cited for minor offenses (e.g. shoplifting), contrary to campus policies and goals to "contribute to the holistic development of students by administering the Code of Student Conduct through equitable practices that promote education, foster a sense of accountability, and encourage community responsibility and mutual respect." Citing students for minor offenses does not promote student and campus community wellbeing, learning, and basic needs security, nor does it repair relationships that may be damaged by harmful conduct.

Thank you for your partnership,

The 2022-2023 Chancellor's Independent Advisory Board on Police Accountability and Community Safety

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Appendix: On UCPD Expansion

This year has seen important progress toward completing some of the Chancellor's major goals on establishing police accountability (the new investigation procedure and Police Accountability Board, which moves investigations of officer misconduct out of UCPD to a civilian oversight board and investigators at UC Davis) and shifting toward non-carceral modes of creating safety on campus (e.g. the Mobile Crisis Response Team housed at University Health Services). We fear, however, that this progress could be dwarfed in the long run by a massive expansion of UCPD's sworn officer force through the hiring over the next several years of as many as 20 new officers. The IAB believes that this process ought to pause after the initial round of hiring which we understand to be already under way. During this pause we would propose that the IAB, the Vice Chancellor of Administration, and Chief Pittman undertake an intensive review of how UCPD sworn personnel are currently deployed as related to emerging best practices and campus community perspectives on safety and policing.

Our concern is not with Chief Pittman's intentions and abilities to hire the best possible sworn personnel in the current market. We applaud Chief Pittman's transparency (indeed we only learned of this expansion through meeting with the Chief). Our concerns are instead based on the potential expense and opportunity costs of a significant expansion in the sworn personnel of UCPD, especially when compared to other staffing choices that could contribute to the safety of all on campus without the costs that policing imposes in racial profiling and disproportionate harm.

Specifically, we believe that three factors lean in favor of a considered approach that seeks to find the answer to the right size of UCPD's sworn officer staff in the future rather than relying on practices of the past.

First, there is a nationwide and Bay Area shortage of candidates with the required training.

- <https://www.themarshallproject.org/2023/01/21/police-hiring-government-jobs-decline>
- <https://www.nytimes.com/2022/12/25/us/police-officer-recruits.html>
 - Relevant commentary on this type of journalism:
<https://equalityalec.substack.com/p/a-shortage-of-punishment-bureaucrats>

This is particularly acute in the Bay Area, where local city leadership has been under pressure to address the post-pandemic rise in certain kinds of crime and changes in perceptions of safety, often driven by media narratives that fail to provide full context and the challenges of collecting complete information.¹

- <https://www.nbcbayarea.com/news/local/alameda-police-department-hiring-bonus/3200899/>
- <https://www.sfchronicle.com/sf/article/sfpd-police-raise-approved-crime-in-sf-17897716.php>

This may be due in part to short term factors like strong demand for employment that does not require college degrees and protests against policing after George Floyd's murder. But we believe it may also reflect the long term demoralization of a workforce whose path to professionalization has been problematic (a cause not helped by the powerful politicized unions that now dominate employment in policing) and where new ways of envisioning the role of police have taken a rear seat to novel

¹ <https://fivethirtyeight.com/features/many-americans-are-convinced-crime-is-rising-in-the-u-s-theyre-wrong/>

technologies and revamped failed practices from the late 20th century in the form of crime suppression teams, broken windows policing, and the ongoing criminalization of substance use and homelessness.

Second, while many people look to more police as the only solution to more crime (or more fear of crime), the empirical basis for this assessment is dependent on a few studies mostly looking backward at the last decades of the 20th century.

