



City of Cambridge

POLICE REVIEW AND ADVISORY BOARD

831 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139
TEL. 349-6155
TDD/TTY (617) 349-6112

MALVINA G. MONTEIRO
EXECUTIVE SECRETARY
June 8, 2001

Mr. Robert W. Healy, City Manager
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

RE: Council Order #10, May 21, 2001

Mr. Healy:

I am responding to City Council Order #10 dated May 21, 2001 requesting a report on the use of mediation by the Police Review and Advisory Board and staff and the availability of mediation training for the PRAB and staff. As you are aware the CPRAB does not have any resources for mediation and training. As I stated, the Board has been, whenever possible, engaged in mediation between the citizen and the individual officer.

In the past nine months the Board has successfully resolved three cases through mediation. On all three cases both the citizens and the police officers after the mediation process went away with a sense of closure and a feeling that they were heard. This would not have been possible if the Board had conducted a full hearing and made decision on the merit of these cases. One side is always going to be unhappy with the Board's conclusion.

The NACOLE 2000 Conference workshop on mediation highlighted three jurisdictions where mediation is being used successfully. The speakers discussed what research has shown, described the usefulness of mediation, when to and not to use it, how to build a mediation process from the ground up and what pitfalls to avoid in the process. Enclosed is the following information for your review: mediation processes for the City of Berkeley Police Review Commission, the City of Minneapolis Police Review Board mediation policy, and training for Police Review Board Members recommended by the National Association for the Civilian Oversight of Law Enforcement.

Please let me know if you need more information in this regard.

Sincerely,

Malvina Monteiro

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2001 JUN 13 AM 11:08
OFFICE OF THE CITY MANAGER

In Praise of Mediation
By Barbara Attard
Berkeley Police Review Commission

Mediation changes lives. A successful mediation takes its participants to a place that they would not otherwise venture--it causes them to view the world from the perspective of the opposing party. As a civilian oversight professional, focused on police accountability, I was a hard sell to resolving cases through alternative dispute resolution processes. However, after having seen mediation produce dramatic results, I stand converted.

Investigations of police misconduct complaints have limited efficacy in some types of cases--particularly those that are one on one, and discourtesy/attitude based cases. The majority of such cases result in a finding of "not sustained." Because there is no definitive finding, both sides feel that they have lost, that they have not been heard, and that the process did not work for them. Very often, even in civilian oversight investigations, both officers and civilians find themselves dissatisfied with the process because police misconduct cases are hard to prove.

Mediation is different. Mediation is powerful because both the complainant and the officer can gain an understanding of *why* the other person acted as he/she did. When the parties gain this knowledge, the other's behavior is put into a new context and it becomes comprehensible, it makes sense. They may not approve of what happened, but they can understand it. When mediation is successful, this understanding can, and often, leads to forgiveness and healing.

It is difficult to convince parties in police misconduct cases that mediation is a good idea because they do not have an ongoing relationship with each other. They are not part of the same family, or neighbors who must deal with each other for the long term--they do not have a vested interest in fixing the relationship. The last thing that they want to do is sit down with the other person and bare their souls. It is almost always necessary to spend time convincing parties to agree to mediation. Officers are resistant even when offered the carrot of having the case come off of his/her record. However, when the parties agree and mediation occurs, the results are remarkable.

In one case that necessitated arm twisting to overcome the parties adamant opposition to mediation, I was amazed following the session to see them shaking hands, both sporting large grins, each genuinely appreciative of the other. The complainant offered to speak to other complainants about the mediation process. The officer, a San Francisco Police Officers Association board member, wrote an article touting mediation for the Association's *Notebook*:

... Advantages? There are several. First, most of the cases that end up in mediation involve simple misunderstandings and, like any aspect of social interaction gone awry, are often best resolved with empathy, an apology, and a

handshake. For an officer, this often translates into a learning experience that enables he or she to become a more effective and credible professional. . . .

The goal in police misconduct investigations is determining and correcting errant behavior. While traditional discipline is an important and necessary tool in the process—mediation is a much more powerful tool to bring about real change. And, as an added bonus, successful mediation brings the benefit that there is no losing side. Both parties feel good about the process and come away with a gift--genuine understanding.

When developing a mediation program, it is important to employ impartial mediators who can be trusted by both parties. Although some systems use staff, commissioners or ranking officers to conduct mediations, most agencies go outside to find mediators. The Berkeley Police Review Commission (PRC) mediation program utilizes the services of Berkeley Dispute Resolution Service (BDRS) to conduct its mediations. BDRS handles the case completely upon referral and has a cadre of experienced mediators; two of which are assigned to each case. Sarah Calderon, a staffer at BDRS, has insight as to why mediation works. She says that cases that go to mediation often involve misperceptions, "mediation levels the playing field, allowing people to get out of the power imbalance of their normal roles, to discuss what happened as people. When people are willing to talk and communicate it can be transformational, a big success." Although the PRC mediation process is in its infancy, merely a pilot project at this time, it has already proven itself to be an important vehicle for resolving some complaints.

There are conflicting opinions as to what types of cases should be involved in the mediation process. Some jurisdictions have strict rules disqualifying cases involving excessive force and racial or sexual slurs from being handled outside of the disciplinary system. Additionally, restrictions are sometimes set to prevent officers from using mediation repeatedly within a given period of time. The rationale for these limitations is that some cases are too serious not to be handled as misconduct cases and registered in the officer's record (in many systems, mediated cases are removed from the officer's personnel file). Critics of these restrictions argue that mediation can be the more successful means of changing behavior, and particularly in these types of cases this option should be available.

Barbara Attard has headed the Berkeley Police Review Commission (PRC) office since January, 1998. Before her tenure with the PRC she was with the San Francisco Office of Citizen Complaints for fourteen years.

Questions? Ms. Attard can be reached at (510) 644-6716 or via e-mail: baal@ci.berkeley.ca.us.



CENTER FOR DISPUTE SETTLEMENT
Rochester, New York

*“An Overview of Police
Conciliation/Mediation”*

The National Association for Civilian Oversight of Law Enforcement:
Sixth Annual Conference
September 26-29, 2000

Andrew Thomas, Executive Director
Center for Dispute Settlement
300 State Street, Suite 301
Rochester, NY 14614-1090

Todd R. Samolis,
Director of Special Projects
(716) 546-5110
(716) 546-4391 fax
todd@cadsadr.org

- I. Center for Dispute Settlement: The Police/Community Relations Program
 - A. Civilian Review Board;
 - B. Police Complaint Intake;
 - C. Police Conciliation/Mediation.
- II. What is Police Conciliation/Mediation?
 - A. Voluntary, confidential process offered to a citizen and police officer to informally resolve the issues contained in a citizen complaint utilizing the mediation process.
 - B. The nature of the allegation must not involve a use of force, criminal activity, or other serious procedural matters.
- III. Select History of Police/Conciliation Mediation
 - A. Established by Rochester City Council Resolution in 1984;
 - B. Police union objects to the term "mediation" in the program name – The name is therefore modified to "The Police Conciliation Program."
- IV. Statistics
 - A. The Center for Dispute Settlement has processed over 200 cases since the inception of the program;
 - B. Over 70% of those cases mediated were successfully resolved;
 - C. In 1999, IA investigations were completed in 56 days;
 - D. The average time from intake to disposition for mediation referrals was under 20 days.
- V. Appropriate Case Referrals
 - A. Discourtesy;
 - B. Failure to take a report;
 - C. Complainant disagrees with the accuracy of a report;
 - D. Failure to take what the complainant perceives was appropriate action;
 - E. Towed vehicle;

- F. Other types of complaints as referred by the Chief of Police.
- VI. Inappropriate Case Referrals
- A. Any complaint involving a use of force;
 - B. Allegations of theft or missing property;
 - C. Allegations involving any criminal activity.
- VII. Benefits and Goals of the Program
- A. Clarification of positions, interests and potential misunderstandings about the incident;
 - B. Dialog and exchange perspectives on the incident in a neutral non-threatening environment;
 - C. Provides a forum to educate the citizen on police policy or procedure;
 - D. Provides a forum to educate the officer on citizen perceptions and beliefs about their behavior and demeanor;
 - E. Overall improvement of the police/community relationship;
 - F. Provides the citizen an avenue of redress for complaints that would be difficult or impossible to substantiate;
 - G. Cost effectiveness;
 - H. Expediency;
 - I. Complainant maintains the right to an investigation if the issues are not resolved;
 - J. If successful, police officers will not receive any formal record of discipline.
- VIII. Program Challenges
- A. Under-utilization by Internal Affairs and police supervisors;
 - B. Case screening: Diversion of inappropriate cases;
 - C. The power imbalance.
- IX. Conclusion
- A. Partnerships, trust, progress, evolution....



MEDIATION

An Alternative

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[REDACTED]
Minneapolis Civilian Police
Review Authority [REDACTED]

Administrative RULES

[REDACTED] Approved by the Board of Directors of the
Minneapolis Civilian Review Authority

Wednesday, October 31, 1990
[REDACTED]

5.0 **Mediation**

5.11 The Authority shall inform all Complainants and Officers of the possibility of mediation as an alternative to the Authority's processes. Mediation is an informal process, held before a neutral third party, attended by the Complainant and the Officer for the purpose of fully, thoroughly, and frankly discussing the alleged misconduct and attempting to arrive at a mutually agreeable resolution of the Complaint.

5.12 In cases in which the Executive Director decides not to dismiss the complaint, he/she may decide that the case is appropriate for mediation.

5.13 The Executive Director shall inform the Chief of this decision to proceed to mediation.

5.14 Mediation shall not be available to an Officer who has participated in mediation, under the auspices of the Authority, for a serious similar misconduct allegation or a similar misconduct allegation within the previous 12 months.

5.15 This determination shall be communicated to the Complainant and the Officer. Both the Complainant and the Officer must agree to mediation, within ten (10) days of receiving notice of the Executive Director's referral to mediation, for it to proceed, otherwise, the case shall be referred to investigation.

5.16 If the Complainant and the Officer agree, the Authority shall schedule a mediation session at the earliest convenient time. Written notice of the time, date and location of the first mediation session shall be provided each party.

5.17 The mediation session(s) will consist of the Complainant, the Officer, and the Mediator. In the case of a minor, a parent or legal guardian must be present. In the case of a vulnerable adult, a family member, conservator or legal guardian must be present. If an interpreter is requested, arrangements will be made to have one present upon request by either party. No other person may be present. No record of the proceeding will be taken.

5.18 Procedures and guidelines for mediation will be established at the beginning of the mediation process through agreement of all participants.

5.19 The mediation session(s) will continue as long as the mediator and the parties feel progress is being made in the resolution of the issues. The mediation process shall terminate when either party announces its unwillingness to continue mediation or when the parties sign an agreement setting forth the resolution of the disputed issue(s).

5.20 However, in no case shall the time for mediation extend beyond thirty (30) days from the date the Authority has received notice of willingness to participate in mediation from both the Complainant and the Officer. In order to facilitate and encourage mediation, the Authority time limitations and deadlines will be tolled during mediation.

5.21 The Authority or its designated agent shall monitor the mediation process and the

implementation of a mediation agreement. If one party fails to abide by this agreement, the aggrieved party may pursue a hearing before the Authority.

5.22 No record will be made of the mediation proceedings, and no information discussed will be used in subsequent proceedings. (Minn. Stat. §595.02, Subd. 1(k) (1989)).

5.23 A copy of the mediation agreement will not be sent to the Chief.

Successful Mediation

Case Study No. 1

Complaint: Excessive Force, Inappropriate Language/Conduct

Minneapolis narcotics officers raided the complainant's apartment looking for a drug dealer. The drug dealer, who also was the apartment manager, had used complainant's apartment to sell drugs when the complainant and her family were not home. This search was conducted at night with a no-knock entry with shotguns and strong language. At the time of the raid, the complainant was on her way home from work. Her three children, ages 15, 9 and 6 were home at the time. The raid terrified the children and caused them to have nightmares about the police.

The complainant filed a complaint with the MCPRA and requested that her case be mediated. The sergeant in charge of the raid agreed to mediate. During the mediation, the sergeant apologized for the incident and also explained police policy and procedure as it relates to drug raids. As part of the mediation agreement, the sergeant agreed to meet with the children to explain what happened and to apologize to them. The meeting with the children was successful. The 15-year old boy and the sergeant got along so well that the boy went on a police ride-along. As a result of the ride-along, the boy is planning a career in law enforcement.

Successful Mediation
Case Study No. 2
Complaint: Inappropriate Conduct

The complainant had contact with a Minneapolis police officer at a local casino. The officer was off-duty and in plainclothes. As the officer was leaving a blackjack table, he said, "I don't need to play with these rocket scientists." The complainant, seated at the table and not knowing the identify of the officer said, "It isn't our fault you played with your head up your ass."

At that point the officer flashed his badge and stated, "You can't talk to me like that. I'm a Minneapolis police officer," and threatened the complainant with arrest. The officer then insisted that the employees of the casino eject the complainant. The complainant believed that the officer used his badge to get the casino employees to comply with his wishes.

During the mediation, the complainant and the officer apologized to one another and later went out for coffee. According to the officer, this incident was a wake-up call regarding his career. He evaluated his behavior at the casino and decided to make changes in the direction of his career. He is now a lieutenant.

Successful Mediation
Case Study No. 3
Complaint: Discrimination/Inappropriate Language and Conduct

The complainant, a gay man, was involved in a traffic stop with a Minneapolis police officer. When the complainant questioned the officer about the stop, it was alleged that the officer became verbally abusive and discriminated against the complainant by making comments such as, "You people," "We don't need your kind here" and "Stay out of Minneapolis, you f----- deviant."

During the mediation the officer apologized to the complainant and explained that he had been on a homicide of a child call just prior to the stop. The officer also agreed to take additional diversity training, attend a gay pride event and talk to an employee assistance counselor about dealing with stress.

CRA MEDIATION: Is It the Way to Go?

By Bruce Johnson, Editor

mediate: to act as an intermediary (as in settling a dispute)

Since coming on board as a Federation Director and having the opportunity of representing several officers at Civilian Review, I would like to explain my position on the mediation aspect of the CRA.