- See e.g. Chalfin, Aaron and McCrary, Justin. The effect of police on crime: New evidence from US cities, 1960-2010. No. w18815. National Bureau of Economic Research, 2013. [Link](#).
 - This research does not show “how” police reduce crime or what activities they can do that optimize crime reduction
 - This research does not take into account harms caused by the police
- Importantly, other research shows that many of the ways that police can reduce crime can be achieved by non-police actors.
 - Sharkey, Patrick. June 12, 2020. “Perspective: Why do we need the police? Cops prevent violence. But they aren't the only ones who can do it.” Washington Post. [Link](#).
- Notably, reliance on policing to incarcerate people for criminal violations as a method of fostering safety *does not* in fact reduce crime and may actually be criminogenic, in addition to often being cruel.
 - Petrich, Damon; Pratt, Travis; Lero Johnson, Cheryl; and Cullen, Francis. 2021. Custodial sanctions and reoffending: A meta-analytic review. *Crime and Justice*. [Link](#).

As legal scholar and economist John Pfaff notes in a helpful [article](#) in The Appeal, studies arguing for policing as a technology of safety must be qualified in two important respects. First, the relatively modest effects on crime they estimate do not consider how non-sworn professionals with appropriate qualifications (e.g. licensed health care providers, peer workers, paramedics) could create the same modest effects on crime that more police do. Indeed, economists believe that deterrence is only marginally affected by the threat of formal sanctions and the potential thief is just as or more likely to be deterred by a competent group of clearly marked employees (a lesson retailers have forgotten or can no longer afford when they set up automatic pay stations with hardly an eye between them and the door). Deterring crime through non-sworn employees would be far less expensive and more in keeping with the Chancellor’s vision for campus safety. Consider Pfaff’s examples as they might fit on a campus setting through hiring more staff of various sorts:

“Shame, stigma, that disappointed head shake from a person you respect: all these matter, too, and they can be imposed without arrest, much less any sort of trial or conviction. To the extent that these informal sanctions are key, then it’s the risk of any sort of credible detection of a crime, not detection with the threat of formal arrest, that really drives deterrence.”

“In fact, given the often fraught relationship between police and communities of color, detection by non-police actors may be more effective a threat than detection by the police.”

Recognizing this and acknowledging the painful relationship between students of color and police officers, the Associated Students of the University of California passed [Senate Resolution No. 2022/2023-037 In Support of Revoking Student Fee Contributions to UCPD](#) in favor of allocating student fees to services and programs that support holistic student well-being and safety, rather than UCPD, since UCPD currently has an FTE (the “threat management detective”) funded by student fees. The Graduate Assembly passed a [similar resolution](#). Both resolutions support the (re)distribution of student fees to programs that support safety in the form of basic needs security and mental and physical health care, particularly for students and communities targeted by policing and other forms of state violence, such as PATH to Care and the Mobile Crisis Response program. Fees and other campus financial resources should also be allocated to the Underground Scholars Initiative to create pathways to justice and healing.

Pfaff also points out that these studies do not count notable “costs” in their “cost-benefit analysis” that favors expanding policing. Important to consider are costs of police conduct (even when it is lawful it comes at a high cost to many members of our community) and misconduct.

“These studies don’t count George Floyd’s death as a cost or the costs of far less publicized uses of force. They don’t estimate the impact of reduced civic engagement that comes in the wake of police violence, or the emotional and physical toll of the constant fear of police violence that forces Black parents to have “The Talk” with their kids. They don’t account for any of the micro or macro costs of, say, the fact that as many as 79 percent of all young Black men in New York City were stopped by the police at the peak of Stop, Question, and Frisk: the shame, the fear, the emotional and other effects of so racially targeted a policy.”

Even though UCPD is able to attract qualified recruits for sworn officer positions, this is precisely the right time to carefully examine how and when we use police on and around campus and how we can move more of those jobs to non-sworn staff. It is precisely the right time to formulate and concretize safety and security measures on our campus for this and future generations of the campus community that implement and evidence UC Berkeley’s leadership in holistic public safety. Moreover, we should be closely examining best practices for the likely challenges the campus will face beyond the typical Clery Act crimes including earthquakes, floods, chemical hazards, or fires that threaten the campus environs, extremist terror acts carried out on or against the campus, and complex protest and counter-protest situations. Among the current practices that should be reviewed are:

- Routine patrol and traffic law enforcement. These are the major vectors for racial profiling and excessive force and have little proven relevance to reducing serious crime.
- Enforcement of minor public order offenses (broken windows policing). This has not been shown to reduce crime. Strengthening the Center for Student Conduct’s Restorative Justice Pathway program and providing alternative options for resolving behavioral misconduct is essential to providing a holistic model of community safety. Over the past academic year, UCPD has cited students for shoplifting (often a product of basic needs insecurity) and other minor offenses, rather than referring students to the Center for Student Conduct’s Restorative Justice Pathways program. Citing students for minor offenses does not promote student and campus community wellbeing, learning, and basic needs security, nor does it repair relationships that may be damaged by harmful conduct. External audits of UCPD crime logs should be conducted to ensure UCPD compliance with the Center for Student Conduct’s Restorative Justice Pathways to better align with campus’s goal to “contribute to the holistic development of students by administering the Code of Student Conduct through equitable practices that promote education, foster a sense of accountability, and encourage community responsibility and mutual respect.”

- Policing protests. There is a long history of over policing demonstrations on this campus that needs to be brought into discussion.
- Serious crime investigation. This is a big failure in many police departments, and some cities, like Chicago, have promised to invest more police resources in detectives.
- To consider how violence has been framed and is invited to be framed by those who have experienced harm and violence, inside and outside of those who commit crime and purport to protect from crime. Police have too often been selective in deciding which experiences of harm and violence will be treated as crimes and who they will advocate for. Notably missing from many crime response strategies are responses to wage theft (a rampant problem in the experiences of graduate student workers at UC Berkeley); pollution (including carbon pollution); and traffic dangers that could be mitigated through thoughtful pedestrian-, bike-, and disability-centered street design.
- Real-time response to threats of, or occasions of, serious crime on or near campus, especially crime involving deadly weapons.

Recommendation

UCPD should pause recruitment beyond currently advertised positions for twelve months and undertake a thorough examination of UCPD's current practices and deployment using existing expert reports, drawing in campus experts like Professors Jack Glaser, Nikki Jones, and Amy Lerman, and graduate students pursuing relevant research and including the IAB. After that pause, any additional officers should be hired under a forward-looking publically available plan for how they will be deployed in conjunction with leveraging non-sworn staffing to the maximum feasible extent.

In preparation for that engagement, we request that the IAB be given access to all internal studies done by UCPD and its consultants prepared in the last ten years on UCPD workload, staffing levels, accreditation, and recruitment/retention challenges.

Additionally, via an external entity, audit UCPD's crime logs and other records to ensure that UCPD is following campus policies on referring students to the Center for Student Conduct's Restorative Justice Pathways program, rather than citing and/or charging students.

Appendix: On Public Records Release

The disclosure of records on investigations of sworn police officer conduct (otherwise referred to as “peace” officers in California law) is governed by the California Penal Code, Article I § 3(b) of the California Constitution, the California Public Records Act, and the California Peace Officers Bill of Rights. Recent legislation like SB1421 (2018) and SB16 (2021) have amended these statutes to allow for greater release of information.

The following records are now subject to disclosure:

- Records relating to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer or a custodial officer.
- Records relating to the report, investigation, or findings of an incident in which the use of force by a peace officer or a custodial officer against a person results in death or great bodily injury.
- Records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public. “Sexual assault” under Section 832.7 includes the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or any other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.
- Records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction of evidence or falsifying or concealing of evidence.
- Records of a sustained finding that an officer used unreasonable or excessive force.
- Records of a sustained finding that an officer failed to intervene against another officer using unreasonable or excessive force.
- Records relating to sustained findings of unlawful arrest or unlawful searches.
- Records relating to sustained findings that a peace officer or custodial officer engaged in conduct involving prejudice or discrimination on the basis of certain legally protected classes.
- Records relating to misconduct investigations during which an officer resigned.

Here are examples of the types of materials can be released:

- All investigative reports, photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.

- All materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommended findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Recent opinions from courts in Contra Costa County, San Francisco, San Diego, and Los Angeles have concluded that SB 1421 applies retrospectively, meaning that all relevant records are subject to disclosure, independent of when police misconduct and investigations occurred. SB 16 explicitly requires the release of records no matter when misconduct and investigations occurred, meaning that its application is also retrospective.