First of all, if any officer has the opportunity to proceed with mediation, by all means do it. My reasoning for this is simple. We as police officers are in the "people" talking business and we should be able to sit down with anyone and explain why we do what we do and did what we did.

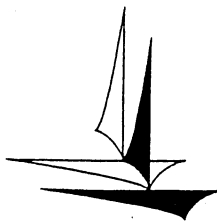
The CRA mediation process provides the complainant and the offi-

cer to sit down with each other and discuss the incident. A Mediator will also be present. No other person may be present and no record of the proceeding will be taken.

Also no record of the mediation proceedings will be made and no information discussed will be used in subsequent proceedings. Lastly, no record of the mediation will be sent to the Chief. Keep in mind, however, that if the mediation does not satisfy the complainant, the investigative process will continue. I have only heard of three mediation cases ending up back in that process as of this date.

So is mediation the way to go? Absolutely. If you have any questions about this process I will be more than gladly to go over the entire procedure with you.

SHOW UP Minneapolis Police Federation Aug 1998



City of Minneapolis

Civilian Police Review Authority

400 South 4th Street -Room 1004
Minneapolis MN 55415-1424

Office (612) 370-3800

Fax 370-3846

TTY 673-2157

May 9, 2001

RE: File No.

Dear :

Under Rule 5 of our Administrative Rules, I have determined that this complaint is appropriate for mediation.

Mediation is an informal process, held before a neutral third party, attended by the Complainant and the Officer, for the purpose of fully, thoroughly, and frankly discussing the alleged misconduct and attempting to arrive at a mutually agreed-upon resolution of the complaint. It is an alternative to a full investigation by our office and a possible adversarial hearing.

The mediation process is confidential. What is said in mediation remains between the Officer(s), the Complainant(s), and the Mediators. It will not be used in later investigation, or in any hearing. If an agreement is reached through mediation, all references to the complaint will be removed from the records of the Police Department.

Within ten (10) days of this letter, please call the Minneapolis Mediation Program (MMP) to let the MMP know if you will agree to participate. Their number is 359-9883. If the other party to this case also agrees to participate, the MMP will provide written notice of the time, date and location of the first mediation session. If you or the other party do not agree to participate in mediation, the case will be reassigned to investigation.

Thank you for your cooperation.

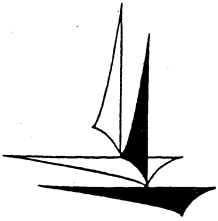
Sincerely,

PATRICIA J. HUGHES
Executive Director

PJH:mr

cc: Investigator

med



City of Minneapolis

Civilian Police Review Authority

400 South 4th Street - Room 1004
Minneapolis MN 55415-1424

Office (612) 370-3800

Fax 370-3846

TTY 673-2157

May 9, 2001

MICHELLE GULLICKSON-MOORE
310 E 38TH ST SUITE 221
MINNEAPOLIS, MN 55409

RE: Complaint No.

Dear Ms. Gullickson-Moore:

I am referring the above complaint to you to attempt mediation. It is a complaint that alleges police misconduct. The name and address and phone number of the complainant is:

The name, work address and phone number of the officer involved is:

Officer
Precinct

Minneapolis, MN

Our office has sent a letter to each party asking that they contact you directly by phone if they are agreeable to mediation. I assume you will also attempt to contact them. According to our Rules, if a mediation agreement is not reached within 30 days of the date that the parties express willingness to mediate, it must be taken out of the mediation process.

May 9, 2001
page 2

Please let me know if both parties are agreeable as soon as you have spoken to them. And if there is ultimately a successful mediation, our office should get a copy. If not, let us know.

Thank you.

Sincerely,

PATRICIA J. HUGHES
Executive Director

PJH:mr

enc: Notice of Complaint

cc: Investigator

mmp



Agreement to Mediate

The mediation process is voluntary. Any party may withdraw at any point if she/he feels that the mediation session is not serving her/his needs. Any oral or written agreement which proceeds from this mediation will generally result in compliance because the agreement represents those actions which all parties are willing and able to undertake.

You retain all legal rights to pursue this matter in other ways, but you cannot call a mediator to testify nor can you use mediation discussions, or meeting notes developed in or as a result of the mediation process, in subsequent judicial or administrative proceedings.

Rules of Mediation:

1. Each party will have an opportunity to present their side of the issue.
2. Each party is expected to mediate in "good faith."
3. During the mediation, any party or mediator may request to speak with another party(s) or mediator(s) privately (caucus).
4. Except for the mediated agreement or settlement, all communications and documents made during mediation proceedings are CONFIDENTIAL and cannot be published to third parties in writing or orally, except by the express written consent of both parties. The MMP may disclose to referring entities if the parties met, if an agreement was reached and if the agreement was complied with.
5. Minnesota Statute 595.02, Subdivision 1(k), makes testimony regarding any communications and documents made or used in the course of, or because of mediation inadmissible at subsequent legal or administrative proceedings.
6. A mediator cannot be called to testify at subsequent legal or administrative proceedings.
7. Evidence of child abuse and/or abuse of a vulnerable adult will be reported. Also, threats of serious bodily injury directed at an individual or the substantial likelihood that an individual's actions, or inactions, may lead to the serious bodily harm of another, will be reported.

We have read and understand the information presented here. We agree to work cooperatively to resolve any differences. We acknowledge that this agreement must be signed before the session can proceed.

Party _____		Date		Party _____		Date
Party _____		Date		Party _____		Date
Mediator _____		Date		Mediator _____		Date



SUMMARY AND AGREEMENT

THE FOLLOWING PARTIES:

CASE # _____

FIRST PARTY _____

SECOND PARTY _____

OTHER PARTIES _____

PARTICIPATED IN THE MEDIATION SESSION SUMMARIZED BELOW. THE SESSION TOOK PLACE

ON _____ AT _____ AM/PM

AT _____

THE NATURE OF THE DISAGREEMENT WAS:

DURING THE COURSE OF THE MEDIATION, THE FOLLOWING TERMS OF AGREEMENT WERE REACHED.

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

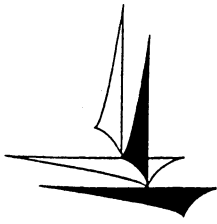
SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

THE SESSION WAS CONCLUDED AT _____ AM/PM.

THE PARTIES AGREE THAT ALL PROCEEDINGS WILL BE HELD IN STRICT CONFIDENCE.



City of Minneapolis

Civilian Police Review Authority

400 South 4th Street - Room 1004
Minneapolis MN 55415-1424

Office (612) 370-3800

Fax 370-3846

TTY 673-2157

Chief Robert Olson
Minneapolis Police Department
Room 130 City Hall
Minneapolis, MN 55415-1314

May 9, 2001

RE: Our File No.
Officer

Dear Chief Olson:

Our office sent this complaint to mediation. Under Rule 5.23 of our Administrative Rules I am not permitted to send you a copy of the mediation agreement. However, I am pleased to say that this matter has been resolved by an agreement between the parties reached through mediation.

Under our rules, the Civilian Review Authority will therefore be dismissing this case. It is my understanding that all references to this complaint will be removed from the officer's personnel file, including the officer's blue card.

Thank you for your attention to this case.

Sincerely,

PATRICIA J. HUGHES
Executive Director

PJH:

cc: Complainant
Officer
IAD
Investigator

Session III, Day Two

September 28, 2000

M: Barbara Attard is going to be the moderator for this session and I will go ahead and let her come up. I've met Barbara -- I believe I met her at IACOLE. I can't recall exactly which one, but she has been to every NACOLE Conference that we've had. I do know that she's been an Executive Director and also an administrator and an investigator and probably a few other things throughout the aspect of civilian review. So, she's very capable and she has been a strong supporter of NACOLE and I introduce to you, Barbara Attard.

Barbara Attard: It's good to be here today. Actually, I'd like to get my panelists to come on up. I'm presenting a panel on mediation of citizen complaints. As you have noticed, our panel has changed some from what's in your program. We have Virginia Van (Meder) with the US Attorney General's Office, the COPS programs and she does training and mediation. And, we also have Carol Scott with the Police Advisory and Review Committee in Knoxville, Tennessee who mediates most of the complaints that come through her agency.

The panel today brings a diverse and impressive group of professionals together. We will be hearing from oversight agencies that have successful mediation programs in their jurisdictions. We'll hear from Todd Samolis, who is with a community based agency that mediates citizen complaints that are referred to them.

We'll hear the police perspective from Chief George Freitas of the Kauai Police Department and then, we'll hear what the US Attorney General's Office has to offer. Finally, we'll hear about an up-and-coming mediation program in San Diego, California, with the San Diego Police Department there.

One thing that came up during our panel is that not everyone really understands what mediation is. One thing that you will find is that all the different mediation programs that exist in different agencies have kind of a different twist on what mediation is. It's similar to civilian oversight. People ask what are the models, however you almost have as many models as you have agencies.

Over the years, it's been interesting to me to see the resistance to mediation and it's strange because it seems like such a win-win situation. You get resistance from Commissioners who don't want to lose the control or the authority that they have over complaints. You get resistance from police and complainant who really don't want to sit down with the jerk that caused the problem that brought them into this complaint situation in the first place.

And then, you even get a resistance from community or civilian oversight professionals like

me who have worked really hard through the years to make sure that there's some kind of justice and accountability such that if someone has done something wrong they are disciplined for it.

Something happened to me when I worked at the Office of Citizen Complaints in San Francisco. I ran that mediation program and I think it only takes sitting in or observing one mediation to see what power mediation has. I really believe that it changes people and what we're really trying to do here is change errant behavior.

If an officer is having problems, he's doing something wrong, we want to change that behavior and I think that mediation does that in a very powerful way. I think it really has the ability to change people in a way that going through the discipline process doesn't achieve.

So, we're going to have brief presentations from each panel member and then we'll have time for questions and conversation.

Our first panelist today is Pat Hughes and she has been with the Minneapolis Civilian Police Review Authority as its attorney and Executive Director for over seven years. She's been practicing law since 1984 and served for three years as an assistant public defender, assistant state public defender.

Pat obtained her JD from William Mitchell College of Law and she has been a consultant to the US Department of Justice on various projects, including the study of mediation of citizen complaints project.

Pat Hughes: Good morning and aloha. For those of you who don't know about the Minneapolis Civilian Police Review Authority, I'll just briefly tell you about it. We were established in 1990 by an ordinance. In 1991, we started taking complaints. Part of the agency from the beginning was the mediation program, which was an alternative to going into an investigative process.

We have a board of seven members. We have a staff of seven, an Executive Director, three civilian investigators and three civilian support staff and I can say honestly that we are all very passionate about our work.

Again, the mediation process is an alternative to the investigative process. We contract to a program called Minneapolis Mediation in Minneapolis. For \$2,000 a year, we can send unlimited mediations. After a signed complaint is sent out, during the first 30 days, I can dismiss a case. I can refer the case to mediation or I can send it into investigation. I must say that I'm a very flexible person and there are cases that have gone all the way to probable cause and if the complainant at that point in time wants to go to mediation, I'm all for it. After all, ultimately what I want is for the complainant and the officer to work things out and to better the relationship between the

community and the police.

When I think about mediation, I think about two words, communication and problem solving. In our rulebook, mediation is defined as an informal process held before a neutral third party attended by the complainant and the officer for the purpose of fully, thoroughly and frankly discussing the alleged misconduct and attempting to arrive at a mutually agreeable resolution of the complaint.

The cases that we send to mediation are complaints about inappropriate conduct, inappropriate language, harassment, discrimination, failure to provide proper and adequate police service and, occasionally, excess force cases. We don't routinely refer those cases to mediation, but sometimes, it's appropriate to do so if there's no injury and it's an unusual circumstance.

Since 1993, there have been a handful of excess force cases that have gone through mediation and they have all mediated successfully. In order for an officer to go through the mediation process, the complainant must first agree to mediate. It's a totally voluntary process. So, my investigator comes to me and says, "What do you think about mediation in this case?" If I agree, I have them call the complainant and ask if that's something they'd like to do and they go through the process.

Then we explain it in detail, explain to them that it's not a place where you can expect discipline of the officer or a place where you can receive monetary compensation, but it's a place where you can talk about what happened and try to work it out.

If the complainant agrees, the officer is contacted and if the officer agrees and the officer has not had a same or similar complaint mediated within the last 12 months, he or she is eligible to go. Now, what happens then is a letter is sent out, again, going through the different aspects of mediation, and that if mediation is successful, the case is dismissed against the officer. It's removed from the officer's record.

Number two, anything that is said in mediation is confidential and therefore, can't be used at subsequent hearings or legal proceedings. Once they receive the letter, both the officer and the complainant have 10 days to contact the mediation program. And then, in a perfect world, mediation occurs within 30 days, but that isn't always the case.

They set up a time in the community that works out best for them and they sit down with two neutral people, two mediators. Minneapolis mediation tries to provide one female and one male mediator. It doesn't always work out that way, but there are always two mediators. At the beginning of the session, they are given an agreement which they're to sign agreeing to mediate, again going through the process, what they're going to do, what their rights are, if they're going to

mediate in good faith. And then, once that is signed, they move forward.

My personal feelings about mediation process -- one of the things I really, truly believe is that most people want to resolve conflict and they don't want to resolve it at a hearing, which can be very emotional, timely and costly. What I often see with complainants is that they are not being punitive of police officers. I see them wanting to understand why the officers did or said what they did. Maybe all they want is an apology.

Once at the mediation, both the officer and the complainant talk about what happened, and they try to come up with some solution to the incident, which may be as simple as an apology. In most cases, that's all you need. Officers can tell complainants they're sorry without admitting that they did something wrong.

Many times, officers merely are doing their job. They believe they're doing their job, but the way they did their job made the complainant feel that they were disrespected or just feel badly about themselves. They can discuss what happened at that incident and the officers can say to the complainant, "I hear what you're saying. I'm sorry you feel that way. I'm sorry that my actions made you feel that way."

One of the directors of the police federation about two years ago wrote an article in their federation newspaper. In that article, he totally endorsed mediation and he said, "If you have the opportunity to mediate, please do so."

I have had the opportunity for the last several years to teach the cadets and recruits at the Minneapolis Police Academy. One of the things that I talk to them about is the mediation process and I explain to them how important it is, number one, to talk to that complainant as a human being and find out why you're where you're at, why was there a complaint filed, what are these people -- why is this person upset with you. The officers learn a little bit more about the community, what they like and what they don't like and that if they want to build a better relationship with the community, mediation is the way to go.

I think part of our success has been that the police department, though it's taken a while, does have faith in our ability to have a fair and impartial review process of citizen complaints. I don't think that they would be telling their officers to go to mediation if they didn't trust our process.

Of course, if the mediation doesn't work, the case goes back into investigation. What we try to do in the beginning is to determine whether the complainant and the officer are willing to mediate and if they are, the majority of cases are mediated successfully.

The agreement that come out of mediation, most of the time, again, it's an apology, but

there are sometimes when there are things that the complainant wants the officer to do. The Minneapolis Mediation Program monitors that and once the officer has accomplished the goal that was set out in the agreement, then we're contacted and we're told, "This mediation was successful."

Once a mediation is successful, we send a letter to the Chief of Police letting him know that this case went through mediation and it was successful. We don't send a copy of the agreement because that is confidential.

When we started taking complaints in '91, there was one mediation in 1991 and I believe there were over 150 signed complaints. Things have changed because in 1999, with only 114 signed complaints we had 15 successful mediations, over 10 percent of the signed complaints. Again, I believe it's partly due to the credibility we have with the department.

Also, it's important for the officer to maintain a clear record. We had one officer who only had one complaint against her in the time I was there and I think ever on her record. She went through mediation and a couple of years after that, she requested to work for internal affairs. Again, it's that public relations between the police and the community that comes out of mediation. It's a win-win situation. You avoid costly consuming administrative hearings and you do have accountability with the police officers.

What I have seen in the seven years that I've worked there, is that the police officers that go through mediation, most of the time we don't see back. Before I forget, I have a tremendous amount of respect for mediators. Our mediation program is a private, non-profit corporation and the mediators volunteer their time.

They do a wonderful job. They will try with all their power to work out even the most difficult cases and I've been amazed at the cases that had mediated. They bring people together from all walks of life. They help them help themselves. People do want to resolve differences. Communication is problem solving. They allow the officer and the complainant to be creative. I'll get to three cases I'd just like to talk about to demonstrate the creativeness that occurred in mediation.

The first case was an inappropriate language complaint. The officer was rude and demeaning to a witness of a theft and basically called them a liar and used some other choice words. The person felt humiliated, embarrassed and felt that the officer was totally disrespectful and there was absolutely no reason for the officer to act that way. The complainant and the officer went to mediation.

The complainant expressed to the officer how the officer's behavior made him feel and he

said, "I just want you to know that I'm a good person. I've been a law-abiding citizen my whole life and I just feel really bad about what you did and said to me. What I'd like you to do officer is to go to church with me." And, believe it. The officer went to church with this person and after church they went out to coffee. Now, that's building trust between the police and the community.

The second case involved discrimination, inappropriate conduct, and inappropriate language. A gay man was involved in a traffic stop. The officer was verbally abusive, and said to him, "You people. You don't need to -- your kind doesn't need to be here. Stay out of Minneapolis." And, used some choice words. The officer and the complainant went to mediation.

Out of this mediation, an amazing thing happened. The officer apologized to the complainant. The officer agreed to go to diversity training and the officer also agreed to attend a gay pride event.

The third case involved excessive force, inappropriate language and inappropriate conduct. A drug raid was executed on the wrong apartment. The mother of the house was on her way home from work. Her three children were alone in the apartment, ages 15, 10, and 6. When the officers entered the apartment, they breached the door. They came in with their guns drawn and of course, they used some obscenities when the children didn't get down on the floor.

The mother was appalled first that they broke into her apartment by mistake and, secondly, that her children had to experience something so horrific. She went to mediation with the lead officer in that case. Out of this mediation, the officer apologized to her for making the mistake and explained police policy and procedure to her.

And, she said, "Well, you know? That isn't enough. I need for you to come to my home and sit down with my three children and talk to them about what happened and apologize to them." She said, "They're traumatized. They're afraid of the police and my little one has nightmares every night."

The officer came to their home and sat down with those children and talked to them for quite some time, apologized for the mistake that they made, but explained to them police policy and procedure and how important it is to get drugs out of their town. Something really interesting happened out of that meeting. The 15-year-old and the officer seemed to have a good rapport. The officer invited the 15-year-old on a ride along. As a result of the 15-year-old going on a ride along with the police, he now wants to be a police officer when he grows up. A win-win situation. Is mediation the way to go? Absolutely. Thank you.

Barbara Attard: I think very impressive cases, very impressive numbers. 15 cases a year, I would love to see that in Berkeley. Our next panelist is Carol Scott. Carol has been with the Police

Advisory and Review Committee in Knoxville, Tennessee since its inception two years ago. And, coincidentally, two years ago, Carol attended her first NACOLE conference - just one week after she started working at her agency.

Carol worked for 10 years as a licensed police trainer in domestic violence in Pittsburgh, Pennsylvania before her work in civilian oversight. I drafted Carol to be here today, to be here on our panel and without more ado, Carol Scott.

Carol Scott: Good morning, everybody. I first would like you all to know that I have with me Captain Davis of the Knoxville Police Department sitting out there and also, Lieutenant Davis with Internal Affairs. I'm letting you know so that after I speak if there are any questions, you will not only ask them of me. I hope you will give them a chance to answer some of your questions.

Approximately two and a half years ago, there were several deaths at the hands of police officers within a six-month period. Citizens from all walks of life came together voicing their opinions, their distress, and their anger at the unfairness regarding the police interaction and reaction with minority citizens and others.

The wanted a civilian review board. These citizens wanted change. The police and other citizens were also angry. They were distrusting of the citizens who had the complaints. They felt that they didn't understand law enforcement. Their voices became louder and louder saying, "No civilian oversight committee could understand police work and definitely, there would be no need for anyone or any committee to watch over them." "There was no need," they said, "for change."

The Mayor and the Police Chief were strongly against the civilian review board at first. However, after listening to citizens researching other review programs and after seeing the frustration, the anger, and the distrust that was just widening between citizens and police, our Mayor, Mayor Victor Ash, created the Police Advisory and Review Committee by executive order.

This was the beginning of change. The next day I met with the Mayor and I thanked him for recommending me for the executive directorship. He recommended me to the seven-member board, which consists of one teacher, one former chancellor for the University of Tennessee, a former FBI agent, two ministers and two attorneys.

The Mayor, as he looked into my eyes, softly, but firmly and sincerely said, "Carol, make it work for all." Then, I packed my bags and came to NACOLE and said, "Help. Please help me. I don't know how I'm going to make this work." But, if you know me, it's going to work. I tried to pull people aside, make them talk to me even though they didn't want to, but yet and still, when I left NACOLE, I went back to Knoxville, Tennessee feeling that I learned something.

As for our mediation process. Not only am I in there, the complainant is in there, and also

the officer and the officer's supervisor. There are sometimes when the officer is not there if I make a decision that it is not good for the officer to be. This might happen because there is some conflict and it would not be productive or because the complainant does not want the officer there, they want the supervisor to know what's going on and to do something about it.

Before we sit down at the table, I also do my investigation depending on what the case is about - meaning I review the policies and procedures. I also talk to the training director. I also talk to other officers just to get a feel of whether or not this happened without them knowing that's a complaint. In Knoxville we have audio and video in our cars, in all of the so then can sit down and review the audio and videotapes.

Once the Lieutenant -- I generally deal with Lieutenants or Captains -- finish their investigation, they call me and we schedule a meeting. We do go to the table. I start out with the ground rules. I have to tell you this story about Captain Davis. When I first did my mediation with Captain Davis and his Lieutenant, the complainant, and the officer, I was sitting there.

Captain Davis doesn't talk much or smile much. So, I thought, "I've got my work cut out for me." And, one of the things that Captain Davis did was to take charge rather than letting me take charge at first and I thought, "How am I going to do this?" And, one of the things he said was, "I have very good men. They do their job. They do it well, but if there is any officer of mine not doing what they are supposed to be doing, I want to know about it."

And then, in private, he told me, "When we go to mediation, if my officer has proven that he did right and it's the complainant that did wrong and is bringing a false accusation, I want that on the table, too."

With that, there was no problem. The complainant knows when we come in we're dealing with the facts and the truth and we let it fall where it may. Mediation works because they are sitting down talking not at each other, but to each other. Also I always know, that as an Executive Director, I can honestly say the Knoxville Police Department has my back.

We might not agree on everything, but we can sit down at the table and we can talk it out and try to work every complaint out. If the mediation does not work, the complainant has the opportunity to file with Internal Affairs and if that doesn't work, I recommend that they get an attorney and go further. The bottom line is when the support is from the top, all things are possible. Thank you.

Barbara Attard: Thank you, Carol, those are certainly true words. You do need support from police management to make this work. Our next speaker is Kauai's Police Chief, George Freitas. Chief Freitas was actually born and raised in Honolulu. He moved to the main land and attended the

University of San Francisco and then, he became a police officer in Richmond, California, where he stayed for nearly 30 years.

He had an impressive career there. He ran the Internal Affairs unit in the 80's and 90's and I've heard from other people at the conference that he was extremely fair and was one of the best heads of Internal Affairs when he was in Richmond. He also handled the consent decree that was brought by a lawsuit by the NAACP when he was there. He handled that for three years. He handled all officer involved shootings. He taught at community colleges and has taught Chiefs of Police when he was in Richmond and maybe here, too. I'm not sure. He then was the intern Chief of Police in Richmond and an Assistant Chief before coming to Kauai to be the Chief of Police here.

George Freitas: First of all, this has been nice because I've been able to renew some friendships, people like Doris and Jean and Rick and a new commission member. And, you know? It has been a battle. It's been a battle of due process for officers, because they deserve that. They deserve a fair shake, what's going on, and balancing that with the rights of the community. The community is right to know accountability and everything else and that's an ongoing battle. I don't think we have programs -- you're going to hear about another program today, but I think what we have is a process.

And, some of the process is fight for turf. Sometimes, you'll fight with us and we'll fight for turf and everything else. I think if our goals and objectives are the same, we will get there and that's what we need to do.

Now, to quickly skim on mediation. I think it's about problem solving. I think somebody else has a label for problem solving. I think, by the way, I'm expected to resist it. That's supposed to be my role here. Right, Barbara? I'm supposed to say those civilians have come up with another crazy idea. They have no idea what's going on.

I should tell you though for those of us that have felt responsible to the community for years, I realize as I read some of this material, we've been trying to do this anyway. I tried the peer review process years ago. My boss wasn't happy with it because there was a loss of control for it. I realize we did mediation when that citizen in Richmond came walking in. He had a complaint about something or other and instead of just handing him a complaint form, we spent a half-hour or so and talked to them.

And, I've been doing this for a long time. I swear. If you just let people talk, 50, 70 percent -- I don't know what the exact numbers are -- that angry citizen at the end of that 20 minutes or a half-hour will say, "I don't want to get the officer in trouble. I just want somebody to talk to him." And, every once and a while, I'd say, "Well, how about you?" So, I guess we have mediation and

we have win-win situations.

So, I'm not closed to it. I think we need to look at it. I don't understand all of it. I must admit, when it comes to issues of force, I'm not sure I could give that up. But I know most complaints are more nebulous than that. They have to do with attitudes, words, body language and those things certainly all seem to be something that we can put into the mediation. I will tell you and we have both dealt with this, the complaint process, the formal complaint process in terms of being customer friendly is about as popular as Ford and Firestone tires.

Unless the statistics have changed and they do vary from place to place, when I was doing this regularly, complaints were getting sustained, I think at a 10 to a 25 percent level. Sometimes, they got down to five. If we're down to five, you're wondering what's happening to that system.

So, a citizen comes in, makes a formal complaint. 10 to 25 percent of the time, give or take, we are going to tell that citizen, "You are absolutely right and we're going to discipline the officer." And, by the way, many of our citizens when we say, "We can't tell you what we're going to do the officer, by the way, because that's confidential" are still upset.

So, we do that and we discipline the officer. Sometimes discipline works, sometimes it doesn't. We send these nice letters to citizens that say, "Thank you for bringing this to our attention. We either think you're a liar or we can't prove you were telling the truth." So, there goes -- you know, if we're doing this in a profit margin, we're starving. We're not going to get customers back in this thing.

So, you've got 75 to 90 percent of your customers upset with it. You've got the officer, even when it's unfounded, upset by the way because he or she thinks they have to go through all kinds of things.

So, the current process is certainly not the problem-solving process. It is a fix and blame process. It is some accountability and in some cases, it must be that. Again, when it regards force complaints, I just can't see them going that way. I'm looking for an option and my mind is open to it. The last thing I have -- Barbara, will you give me two more minutes, one more minute?

Barbara Attard: Of course.

GF: It gets a little bit of change of pace for you in that it's kind of a challenge for the future and it ties into the citizen complaint process. It may be because this whole process is still relatively new. We collectively, including this group as I listen to you, we're still at the end of the parade. You know what I mean? Cleaning up after, at the end of a parade.

I just want to challenge to you and it's a challenge to me, too, is maybe we need to get at the front of the parade. Maybe our goals and objectives are the same. What do I want? I want the

best team. I want them to be seen as the best team. I want to coach the best team. I want people to respect them. I want them to have respect for one another and a lot of pride. That's what I want. I think that's what you want. Right? I mean, you want to be a part of the best team.

So, at some point as we work out other problems and everything else, I need you to join me at the front of the parade and I think I can speak collectively on this. I need help figuring out how to find the best people out there. I need help figuring out how to recruit them, how to lure them into this field, tell them this field is changed, and tell them this field is a challenge. It's got its demand to it, that it has got some difficulties to it, but it's got a lot of satisfaction.