Under the California Public Records Act, requests for records disclosure must be acknowledged within 10 days, with an extension of up to 14 days available only if unusual circumstances apply. According to California Government Code, records subject to disclosure under SB 1421 must be produced promptly. Records subject to disclosure under SB 16 must generally be provided with 45 days of request. Any redactions must be justified in the disclosure of records.

As amended by Proposition 59 in 2004, in Article I, § 3(b)(2) the California state constitution requires that "a statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." Therefore, the statutes noted above must be broadly construed in order to comply with the California state constitution and further the people's right of access. It is the IAB's opinion and the opinion of external legal counsel that we have consulted that UC Berkeley has thus far failed to consistently comply with these statutes when receiving public records requests for information on police and policing that is subject to disclosure.

Recommendation

Now that investigations will be conducted by a non-police investigative team at UC Davis and reviewed by the new civilian UC Berkeley Police Accountability Board (PAB), we recommend in general that UC Berkeley proactively publish sustained investigation findings that are subject to disclosure (i.e. those classes of (mis)conduct listed above). These materials should be published on the PAB's webpage. This would support transparency, accountability, and the efficacy of the PAB's work.

That said, we recognize the potential tensions between transparency, victim protection and sovereignty, and the availability of materials depicting violence or otherwise causing upset. Therefore, the complainant should be consulted and have the final say over what is posted. Furthermore, the PAB should establish written protocols in coordination with campus experts that specify materials that should *not* be proactively published based on their content (but which must still be subject to disclosure should someone ask for them). For example, we anticipate that sustained findings of dishonesty will typically be more appropriate to proactively disclose than sustained findings of sexual assault. We suggest that staff from the Office for

the Prevention of Harassment and Discrimination, Counseling and Psychological Services and Social Services, the Gender Equity Resource Center, and other Centers for Educational Justice & Community Engagement be involved in determining what not to publish, alongside other campus experts.

Appendix: Status of 2021-22 IAB Recommendations

- 22-1; 22-2** We reaffirm the view that addressing funding and staffing gaps in mental health services and crisis response is a key element of improving campus safety. The Mobile Crisis Response Team's funding should be periodically reviewed to determine whether funds have been appropriated for other worthy though tangential programming and whether funds currently allocated are adequate for the full scope and success of the program.
- 22-3** We view this recommendation as superseded by the more thorough review of UCPD we propose in this year's main recommendation.
- 22-4** We reaffirm our recommendation that UCB fund research on the full dimensions of campus safety through crowdsourcing, community co-design, and other methods of developing a holistic understanding of what threatens people, preferably by UCB students in conjunction with faculty and staff.
- 22-5** We thank the Chancellor for implementing a feedback mechanism for the reactions to the IAB's reports.
- 22-6** We reaffirm the value of moving away from the terminology of "tiered response" in developing alternative responses to policing. Such phrasing suggests that the first tier - sworn officers - is typically most appropriate, which is not correct.
- 22-7** We thank the excellent work done this year by the Office for Prevention of Harassment and Discrimination (particularly Kellie Brennan) and the Business Process Management Team (particularly Russ Ballati) in moving forward a new process for investigating and adjudicating complaints of police misconduct.
- 22-8** We reaffirm our commitment to the view that basic needs spending is both the most efficient way to prevent the long term production of violence and harmful behavior and the one most in line with UCB's institutional values of uplifting and empowering members of its community and the state as a whole.
- 22-9** We reaffirm the value of avoiding the use of WarnMe messages in regard to legal free speech activity on or around campus.
- 22-10** We reaffirm the value of crafting emergency messaging to use more precise, trauma sensitive, and culturally sensitive language.
- 22-11** We reaffirm the priority of expanding our emergency management capacity.
- 22-12** We reaffirm the value of DSP services as preventive and compassionate measure against crisis and harmful behavior.
- 22-13** We reaffirm the importance of education on disability, universal design for education, and cultural change as substantive steps toward producing more robust campus safety.
- 22-14** IAB promises to revise its bylaws in the first part of the new academic year.