So, I need help doing that. I have not been very successful in that. Then, I need help in terms of processing these people to make sure I'm picking the right players on this team and I need help with that. I think we all do. And then, once I have this team, I need help with the resources to coach this team. I need -- it's very difficult thing to sell -- I need to be able to explain to those people who have control of the purse strings that if you really want a good team, we've got to train. They've got to practice and they need time and help to do that.

You are all on these committees and have been selected for various reasons, but mainly because you have some respect in your community and with that respect comes a certain amount of power. I'm just a coach. I'm just out there struggling. I need your help to help build that team. I think that's really important. Thank you very much.

Barbara Attard: Thank you very much, Chief, and I am sure that if you bring us back to Kauai, we will be happy to help you with recruitment, training, oversight, anything that -- any way, our next speaker is Todd Samolis. Todd received a Bachelor of Science degree in Criminal Justice and Psychology from the State University of New York, College at Brockport in December of 1994.

Immediately, upon his graduation, he obtained employment at the Center for Dispute Resolution Services -- Center for Dispute Settlement, a non-profit corporation established to promote the peaceful resolution of inter-personal and community dispute through alternative dispute resolution processes. At CDS, Todd currently serves as Director of Special Projects, a division of the agency that delivers specialized services including: civilian oversight programs for the Rochester Police and the Monroe County Sheriff's Department, police citizen mediation and police complaint in-take services, human rights mediation, special education mediation, lemon law arbitration and a variety of other alternative dispute resolution programs. Todd is attending graduate school part time in pursuit of a Master's Degree in Education. I want you to join me in welcoming Todd Samolis.

TS: Thank you and good morning. First of all, I guess in order to understand the whole

context of what the police conciliation/mediation program that we have, I'd like to give you a little bit of background. Basically, rather than to tell you exactly and specifically what the nuts and bolts of the process is, I'd like to highlight a little bit about what kind of cases we have, what kinds of issues are best suited for mediation and also, basically, what kinds of pitfalls and some of the, I guess, dangers that could be inherent in sending cases that are not appropriate for mediation to mediation.

So, without further I'm going to give you a little bit of overview of the Center for Dispute Settlement. Basically, as Barbara indicated, we're a not-for-profit organization that was established in 1973. Basically, we serve the community through a variety of alternative dispute resolution programs. Our police community relations program was started in 1977 and that's where our actual civilian review program started and that was an actual contract with the City of Rochester by a mandate from our City Council at that time.

Out of that contract, in 1984, the police conciliation/mediation program started. Now, don't let the name throw you. It really is a mediation program and I will get into a little bit later, you know, why that is. Out of that contract with the City of Rochester, we have basically three facets that we call the policy community and relations program. One is the CRVR, civilian review board. The second facet is our police conciliation, mediation program and the final service is complaint intake service whereby we provide a neutral forum for citizens who wish to initiate or file complaints against members of the Rochester Police Department.

Basically, when you get right down to it, what does police conciliation mean? We're talking about a confidential, voluntary process offered to a complaining citizen and a police officer to informally and confidentially resolve issues and dispute that may have arisen through the complaint filing, the personnel complaint. Basically -- and, I'll get into it a little bit later -- we're talking about a specific type of complaint that fits within that criteria.

As I said, the program was established in 1984. So, we're going on 16 years we've been doing this program. Now, let me get into the history of a little bit of the terminology conciliation/mediation. Back in 1984, when City Council proposed this program, they initially started off with police citizen mediation program and the collective bargaining unit or the union for the Rochester Police Department kind of went nuts with the idea of mediation.

They basically semantically looked at the term mediation and took a stance that police action is not able to mediate. So, what they did was they put their heads together and, at that time, they changed the name to police conciliation. A slightly different term, the same process.

So now, I sort of have derived from that police conciliation/mediation holding true the

process that we offer is in effect mediation.

Some quick facts or statistics. Since the organization actually started between 1984 and '85, we processed more than 200 cases. Basically, cases that have gone through the table, we have a greater than 70 percent success rate for those cases that have gone to the table. So, by and large, it's been a very successful program.

In 1999, the average number of days for processing or in taking this position for investigations was 56 days as opposed to processing in 20 days for cases that were referred to for conciliation. So, we're talking about a much more expedient process that can, you know, get rid of cases a lot quicker and much more speed and grace.

What type of referrals are we talking about? Specifically, we're talking about complaints that center around discourtesy, failure to take a report, the complainant disagrees with the accuracy of a report, failure to take, what the complainant believes to be, appropriate police action, towed vehicles and various other types of complaints referred either by the Chief of Police or our agency.

Let me talk a little bit about the appropriate case referrals, because in my experience there needs to be quite a bit of work done by the in-take staff or the individual either at the center or the agency before they decide to make a referral to a mediation program. Basically, as we had set out before, any complaint that involves use of force in any form is clearly an inappropriate referral for conciliation.

Any allegations of theft or missing property are inappropriate. Basically, any allegation that would constitute criminal action or would be criminal in nature is inappropriate and these and other cases we'll refer them at the discretion of the Chief of Police.

And, I talked a little bit about inappropriateness of certain cases. There are certain types of cases that really can do more harm than good and I look at it in a sense of mindset of the parties. For complainants, if they illustrate a position of, "Why don't you utilize the forum for what I call a cop bashing session." That, basically, means they have no intention of using the process in good faith and to dialogue with the officer about their concerns and their issues and letting go of those possibly at the conclusion. They want to use the session basically just to get the officer in a one on one and just basically have a day with him or her.

And, there are various warning signs that can be exhibited by the complainant at that time, that clearly it's not appropriate for mediation.

Conversely on the officer's side, you know, there are officers that we have that basically are utilizing the process to try to get out of a formal complaint. They have no intention of doing

anything, but really just placating, not really listening, and in that sense, it's clearly not appropriate for the officer and the process if the officer or the complainant is exhibiting those types of stances.

I want to move to the benefits of the program and I appreciate all your efforts. The benefits of the program -- and, I'm just going to highlight the main benefits that have been illustrated by the panelists thus far. Probably the biggest benefit that I see of the program is clarification of the positions of the parties. It provides for a forum for the officer and the complainant to really explain their positions, why they feel that way, you know, specifically about the complaint and, you know, basically, they have a controlled, safe forum for that to occur.

A neutral, non-threatening environment is offered and this stems from the other service that we offer which is in-take service if the individual has had less than desirable experience with a police officer, they may express hesitation about walking into an officer's environment to file a complaint. That's a very real few and this is an avenue to or a forum to address that in a less threatening manner.

And, this is the other big component, is that I see that it's an opportunity that keeps the citizen and the police officer conversely -- here, we're going to talk about more specifically about educating the citizen on police policy or procedure. I see plenty of cases where citizens just don't know that an officer has had to use a particular technique or a specific policy or action. They're just not aware of that particular law or the ordinance that the officer has to use to do that. So, it is a forum for education.

As I had touched upon, the swing goes back way in that it's a method or forum for the citizen to talk to them about their demeanor and about their behavior and why their behavior might have caused them give rise to the complaint.

And, generally an element of this is that we don't live in a vacuum. We don't live isolated of others. Everyone's talking about the snowball effect, that if we have a citizen and a police officer that have a bad experience, generally, as I said, they don't live in a vacuum. The individual is going to go home and tell their siblings spouses, significant others and their friends about the officer and on the other side of the coin, the officer over time, may start getting a tainted image of basic citizenry.

And, all of a sudden, you start to have souring of police community relations in general. So, this is an opportunity to try to nip it in the bud, if you will, to try to work on the police community relationship at a smaller level. I think one of our individuals earlier said to start small and working up from there. This is what this is.

We're talking about complaints that may be difficult or impossible to testify. When we're

talking about something like discourtesy, that's a very subjective thing. I know on the Rochester Police Department, discourtesy is an allegation that can be sustained and discipline can be rendered, but trying to prove that may be difficult and impossible. So, this is a way to address that.

As for cost effective and expediency, we got both of them at the same time. Basically, we're talking cost effectiveness as a major goal. These investigations, I think they have a starting salary from \$65 to \$70,000 a year and we're talking about -- I don't know exactly how many man hours, but for a full investigation, we're talking a lot of money, a lot of staff time.

Similar to what Patricia indicated, our mediators are volunteers. They are not paid. They are trained. Their training is a whole separate thing now, if I have time to get into, but they volunteer their time and we're talking in average cases, resolved in two hours or less. So, further, there's a cost incentive there. Also, expediency, I indicated that most cases are resolved and go to the table in 20 days or less.

This process is empowering to the complainant. The complainant basically has the right to re-file a complaint if the issue is not resolved or they're not satisfied as to the resolution and they never give up that right, the process is successful, the officer will not have any record of discipline. It basically goes under -- there's no mark even on their handouts. There is no record of any complaint having ever been filed, ever. So, there is definitely an incentive for the officer to participate in the process.

Let's move to challenges of the program and not only am I just going to state the challenges, I'd also like to offer some strategies. Right now, clearly, the biggest challenge that we're facing is under-utilization and we're going about to try to curtail that and try to up the numbers, so to speak. We're looking at this as a joint effort, that it is simply our organization trying to pitch the program to police supervisors and officers.

It will be of minimal effectiveness, because clearly, it's a program that needs the buy-in. So, if we have the joint buy in from the Internal Affairs unit and all agencies joined in pitching this, we're looking to hopefully increase the numbers in that manner. The idea would be that our industry alone is not enough but if they hear from both Internal Affairs and our-agency, we're hoping that's going to be enough to really point out the benefits of the program and basically increase the program usage.

We're going to emphasize the caseload reduction potential. We offer this program. This program is here to help you. It's going to lower your numbers. We're going to do some of your work for you. I challenge many - if somebody comes and says, "I'd like to offer you something

that's going to help you do your job and release your stress and your work load." People would be hard pressed to say no to that.

Clearly, there needs to be very careful screening by the in-take personnel to really talk to both parties to find out where they're coming from and what ultimately they want to get out of the process. I've seen too many cases, I don't want to go into testimonials, but I've seen some real horror stories for cases that really were inappropriately referred and also ended up going to the table I think, ended up having the opposite effect than desired. Rather than improving police community relations, it ended up souring the relations. So, great care needs to go into that.

And, we're talking about basically, staff training and increased training on the various techniques on how to watch for all the warning signs. And, again, in Rochester, basically, the complaints can either come from the Internal Affairs office, from what we call section offices or precincts, or else, basically, from the office directly. So, they come from any of three places. So, it would be a matter of educating the in-take staff on what more specifically the criteria are and to watch out for particular signs to look out for.

There's also the power imbalance that we have and I look at it this way, that in Rochester, officers have a choice. They can either come in plain clothes or they can come in uniform sporting a 9-mm Bereta. And, clearly, there's a power imbalance there when you're mediating and trying to level the playing field to have somebody in uniform with a gun. That's an issue. We're encouraging officers to come in plain clothes to try to level the playing field, to make it a neutral location.

And, basically, the mediator has a number of techniques. What I'm looking at here are four things: partnerships, trust, progress and evolution. Evaluating partnerships involves looking at partnerships with the police department and also the community. If you don't have a three way union or a partnership, it's not going to work. You have to have the buy in from the community and at least the police department initially.

Once you have that and you start something, you can see the results that ultimately will lead to trust in the program. The police department will see it does have benefits, as will the community. That trust will lead to progress and progress ultimately leads to the program evolution and since we've been in our civilian review programs since 1977, we've evolved. We've modified and we're improving and this is clearly what's going to happen with this program. So, thank you for your time.

Barbara Attard: Thank you, Todd. It sounds like a great program. We have one more panelist, Virginia Van Meder. Virginia Van Meder designs and delivers training in mediation for the

Regional Community Policing Institution, for the community -- for COPS or the Community Oriented Policing Services Division of the US Attorney General's Office. Virginia is a Police Officer's Standards in Training or Post-Certified Instructor in Mediation.

She began her career in mediating cultural and religious disputes in the work place in Saudi Arabia 21 years ago. When she returned to the United States, she was formally trained as a mediator and was a community mediator for the San Diego Mediation Center. Virginia also has experience in small claims court mediations, superior court mediation and divorce related issues mediation.

She's lived in several countries and has a Master's Degree in Organizational Development and a Bachelor's Degree in East, West Comparative Philosophy. And, I know you're all saying, "Now, what is she going to say about Virginia?" Virginia Van Meder: I just want to thank you for being able to be here and learn a lot about what you do and yesterday was a good example as I was listening to the process of the oversight example. This is exactly what we're talking about today, which is a perception and the reality is the same, but the perception is different. And, one of my favorite expressions is that perception is the editor of reality. Perception is the editor of reality. And, when people frequently view the same events or experience the same events, people see it differently and there's a lot of reasons why and I'm not going to get into all of those things, whether cultural, family of origin, etc.

My undergraduate degree is from the University of Kauai. The organization I'm with, which is the Regional Community Policing Institution and we're with the COPS office and this is Community Oriented Policing Services office in the United States Attorney General's Office.

There are 28 Regional Community Policing Institutes of the United States and there's one that represents every state in the United States and I really want to give you this information, because I think it's a valuable resource for all of you. The Regional Community Policing Institutes - their mission in life is to deliver the message of community policing.

The Department of Justice realized that traditional policing isn't working and so, what they came up with was a new plan and basically, it's a new old plan. It's a new old plan because it's back to bringing the community into policing. What a concept.

The community actually knows more of what's going on in their community. So, just as in past days where Doc Holiday and the posse and everyone was responsible for the public safety and security of their community, what we're trying to do now is to train law enforcement, the community, municipal state, federal employees, business people, etc. bringing them together to train them in partnerships, in community policing concepts and philosophies.

So, how does that fit in for you? Well, the Regional Community Policing Institutes were asked by the Department of Justice about a year ago to partner with their local mediation centers, recognizing that mediation is really a great opportunity to form those partnerships and even more importantly, the relationship. For those of you who do know about mediation, know that the one successful thing that you want to come out of it is an ongoing relationship.

Going through mediation will not only foster that relationship, but in many times, strengthen the relationship. And, in fact, then people go back to their organizations or wherever they come from with a new understanding of the other person's perception about the same events. What will happen many times is they will tell about 25 people. So, look what you're doing in the community to bring that information back as far as what law enforcement, what their perceptions might have been to the same incident, and certainly vice-versa as to what community and what their perception of the same events were.

In the hand out that is not the spiral bound hand out, there's a list of all the Regional Community Policing Institutes in the United States and I recommend that you call the one nearest to you, because what I want to tell you about is the opportunity for training and partnership. And, if those of you that are interested in even exploring the idea of maybe having a mediation center in your agency -- of course, there's different agencies. There are police agencies, law enforcement agencies throughout the United States that are in evolution of community policing.

But, basically, I see mediation as a perfect example of community policing. And, I'll tell you about what our institute does and our institute is typical of other institutes throughout the United States.

And, just so you know, there are some differences. Different people have different specialties or different organizations have different specialties, but what we offer is typically three conferences throughout the year. In San Diego -- we have one in San Diego, one in Palm Springs, and one in Lake Arrowhead for those of you in California, because we represent Southern California.

There's another Regional Community Policing Institute in Los Angeles and one in San Francisco. There's one in Oregon, two in Texas, Virginia. I brought samples of the three classes for Virginia. Also, there's an International Law Enforcement and a list of who should attend. It says State and Provincial agencies, Highway Patrol, Bureaus of Investigation, community leaders, government leaders.

So, these are all ways to partner with your local agencies and community groups and just to begin to form those partnerships. At any rate, what I wanted to tell you is we provide these

classes free and not only that, but we pay for your mileage to the conference. We pay for your hotel. We pay for your food and this is typical throughout the United States.

And so, why does the government do that? The government does that because they feel it is so important that -- to get back to community policing concepts.

What I want to talk about as far as the training that we did with San Diego Police Department or that I did along with or a part of the community and San Diego PD. But, I want to highlight first the way the San Diego Police Department went into this whole process of designing a mediation civilian complaint process.

And, what we did is we called in Scott (Folkeson), which probably a lot of you know, from the Civilian Review Board, a couple of Lieutenants from Internal Affairs, the Deputy Chief. There were a couple of attorneys, all of the unions, VEO, myself, and another mediator and officers. There were officers, a lot of officers that were involved in the whole process.

The process has been over a year and a half that we've been meeting and so, this is probably the eight iteration of the policies and procedures and they're just on the cusp of presenting it next month to the Chief Executive Council of the San Diego PD.

So, what they did -- well, basically, community policing is put into a problem-solving process of scanning, analysis, response, and assessment. We haven't gotten the assessment part obviously, but scanning and so, what they did was call all agencies throughout the United States that are using mediation.

But, someone mentioned this earlier, too, and I think that you'll see that, that you'll have to adapt to your own organization. So, you'll have to adapt and see how it works for you. And, people may feel very passionately about some changes that may occur. So, that's what we did. We brought everyone to the table and we went out to San Francisco and met with Mary Dunlap and many of her staff at the Office of Citizen Complaints in San Francisco and they were very gracious in talking eight hours with us.

And, I think what was really beneficial was what went wrong, what did they do that they would have done over again. So, we learned a lot from them. Sometimes, I think it's just as important, if not more important, to learn what didn't work as it is to what does work, what did work for you.

I mentioned that -- well, in implementation, what I think that was really key about this process, if I were going to do it over again or if I had control over doing this over again, I think one thing that is a huge -- an area where you could really want to focus on and that is get a committee that is willing to commit, a committee that is willing to be at all the meetings and willing to follow it

through.

And, many times, we'd go to meetings and then, new people were in and things would change and then, they'd change back the next time until, you know, finally it's like crazy and finally, we have to move forward at some point. So, if you can get the commitment up front for people to just commit to that process, that's real key.

And, the other key thing, I think, is to really train people in mediation and really teach them what mediation does. I think what mediation is to some people is a very casual, relaxing thing that people can do on the street or just very informally and that's fine. I'm all for resolving conflict however it gets resolved. But, if you're talking about a formalized concept, that's something different.

So, I would train everyone in mediation, at least an eight hour training so that they really fully understand everyone who is at the table so they can move forward with that understanding, because believe me, it will save a huge amount of time.

Another real key area in mediation is the in-take and the person who is se doing the in-take, because people don't really understand what mediation is and the neutrality and how people are not going to be forced to do anything they don't want to do and that is huge. So, the person on the telephone who is contacting the citizen or contacting the officer, it's very key that person is really confident and really knows everything about mediation so they can explain it well. Of course, you send out brochures and things like that.

And, the last point, again, was the education. Education not only of the mediation, but education of the process that you're going to go through. So, thank you and I'll turn it back.

Barbara Attard: Thank you, Virginia. I'm sure that we'll have lots of questions to ask about what the Attorney General's Office has to offer. And so, we have, I think, about a half hour now for questions from the floor and this is something that our panel really wanted to do, was to hear what you all wanted to hear about mediation. Why don't you just kind of come up to the mikes.

John Leavitt: I'm John Leavitt from Tucson, Arizona. I'm a Captain of the police department there and I'm not, of course, recommending what I'm about to ask, but I'm wondering if you guys know whether or not any departments or any agency mandates mediation as part of the complaint process, much like they use for the lawyers in the room, please help me here, ADR, alternative dispute resolution, process in civil courts throughout the United States?.....

And, for those that aren't familiar with that, when someone files a civil suit in Tucson, Arizona, one of the things that they have to do on some types of complaints, civil complaints, is go through a mediation process and if that's not successful, then they can continue, but it is

something that is mandated at the beginning.

The reason that I ask that question is that my experience has been that it is very difficult to get police officers involved in what is an unsafe process for them in their view of mediation. Also for some types of complaints, of course, we all know it would be very beneficial and there is a way or someone had some experience in including that in the process?

BA: Thank you. Who would like to take that question? Pat or?

George Freitas: I guess the question, maybe you can help me, is there any mandatory, any place you have to do it?

Todd Samolis: To my knowledge, I'm not aware of any locations or agencies that have mandatory mediation. I would like to say there's some inherent danger in mandating mediation though. When you take away the option or the voluntary-ness, I guess, if you will, -- I just made up a new word -- there's a danger in that because you're forcing someone into the process, there's no chance of there being any good faith effort to want to resolve the issues.

If you're forcing someone to do something, they're not there because they want to be. They're not there because they genuinely want to hear the other side and hearing the other side doesn't necessarily mean that in the end, they're going to have to agree with that, but if you take that away and you're forcing someone into that process, that's never going to happen. In New York, there's all kind of talk also of mandatory mediation for other types of disputes and I -- you know, we've taken quite a stance against that for that particular reason.

Carol Russo: In Knoxville, it's not mandated, but I've never had anyone not do so.

Barbara Attard: Yes. In Berkeley, we actually are required in every case to ask the parties if they'd like to mediate. However, we get more complainants who are willing and it still is a voluntary program, but we're required to ask in all the cases.

F: Usually the heart of the opening statement is, "I understand you're both here voluntarily. Is that correct?" Otherwise, it's kind of more like a settlement agreement. I mean, there are still places like some of the courts call some of their mediations, mediations, but they're really more of an arbitration. So, you know, it's kind of similar. So, you have to be sure what you're really talking about. I don't think it works.

Barbara Attard: Thank you.

F: An experienced mediator started a mediation program back in 1985. So, understanding you can't make mediation mandatory, how would each of the five of you make it attractive to the police officers to break that barrier? How do you, short of making it mandatory, what's your advice for making it more desirable?

Barbara Attard: Thank you.

George Freitas: I guess, I'll start. Again, maybe I'm not an expert, but I'm picking up what that gentleman said. You're probably right. It can't be done in an informal basis. It needs some structure, some walls to it.

First of all, with the officers, it's going to be a matter of building credibility and there's no automatic way to do that. It takes time, but if I were pulling one together here, it has to have that formal structure so everybody knows the rules going in. If it's just for somebody to bash somebody, forget it. It's not going to happen. It's not going to work. It's not going to accomplish anything.

What's the officer's incentive? It's a big deal for an officer when they get complaints and, quite frankly, for your best officers, it's the biggest deal. The officer that only gets one in 10 years, that is a very painful experience for that officer. So, you'll have those kinds of people coming to it. I'm sure at any agency we'll have some officers who will say forget it. You know? They're big boys and big girls. They make that decision and whatever the consequences.

Carol Russo: In Knoxville, one thing is when we run the mediation, it does not go through Internal Affairs. It is done between that district, that Captain, Lieutenant and the officer. However, when we go into mediation, they're going in there with their supervisor. What they're counting on and trusting is that with the Police Advisory and Review Committee, loyalty is to the facts and to the truth and that's what they hang on to, the facts and the truth.

F: I think the biggest incentive for a police officer, at least for us, is that because it goes through the formal complaint process in order to be referred to mediation, if the officer goes through mediation and it's successful, it's wiped off their record. If the case would end up in investigation and I would dismiss it because there's no probable cause, not enough evidence, or the officer is exonerated, that remains on the officer's record and when the public calls and says, "I want to know what the officer's record is there. How many complaints does Officer John Smith have?" We can only give them the public information, but that public information includes, "Yes. There was a complaint against Officer Smith. Number two, there was no probable cause." We can't even say whether it was exonerated or insufficient.

So, if I were a police officer and I had the opportunity to mediate even though I thought that what I did out there on the street was right, it's my opportunity to go in there, talk to the citizen, build up some kind of a relationship with the citizen, with the added plus that nothing is left on your record. Nothing.

Todd Samolis: I'm going to also jump in and just say that basically our program is for the

most part the same. It's an opportunity for them to just go in and just have it go away.

Barbara Attard: Thank you.

Denise Deflores from Denver: Any type of dispute resolution that I've done is bringing everyone involved to the table but what I have been hearing-- especially from Carol, you're talking about this whole idea of coming to the table with either just the officer, the officer and the supervisor, or even, just a supervisor on one side. Of course, on the other side, you know, we often have cases where parents are complaining on behalf of children or there's some disparity between the person that actually has the most knowledge about what happened and the actual complainant.

And, of course, you can take those complaints, but I was wondering if I could get some thoughts from you about who has to be at the table and who shouldn't be at the table.

Patricia Hughes: I had mentioned one case before where the search warrant was executed on the wrong house or apartment and the mother brought forward the complaint on behalf of her children. In a situation like that, the children could have been there, but the mother didn't feel comfortable doing that.

We actually -- we had one case where we had a mentally retarded man go into mediation, but he had an advocate with him. You can't bring in attorneys or others, but in situations where it is a parent-child situation, the parent can go or if there is a vulnerable adult, the vulnerable adult can have an advocate. And, actually, the one that we did mediate with a mentally retarded man was successful.

Todd Samolis: Generally, I was going to add, that in our particular forum, we generally try to encourage the individuals that are the key participants, and usually that means one officer and one citizen, to be there at the table. I have had experiences where the complainant has wanted to bring in family members, friends, etc, - the idea being the show of force. We're going to come in and there's going to be all 20 of us and that clearly is not what we want to do and I try to dissuade that from the get go.

Similarly, we generally want the participants that are involved so that they can discuss the issues directly between them and the mediator. And, in instances where we have minors, the parents are invited to come in also.

Carol Russo: With us, each case is different. Sometimes, it is just the supervisor, the complainant or the witness. Always, of course, the parent if the parent is complaining in regards to their juvenile child. Also, there is an organization that would like to -- how can I say it nicely -- join hands with the mediation, but they have another agenda and the agenda, someone says, is police

bashing, which I don't allow. We come in and deal with the facts and the truth and that's how it's going to be done.

Barbara Attard: Thank you. Ca

Bob Aaronson from Palo Alto: If Rodney King wanted to mediate, would you let him, particularly in light of everyone's position that if the complainant is willing to mediate, then there isn't going to be an internal affairs investigation and there isn't going to be a discipline?

George Freitas: Absolutely not. That's easy. And, this is going to vary community to community depending on what the issues are, because as I said, I used to do some of this thing informally. I didn't know what it was called, but I knew my community well enough and I was not talking about community when I worked in California. I knew what the class issues were. I knew what the sensitive issues were.

If someone came in and said there was use of unnecessary and excessive force, if they're racially abusive, biased treatment, period. There is no problem solving, let's work this out. Here's the form. Let's get it filled out. We're going to go through a formal process, and again, those issues are going to vary from community to community, although I think force would be a fairly universal one.

No way could I -- I mean, using that as an extreme example, but force, I think I heard everyone talk about other issues. I thought of theft. You know? You can't sit down and work those out. It seems to me, you work on people collision things, short of force and theft, you know, the attitude, the talk, and he walk. Those are the kinds of things, but not the others.

Barbara Attard: Well, what about the theory that the earlier stuff or warning signs for the more serious behaviors later, now if you mediated verbal, racial disputes, the police department doesn't have a record that the officer has had these complaints in the past for when the next one that comes in of a beating that's racial?

VM: What I want to say about that one is -- I mean, I guess going into the mediation you make the assumption that everybody is there for resolution of the complaint or resolution of the dispute and that people are generally there with good intentions. And what I've seen over the years is the people that we have that don't have good intentions, number one, will generally not agree to mediate.

And, secondly, many times people -- it's a matter of their perception and if they actually have the opportunity to see the way that they handled themselves and are able to be in the world with other people in a different way. And, again, it's not so much that they need change or that their perception isn't real and valid, but that someone else has a different perception and that's

equally valid. It doesn't mean that you necessarily have to believe that person, but just that you see and recognize and honor that they have a different perception.

So, in many ways, I think it does serve to nip it in the bud, so to speak, and that's not always the case, but San Diego PD is new in this process, but they are dealing -- they deal with category one complaints, which are: procedure, service, courtesy, conduct and other and that's at the discussion of the in take detective, who will be trained in, in-taking.

Barbara Attard: Can I jump in with an answer to that question, too? I know when I worked in the San Francisco program we had specific rules about kinds of cases. Force and racial issues were issues that could not be mediated and also, there was a very carefully kept statistical system so that if officers had recent sustained complaints or if officers had gone to mediation on a complaint, that there was a period of time where they could not go back to mediation.

So, it would solve that problem that you were speaking of. If you had someone with a serious problem, you haven't wiped out the entire complaint record and I think it's important to build those kinds of safeguards in.

Carol Russo: In Knoxville, if leave mediation still not satisfied, you can still go through Internal Affairs. Also, in Knoxville, we have an automatic complaint tracking system. Even though it does not go to Internal Affairs, we're still tracking them because the Captains and the Chiefs want to know if there is a pattern.

George Freitas: One of those no record, records.

M: It's a personnel record.

Earl Jason from Oakland, California: I'd like to call your attention to the hand out from the Center for Dispute Settlement by Mr. Todd Samolis, specifically to page two, roman numeral seven, item E, where it says, "Overall improvement as one of the goals, benefits and goals of the program." Item E, "Overall improvement of policing, slash, community development relationship."

For me, that is the complete embellishment for my motivations for being involved in police review board. That's the goal that I work for and would like to achieve, the overall improvement of policing. Now, to that end, I'd like you to comment on having a police culture that would in fact someday turn the tables. When we have complaints, whether it's mediation or otherwise, we would have the police take the lead and invite the complainant to church. The police would, in fact, take the lead in inviting the complainants to some gay pride activity. The police would take the pride in inviting for an activity that would broaden the value of diversity rather than the citizens doing, taking that initiative. I would just simply like you to comment on that statement relative to where we are present.

Barbara Attard: This is a goal or this is what you have?

Earl Jason: Goal.

Todd Samolis: I hear what you're saying and it's a goal that I think we all would want to achieve someday, to get the initiative not be on the complainant, but rather on the department or the officer. And, that's one, I'll be honest with you, I don't have any clear answer - that's a tough one.

And, I think one of the other panelists indicated that the results of some of their conciliation's are officers offering to invite citizens on ride-alongs or to involve the community in some of their culture, inviting them to functions. I think we even had one conciliation where an officer invited the complainant to attend one of their police functions, a picnic or something.

So, though that's not a direct answer to switching the initiative to the police, I think that at least in this a potential for there to be the extension of, you know, offering of inclusion, if you will. I don't know if anyone else has any thoughts on that.

George Freitas: It's difficult to answer, it's almost an historical issue and those of us that are of that other generation are part of the problem. When I entered law enforcement, we were told that we knew how to solve problems and we took care of business. That's what we did. We were the problem solvers and that's the way I was trained.

And now, we're seeing and hearing about community policing, the reversal of that idea. And, again, it's never going to be a program, but it's going to be a process. I think you mean the officer that has enough gumption not to wait for mediation, but goes back the next day on his own and says, "You know? Gee. I'm really sorry I blew that. You know? I made a mistake." That is a cultural thing that is going to take a while.

Some of it's occurring. I mean, some of our young people that have been hired recently understand what we want and are doing a full range of jobs. They're not afraid to apologize. They're not afraid to ask for help from the community. They're not afraid to do all those things. The problem is they stepped into this historical thing and they've got idiots like me from another generation trying to tell them how they should be doing this directly and I was trained the other way. Have patience with those of us who were from that other generation and have faith in the new ones that are coming in. We're giving you good young people.

Barbara Attard: Thank you.

Eva Garrison: Hi. I'm Eva Garrison-Dewalsh of the Detroit Police Commission. Our commission has, in fact, talked about starting or developing a mediation program in Detroit. We've had a couple of people come and give us a presentation and we have a Commissioner who wasn't able to join us on this trip, who is very interested in a mediation program.

My question to you is how would a large city like Detroit be able to develop and handle a mediation program? We average about 900 to 1,000 complaints a year and it appears, just in listening, that a lot of the departments do not handle that many complaints and that though this may work in a smaller department, in a large city like ours, it may be a little more difficult.

It would certainly require budget considerations, staffing, etc. We have a large staff as it is that handles our citizen's complaints. We have about 21 investigators. So, I just present that to you. Are there examples of other major cities that have this type of program? Thank you.

F: How many sworn officers do you have?

Eva Garrison: 4,000. The way we're set up, I think we're set up similar to other large departments. We are a separate entity. We have an office. We have about 20 something staff members. We have the Office of the Chief Investigator that reports to the Board of Police Commissioners and that office investigates citizen's complaints. So, that's how we operate and we are appointed by the Mayor and approved by City Council.

Patricia Hughes: Do you have any mediation programs in the city?

Eva Garrison: No.

Patricia Hughes: Formal, not related to you?

Eva Garrison: Yes. We do.

Patricia Hughes: Why couldn't you approach them and talk about it? I mean, our mediation program, Minneapolis Mediation, handles landlord-tenant disputes and a number of different issues.

Eva Garrison: Yes. I think we're looking more in terms of setting something that would be a program that we can more or less direct or have some input in. It's a possibility. I mean, we're not sure. We're looking for ideas at this point.

Patricia Hughes: I can give you the name of the Director of the Minneapolis Mediation Program, because she does outside mediations and she's trained people. She's quite good at what she does and I think she could probably give you some ideas.

Eva Garrison: Thank you and I just wondered, are there any other major departments who have a program that is a success? I guess that's what I'm looking at.

Barbara Attard: If I could just jump in. This is Mary Dunlap from San Francisco. San Francisco gets about 1,000 complaints a year and does have mediation and uses volunteer mediators from the Bar Association that are referred through the Bar Association and other community groups. So, there is a way of doing it that's not very costly. So, I don't know if you want to say more about that, Mary.

Mary Dunlap: First of all, I'd like to say to Barbara and the panelists. Barbara was

instrumental in the OCC Centers, Offices of Citizen Complaints, setting up a good mediation program which is in corporation with the Bar Association of San Francisco, a group that has been a real friend of the OCC since its inception.

And, lawyers who are trained in mediation and non-lawyers who are trained in mediation together, in teams of two, mediate maybe a dozen complaints or a little more than a dozen per year. We'd like to have many more people in our program and I also have a question for the panelists about that in a moment, but I want to make two very quick comments. One is that we have a very fine staff and one of them had great insight about mediation - her name is Jean (Peters). Jean had the insight that mediation works well in a system that works well overall.

And, I think that's a terribly important insight because you can get a mediation program going for good reasons or for lots of good reasons. If you have a mediation program going because the investigative arm isn't working or complaints are being handled properly or because things are too slow, you maybe have a mediation program for the wrong reasons.

I think they work best in a system where discipline is also sure and effective and as open as problem. San Francisco has the vulnerability of a system that's highly confidential and I think it's the greatest weakness of our city's system. So, I'd mention that.

One other thing real quick is looking at the concept of abuse - it's useful in organizing any of the processes we're looking at here. If you have a mediation program where either an officer or a complainant is abusive of the process, the mediators need to be empowered to address that. They've got to be able to say, no matter how far into the swim they are, we're getting out of the pool.

And, I believe in San Francisco's system. I haven't actually sat through mediation, but it's my understanding that mediators are empowered to say, "This is over," whether it involves a cop action or a civilian action or anything like that.

Barbara Attard: I think it's their responsibility actually.

Mary Dunlap: They do it in each case. We get feedback that suggests they are pretty diligent. So, that would also be your responsibility, because if you set up a program where other people are being mistreated or abused, we're going to be responsible and I think that concept of abuse is worth taking back with us in whatever stage of the experiment we're in.

The thing I'd ask the panelists to assist me with is this. I thought, "We must be doing something right. Others are getting up and talking about making a mediation system appeal to the police." In San Francisco, we have the difficulty that the mediation system appeals highly to police officers and, indeed, we also remove officers with, frankly for a lack of better terminology, bad

records from the system. They're not allowed to carve out their disciplinary responsibility.

But, we have a hard time, frankly, engaging civilians with our mediation program because the complaint does go off the officer's record. It is the end, if you will, of the power of the formal litigation type disciplinary process. The complainants, in a lot of cases, want the impression of their complaint -- again, thinking about the idea of perception as the editor of reality - their perception is they don't want their complaint to have no weight and no consequence.

And so, as a result, we have a lot of officers who say yes and very few complainants. So, I'd like to hear -- two is fine for me. I'd love to hear the impressions of two of you on how do you get complainants to be more interested in mediation?

Barbara Attard: Thank you.

Todd Samolis: I'll jump on that one initially. This goes into the screening of the types of complaints. What has been most effective for me is that the types of complainants could be divided, I think, in at least two different categories. First is the complainant that wants blood. They want to see the officer hung for what they did.

The other complainant wants to sit down and they want to talk to the officers. What I try to play upon the second complainant is that in our system, the only opportunity that they will have to sit down face to face with this officer is if they endeavor in this process. Otherwise, they can go into the investigation, but they are never going to get that opportunity to sit down and look that officer in the eye and say, "Why did you treat me this way or why did this happen?"

Patricia Hughes: I can ask. That's my job. I have to ask and if the complainant does want to, that's great. I don't have a problem with that. I mean, normally, what you're trying to do in the beginning is to get the thing moving through the system quickly and get it resolved quickly, but that doesn't always happen, but if there's a possibility somewhere down the line it can happen, our agency is all for it.

Teresa Guerrero: Teresa Guerrero-Daley for the city of San Jose. We're looking at this time to implement a mediation program and I am undecided as to whether we're going to go the route of one bite of the apple, having the complainant only have one shot at it - either they mediate it or they file a complaint.

In talking to different agencies, I have found that one of the reasons why there aren't more cases mediated is because the officers see it from the perspective of, "Why should I mediate? The complainant still has a shot at filing a complaint." So, I'm wondering whether you have found whether one shot at mediation or filing a complaint would increase the number of mediations versus having the complaint investigated as an option?

Barbara Attard: I think, Pat, you mentioned that if the mediation doesn't work, that it goes back to investigation. I have the same issue in Berkeley. I think it's a really important one to sort out.

Patricia Hughes: The interesting thing in Minneapolis is when the Police Federation Director wrote his article in the short newspaper that they put out, one of the things that he mentioned in there -- he pretty much stated the case. He said, "Mediation is the way to go." And he's been in the Federation assisting officers for several years. He was there when I came and he said that in all the time that he had been there, there were only three cases that went back into investigation. So, he gave them the statistics and said, "So, you might as well try it."

Teresa Guerrero: Right. But my concern is more about the initial period, as you're getting the program. I think that works well once it's established you can always go back and say, "Only so many were ever turned into complaints." I think that it is a valid argument that I don't want to have to wait until we implement and then, we have to go back and say, "See." And, find out. You know? The numbers haven't occurred yet.

Quite frankly, in San Jose, we average between three and six hundred complaints a year and 20 mediations a year. I think that's the last number I heard. I don't think that's enough. So, I want to make sure the process that we implement has a much higher rate of people wanting to really have this dialogue that I heard you all talk about this morning.

George Freitas: If you're asking me as a police officer and I'm going to wear a police officer's hat and not a chief, I'm geared up to this as an adversarial process, a citizen complaint process. I don't know much law, but I know a little law about discovery and things like that. So, I'm the average cop and you're saying, "Well, go in there and try it. Lay it all out on the table. Be honest, open, admit whatever you did wrong and we hope that works it out, but if it doesn't, then they're going to file a formal complaint against you."

I can see the police association wanting some kind of blanket coverage that the information dies there. I can see when you establish credibility and everybody is comfortable like you're saying, but I get what you're saying bring it in the on-set, if I'm the first cop that's asked. I'm going to say, "Boy. You want me to lay it out on the table? I need an insurance policy, I have, that it doesn't come back two months later and cause me some more pain." That's my feeling as a cop.

Carol Russo: Can I just say just briefly, I guess I'm lucky because I haven't had a problem yet with going to the table with the police officers because mind you, the supervisor's there. I think it still lies in the trust factor and it's not basically there to come back to haunt you or no one is sitting there on a witch-hunt. We're there in order to help the police and the citizen understand

how they can make their city a better and safer place.

And so, the honesty, I think, correct me if I'm wrong, the bottom line is what they are trying to say to their officers is, "It's okay to say I'm sorry. It's okay to say I've made a mistake." I say, as a Police Advisory Review Executive Director, all I ask you is to tell the truth. We go down together. We rise together, but the bottom line is you won't have to really look behind your back.

Barbara Attard: One more question.

F: One more question and I have a short announcement, too. This is a question for Pat. You said that you had 15 successful last year. On a \$2,000 contract, how many total weren't successful or were they all?

Patricia Hughes: Seven.

F: So, 22 for \$2,000.

Paricia Hughes: Correct. We are very lucky.

F: That's wonderful and this panel has been wonderful.

Barbara Attard: I want to thank everyone. I think that through the process and the questions, we really focused in on the difficult part about making a mediation program work and I think that when you have two people who don't ever really intend to see each other again, convincing them to open themselves up to mediation is very difficult. However, when you've seen it work, you understand why it's important to do and while the numbers may be small, they still makes a big difference in people's lives.

And, any way, I again want to thank our panelists. It was a great panel to put on.

Two Mediation Systems Help Manage Citizen Complaints

By Peter Finn, ABT Associates, Cambridge, Massachusetts

Citizen complaints against police behavior can be a frustrating experience for everyone involved. Citizens become frustrated because they feel their complaints are not taken seriously or are not thoroughly or objectively investigated. Officers become frustrated because they feel the public does not understand police work. Local officials become frustrated because they feel uncertain about how best to hold depart-

ments accountable for officer behavior. A number of police agencies have found solutions. They have discovered that mediating certain types of citizen complaints can satisfy all the parties involved.

What Is Mediation?

Mediation is a process of negotiation, usually invoked to resolve an impasse. It brings together two or more interested

parties to reconcile differences and to reach a voluntary agreement or settlement. In some cases, mediation is very informal. A supervisor arranges for the officer and complainant to talk in private. In other, more typical cases, the process involves a trained mediator who runs a formal session at a neutral location.

The process generally begins with the police or sheriff's department, or a citizen oversight body, asking if the complainant

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is willing to mediate the complaint. If the person is willing, the department or oversight body directly or through the department's internal affairs unit finds out if the officer is also amenable to mediation. If both parties agree, the mediator sets a mutually convenient time to meet.

During the session, the mediator works first to help the parties clarify the underlying issues or points of disagreement, asking each party questions such as:

- Why do you feel he or she was wrong?
- Do you feel you could have responded differently?
- Was there anything good or right about how he or she responded?

Once the mediator and the parties have a clear understanding of the incident, the work focuses on reaching a positive resolution.

If the complainant expresses to the mediator satisfaction with the result, the case is considered closed. The content of the mediation remains confidential. In some jurisdictions, complainants may not appeal the results of the mediation; that is, even if the complainants are dissatisfied, they may no longer re-file the complaint with the police or sheriff's department, or with the oversight body.

The discussion below examines how formal mediation operates in Minneapolis, Minnesota, and Rochester, New York. In both cities, citizen oversight bodies usually arrange the mediation. The use of a citizen oversight body is not mandatory, however. Although no law enforcement agencies were found that arrange for formal mediation of citizen complaints internally, police and sheriff's departments can easily establish a formal mediation process without the assistance of a citizen oversight body.

Mediation in Minneapolis

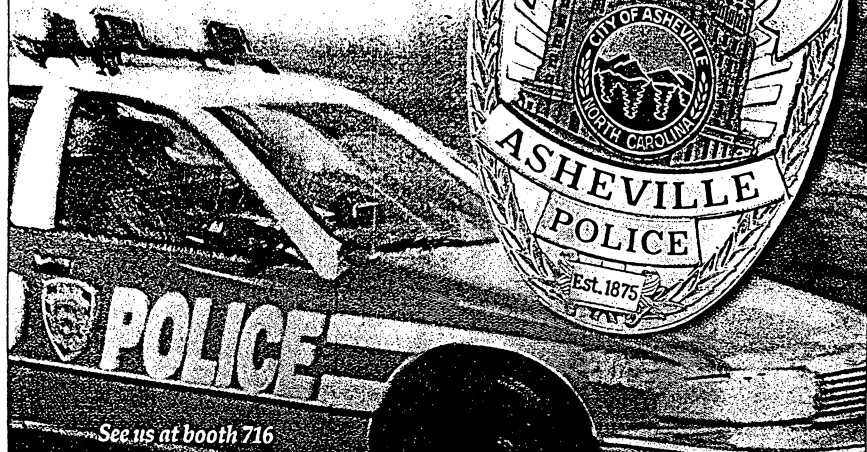
The Minneapolis Civilian Review Authority (CRA) investigates citizen complaints and refers appropriate mediation cases to the Minneapolis Mediation Program, a private, nonprofit organization. The Mediation Program has a \$1,500 annual contract to provide unlimited mediation services for the CRA. Approximately 40 to 50 sessions are scheduled annually.

The Process

The CRA operates in two stages. In the first stage, paid, professional investigators and an executive director investigate citizen complaints to determine whether there is probable cause to believe misconduct occurred. In the second stage, volunteer board members conduct hearings to

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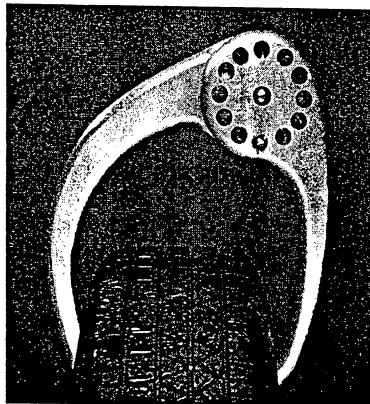


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determine whether to sustain the allegations in probable cause cases.

During or after a CRA investigation, an investigator may propose mediation to the parties with the director's approval. If both parties accept an offer to mediate, the director sends the case to the Minneapolis Mediation Program.

Under the terms of the contract, the Minneapolis Mediation Program must arrange the mediation within 14 days unless there are extenuating circumstances. Mediation program staff contact the parties to reconfirm that they are willing to participate, to explain the process, and to arrange a meeting time and location (e.g., a library or neighborhood center) that is convenient for the parties.

Pairs of trained volunteers (see box "Advantages of Minneapolis' Dual Mediator Process") mediate many of the sessions; Minneapolis Mediation Program staff mediate the rest. The Minneapolis Mediation Program requires volunteers to be certified mediators and then requires them to attend its own 40-hour mediation course.

Advantages of Minneapolis' Dual Mediator Process

- There is always one male and one female mediator.
- The mediators can share perceptions about what is taking place and how to proceed.
- They can learn different mediation styles from each other.
- One mediator can pick up on verbal and behavioral cues the other may have missed.
- The mediators can brainstorm possible solutions if mediation reaches an impasse.
- They can debrief together afterwards.

The Minneapolis Mediation Program informs the CRA director whether mediation was successful. If it was successful, the director dismisses the complaint. The complainant then cannot return to file a complaint with the review authority for the same incident. If mediation was not successful, the CRA director sends the case back to the staff for investigation and a possible hearing.

The parties reach agreement in about 90 percent of all cases. When mediation is not successful, usually it is because the citizen wants something more, such as an admission of wrongdoing by the officer.

The mediation proceedings are confidential except that the mediators may in-

form the CRA and police department whether the parties met, reached agreement, and complied with the agreement. Minnesota statute prohibits the use of mediation discussions and documents in subsequent legal or administrative proceedings. The CRA director generally does not permit cases involving alleged use of excessive force to be mediated. However, exceptions are made when the complainant wants to mediate and no serious injury has occurred.

Sample terms of the mediation agreement have included the following:

- Both parties agreed that the dialogue was helpful in allowing them to understand each other's experiences and viewpoints.

- The officer is sorry that the incident occurred and caused [the complainant] embarrassment. [The complainant] acknowledges that the officer made the best decision possible with the information available on the scene.

On a few occasions, participants have agreed to follow-up action:

- Resources provided by [the complainant] will be forwarded to the Min-

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neapolis Police Training Unit, Room 204, City Hall, for training/treatment of hypoglycemic diabetes with recommendation they be included in officer training.

• The officers agree to meet with [the complainant] and some community leaders to speak with them as individuals in the community.

In one successful mediation, an officer agreed to attend a cultural diversity course. Since there were no courses available in the community, the officer attended the cultural diversity session the Minneapolis Mediation Program was running for its volunteers. In another, the complainant agreed to go on a ride-along.

Officer Recalls Satisfying Experience

A Civilian Review Authority investigator interviewed an officer against whom a college student had filed a complaint alleging use of excessive force. After the interview, the investigator telephoned the officer asking if he would be interested in mediating the case if the complainant agreed. The officer said he would.

The college student alleged that the officer had forced him to lie spread-eagle on a car, without cause, after a disturbance at

a bar. During mediation, the officer explained that it was a case of mistaken identity. A person at the bar had pointed to the student as the offender, so the officer had taken precautions to ensure the student was unarmed and under his control. The officer reported that the student was visibly upset at the beginning of the mediation "but he seemed to gain an understanding of why I did what I did."

Mediation benefits are most likely to occur when misunderstandings, miscommunication, or lack of communication are the primary factors in the dispute between an officer and a citizen.

The two parties signed a statement acknowledging their satisfaction with the mediation. According to the officer, "It was beneficial because I didn't get in trouble with the department and the complainant understood why I did what I did. It was for his safety and mine."

In 1997, 48 cases were referred to the Minnesota Mediation Program. Of these 48 referrals, the program was unable to contact 11 citizens who had initially agreed to participate. In 11 cases, the citizen did not show up, and in 2 cases, the officer failed to appear. One case was resolved by means of telephone conciliation between the parties. Of the 23 cases that went to mediation, 19 resulted in the parties signing an agreement. Four cases failed to reach agreement.

Conciliation in Rochester

The Rochester City Council contracts with the Center for Dispute Settlement—the third oldest citizen dispute resolution organization in the country—to set up three-member panels of trained, certified mediators to review Rochester Police Department's internal affairs cases. The panels, known collectively as the Civilian Review Board, produce findings that the chief considers, along with the depart-



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ment's internal affairs unit findings, when imposing discipline.

The Center for Dispute Settlement officially calls the program a "conciliation" program, but with one exception, the actual sessions are no different from traditional mediation sessions. In the one exception, there are no written consent agreements among the parties at the end of a conciliation, as is typical with mediation.

The Process

Eight types of complaints are eligible for conciliation, ranging from failure to take what a complainant perceives was appropriate action (e.g., not making an arrest) to discourtesy to damaged property (e.g., during execution of a search warrant). Cases involving allegations of excessive use of force are not eligible for conciliation.

Depending on where the complainant files the complaint, either the Center for Dispute Settlement or the Rochester Police Department's internal affairs unit may refer the case for conciliation. Both agencies begin by asking the complainant if he or she would find conciliation an acceptable alternative to a department investigation or Citizen Review Board re-

view, if the officer also agreed to conciliation. Most complainants offered the option agree to it. For mediating citizen complaints against the police, the CDS chooses one of the center's certified volunteer mediators who have participated in a one-day training session on police conciliation.

The parties sign no written agreement. Instead the mediator indicates in the case file whether, in the complainant's judgment, the matter was resolved or unresolved. If the matter is resolved, the CDS sends a letter indicating closure to internal affairs, and no record of a complaint having been filed appears in the officer's file. If the matter is not resolved, the complainant may re-file the complaint with the internal affairs unit.

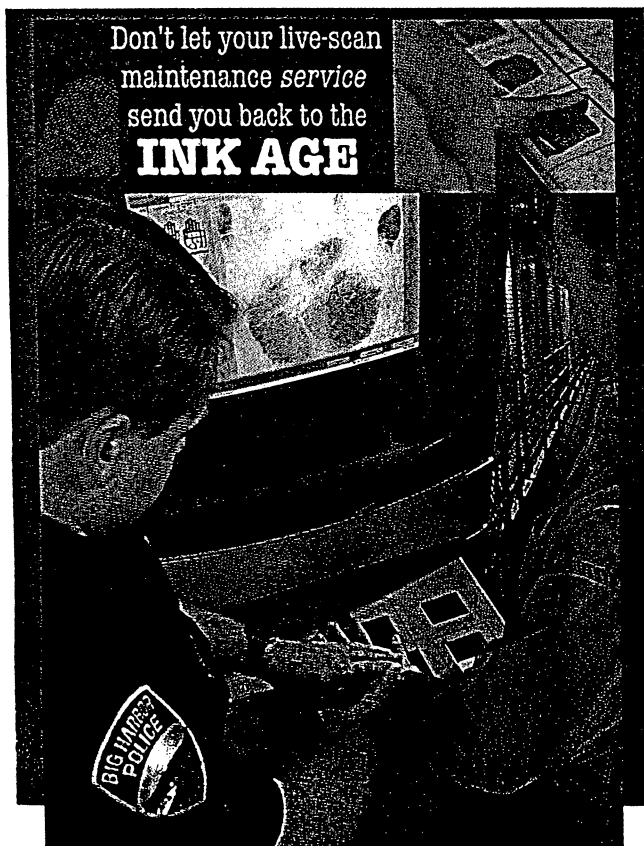
Mediator Describes Both Sides' Exchanges

In events leading up to one case conciliated by CDS, a Rochester police officer was ticketing a car parked on the wrong side of the street when the owner came out of her house to complain. The officer ran the woman's name through the computer and found that a person matching her description had an outstanding warrant. The officer (a female) searched the

woman and asked her to wait in the back of the cruiser. The officer then received more information indicating the woman was not the same person, so the officer released her.

The woman filed a complaint because she felt that the officer had embarrassed her in front of her children. The officer, in turn, was angry she had to mediate the incident because she felt that the department should have told the woman the case was closed, since the officer had not made an error.

At the mediation session, the mediator sat between the two parties and asked them to decide who would speak first. The officer did, asking, "Was I rude?" The complainant answered, "No." The officer asked, "Did I act professionally?" The complainant answered, "Yes." The officer then explained why she had asked the woman to sit in the car, showing the woman the printout which indicated that a person fitting her description (age, race, gender, and last name) had an outstanding arrest warrant. The officer said, "I can understand why you were embarrassed, but if I was going to have you sit in the back of my cruiser, I needed to make sure you weren't carrying a gun that you could shoot me with in the back of the head." The woman became less and less antago-



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nistic and was eventually satisfied with the officer's explanation.

Of five conciliations conducted from January through September 1998, two were resolved. One was unresolved, and in one each, the complainant or officer did not appear.

Benefits of Mediation

Mediation can provide many benefits to a police department or sheriff's office, as well as to individual officers. These benefits are most likely to occur when misunderstandings, miscommunication, or lack of communication are the primary factors in the dispute between an officer and a citizen. For example, police officers and deputy sheriffs are involved in many incidents in which an officer stops and interrogates a suspect who turns out to be innocent and the person becomes angry at having been "falsely accused" or singled out "for no good reason." As illustrated in the vignettes above, mediation lets officers explain how the information they had at the time led to a reasonable suspicion that the person might have been an offender and why the officer had to follow up. As a result, citizens can learn about the basis for police officers' actions in ways that promote an improved understanding of the officer's job. According to a police officer in Minneapolis whose complaint was successfully mediated, "Mediation helps the public understand the dangers in police work and the reasons you did what you did. It is the totality of the circumstances. Cops feel they don't need to explain their actions because the job is tough enough, but the public needs to be told."

Mediation also gives officers an opportunity to apologize in a neutral setting when they have behaved inappropriately. Like everyone, officers can "have a bad day" and lose their tempers with citizens. In addition, citizens do not realize how frustrating it can be when officers encounter repeated instances of citizen vehemence, venting at officers, lack of consideration, or petty, but dangerous, attempts to break the rules (e.g., sneaking by a line of slow-moving traffic by driving in the breakdown lane). Officers are not justified in losing their tempers or berating a citizen, but mediation can help citizens understand why some officers sometimes do so.

Mediation can help reduce the hostility and fear some citizens develop toward the police. Narcotics officers in Minneapolis raided an apartment looking for a drug dealer who, as it turned out, was selling drugs only when the legal tenant and her three children were out of the building. Conducted at night with a no-knock entry with shotguns, the raid terri-

fied the whole family. The family filed a complaint but agreed to mediation. During mediation, the officers (who had done nothing wrong) apologized for the mistake. They then sat down and talked with the children so the children would not be scarred by the experience.

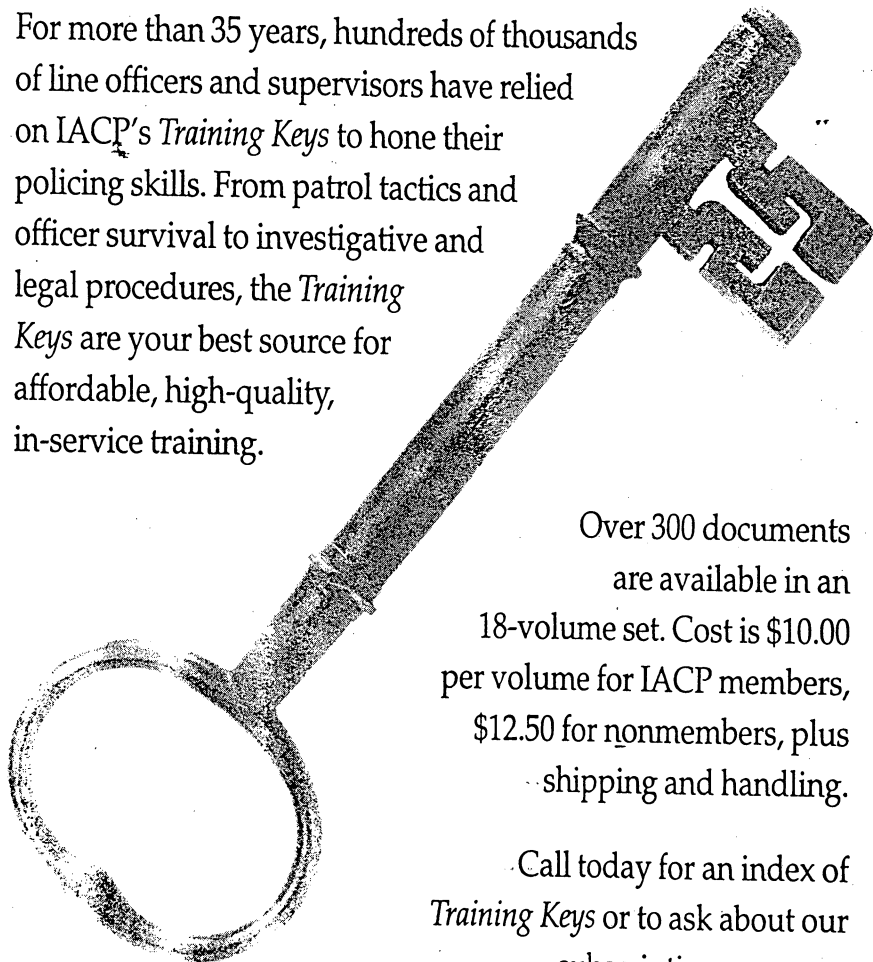
Mediation can also educate officers about the effect their words, behaviors, and attitudes can have on the public. According to Tod Samolis, coordinator of the Rochester Civilian Review Board, "A number of officers participate for the wrong reasons and resent having to come,

but then they see it works. They see the complainant in a new light and see how they might have handled the situation differently." As a result, mediation promotes learning. It allows some officers to learn what they can do differently to reduce friction with the public. When Minneapolis Mediation Program staff contact participants a day or two after each session, officers sometimes say, "I never really saw it from the citizen's perspective."

All of these outcomes can improve the department's image and relations with the community if they result in officers

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behaving more considerately toward the public or if they increase the public's understanding of the nature of law enforcement.

Limitations of Mediation

This is not to say that mediation is a panacea. Mediation has its drawbacks. Because mediation is almost always held in private and the results are confidential, some police administrators may regard it as having less "teeth," and therefore less of a deterrent effect, than an internal affairs investigation. According to Charles Moose, chief of the Montgomery County, Maryland, Police Department, some police administrators believe that mediation takes away their control over discipline, because a condition of successful mediation is that there will be no further investigation and no discipline. Police supervisors can also misuse mediation by requiring officers to participate merely to give the community the false impression that the department is attempting to work with the community.

Sometimes no one leaves mediation satisfied. A woman filed a complaint with the Minneapolis Civilian Review Authority because an off-duty officer checking identification cards at the door of a night-

club confiscated her driver's license. He concluded that it was a fake because the woman could not identify the color of her eyes nor the address listed on the license. Without identification, the woman was unable to pick up her disability check the next day. The woman filed a complaint but agreed to mediation.

After personal introductions, the complainant explained why she felt the officer had treated her disrespectfully by not believing the license was hers and, in general, "giving me a tough time" in trying to enter the club. (The mediators felt she looked young enough to have possibly been underage.) She wanted an apology and her license back.

The officer responded that he was doing his job and was convinced that the license was a fake because the photo did not match the woman. He turned the license in to the department, as standard procedure, and no longer had the authority to retrieve it for her.

The woman explained that she had been caught in the bureaucracy trying to get her license back and began to cry. The mediators caucused, then escorted the woman into the hallway to give her a chance to calm down. Returning to the meeting, the woman repeated that the officer should not have treated her the way

he did and that she wanted her license back. The officer repeated that he could do nothing about returning the license. The mediators then met separately with the officer, who repeated that because the license was a fake, he was justified in seizing it, and would not apologize. Upon returning to the meeting, the woman asked to end the mediation. Everyone stood up, the mediators thanked the parties for coming, and the officer and woman left.

Mediation also has limitations. Mediation is suitable or appropriate only for minor cases of alleged officer discourtesy. Allegations of use of excessive force or discrimination are usually not appropriate because, if sustained, they merit punishment.

In many cases, mediation is limited because complainants are reluctant to participate. In 1997, San Francisco's Office of Citizen Complaints received 22 complaints that investigators felt were eligible for mediation. While only 2 officers refused to participate, 16 complainants turned down the opportunity.

Sometimes officers refuse to participate, too. An unfamiliar process, mediation makes many officers nervous. Other officers argue, "Why should I have to explain to a citizen why I did my job?" However, the confidence these officers have



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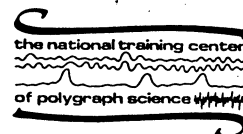
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that they did the right thing should also help them to feel comfortable going to mediation. The officers will not have to apologize for their behavior, but will have the opportunity to explain the rationale for their actions to the citizen. According to Robert Duffy, chief of the Rochester Police Department, "Officers often find mediation threatening. People in authority have difficulty hearing the other side. But we need to hear why people disagree with us."

The former head of an internal affairs unit in another department actively encouraged officers to use mediation. He told department personnel, "I can't tell you how to respond to an offer of mediation. But I can tell you that, if you go and it's successful, there will be no record of the complaint in your files. So what do you have to lose? You don't necessarily have to apologize or admit to wrongdoing, just explain why you did what you did." Indeed, officers frequently do not apologize for their behavior. Instead, they express regret that they had to take the action they took. One mediation in Minneapolis ended with the officer writing the following:

"For the record, I was not wrong for shooting the [complainant's] dog. However, I appreciate the opportunity for me

to explain why I did it, and apologize for the fact that I had to do it. [Mediation] is more effective than the standard Civilian Review Authority routine for all parties."

While the examples of mediation presented in this article were arranged by a citizen oversight body, there is no reason a police or sheriff's department cannot make the same arrangements for mediating citizen complaints.

Mediation can save police and sheriff's departments the frustration of leaving citizens unhappy, or even bitter, when internal affairs rightly does not uphold their

complaints against officers. Mediation is also helpful for the many citizens who file complaints but who are less interested in seeing the officer punished than in simply having an opportunity to tell the officer what they found objectionable about his or her behavior. Mediation can improve the department's image among affected citizens. Finally, mediation can improve the department's relations with the community as citizens come to understand the reasons behind officers' actions.

The costs of mediation are low and offset by the increased time internal affairs units can devote to more serious citizen (and internal) complaints. While many officers may resist the opportunity to mediate complaints, once a properly operating system is in place, word of mouth will convince many reluctant officers that they have nothing to fear and something to gain by participating. Finally, while the examples of mediation presented in this article were arranged by a citizen oversight body, there is no reason a police or sheriff's department cannot make the same arrangements for mediating citizen complaints. Departments can identify a qualified mediation service and encourage officers to participate in appropriate cases involving citizen complaints. ❖

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The Committee has the following characteristics:

- * Established by City Council
- * 23 members appointed by the Mayor
- * Reports directly to the Mayor
- * Racially diverse, gender-based membership that approximates the population in the community
- * Dual chairpersons (racially diverse), elected from among members for three-year terms
- * Subcommittees will be established for case review on a rotational basis
- * Subcommittees will report to full committee with comments and conclusions on cases reviewed
- * Committee reviews cases after adjudication
- * Committee has no disciplinary powers
- * Committee has no subpoena authority
- * Committee does not hold hearings

The specific goal, objectives, membership and general operating rules are outlined as follows:

GOAL

To provide a forum for discussing issues that are of importance to the community and to the Police Department and to serve as a means of informing the Chief of Police, Mayor, City Council and the citizens of St. Petersburg with their views as to the quality of police service being delivered.

OBJECTIVES

- To publicly review cases that have been investigated by the Police Department as a result of citizen complaint or have otherwise received a high level of community interest.
- To hold monthly meetings to receive public input related to community feelings regarding the delivery of police service and incorporate results into annual reports.
- To serve as a forum for discussing the policies of the Police Department as they related directly to community service.

- To provide information to the community on the services and activities of the Police Department.
- To provide a means of making recommendations on improving police services in St. Petersburg.
- To make, at a minimum, annual reports to the Mayor, City Council and the Police Chief. More frequent reports will be encouraged if deemed necessary and appropriate by the membership or if requested by the Mayor. The report shall include, at a minimum, information concerning the results of case reviews as well as the general feeling concerning the delivery of police service to the citizens of St. Petersburg.

QUALIFICATIONS FOR MEMBERSHIP

- * Must be a resident of St. Petersburg
- * Must be willing to make a three-year commitment
- * Must be willing to attend a minimum of twenty hours of training
- * Must be willing to spend the necessary time required to review cases and attend meetings
- * Must not have any prior felony convictions or any violation of a city ordinance involving moral turpitude
- * Must not hold any political office
- * Must not be a City of St. Petersburg employee
- * Must not work for any law enforcement agency
- * Must not be related to members of the St. Petersburg Police Department

Citizens who feel they meet these requirements are invited to send a letter stating why they wish to become members and send a resume. The resume must include the citizen's date of birth and social security number. Send the packet of information to the following:

Debra Bynum, Staff Coordinator
Citizen Review Committee
Post Office Box 2842
St. Petersburg, FL 33731

MEMBERSHIP

- Shall be appointed by the Mayor.
- Shall make recommendations to the Mayor for membership as vacancies occur.
- Shall be ethnically diverse, gender-based and shall approximate the make-up of the community.
- Initial membership, including the co-chairs, shall be 23 and include as a minimum, representatives of the following organizations or categories:
 - Ambassador Club
 - Chamber of Commerce
 - Clergy
 - Community Alliance
 - Council of Neighborhood Associations (CONA)
 - Federation of Inner City Organizations (FICO)
 - NAACP
 - School Administration
 - Southern Christian Leadership Conference (SCLC)
 - Urban League
 - General Community

GENERAL

- Committee shall adopt its own Rules of Order.
- Meetings shall be open to the public with minutes kept and available to the public.
- Monthly meetings (each fourth Monday of the month) shall be chaired alternately by the co-chairs.

- Case review meetings, which occur the first, second and third Mondays of the month, shall be taped live and rebroadcasted over the government access cable television channel, Channel 15 and regular UHF Channel 35.
- Subcommittees shall be assigned cases for review and shall be rotated annually. The subcommittee shall report, with their comments and conclusions on reviewed cases, to the entire committee.
- Staff support shall be provided by the Mayor's Office.

In St. Petersburg, the 23 members are broken down as follows:

- 2 serve as Co-chairs
- 18 serve as primary members; are assigned 6 to each of three subcommittees;
- 3 serve as alternate members; serve in the absence of primary members when a quorum is not present; fills the uncompleted terms of departing primary members; otherwise, serves in this capacity for one year after which the individual is eligible to be chosen as a primary member if so desired.

TRAINING

In the capacity as reviewers of previously decided cases, the members are familiarized with the work and day-to-day responsibilities of the St. Petersburg police officer. To accomplish this, two weeks of instruction in a classroom setting are given. City employees and police personnel familiarize the members with their areas of expertise. The training syllabus contains, at a minimum, the following topics:

- * Discussion of the Discipline Philosophy
- * Departmental Mission and Values
- * Case Review Scenario
(Designed to make participants think about incidences that give rise to complaints and what they would do/say if presented with a complaint; discussed at the end of the first day in group settings)

Recommended Training for New Civilian Oversight Board

Require

30 hours structured training in the following topics; and
20 hours reading materials read by the Board Members to prepare for training.

No case monitoring should begin until training is complete the Executive Director is comfortable that the Board is competent to review cases.

Possible Schedule:

Day 1: 6 hours training

2 Hours:

Riverside's Establishment of Civilian Oversight

History of Local Issues That Led to the Establishment of Oversight

Constitutional and Civil Rights Issues of Citizens; Reducing Taxpayer Liability for Police Errors/ Misconduct

Presenters: Don Williams and

History: Locals who worked on oversight establishment

Constitutional & Civil Rights: ACLU spokesperson

Liability Reduction: Merrick Bobb, Los Angeles

4 hours:

Two Panels: Dialogues between Panelists & New Board Members

1. What the Riverside Community Groups Expect from Riverside's Oversight Process

Panelists should reflect the Leadership of Riverside's diverse community in the Riverside (Anglos; Black, Hispanic and Asian Leaders; Youth, Gender balance; immigrant issues; Faith communities; UCR/ RCC; Media; ACLU, other. . .)

2. What local Government Officials Expect from the City's Oversight Process:

Panelists Could Include Mayor, City Manager, City Council, Grand Jury, Police Management, City Risk Administrator; Presiding Judge; County Officials such as CAO, Sheriff; Federal Officials such as US Attorney/ Civil Right's Department Spokesperson and/or FBI spokesperson to address what federal oversight is ongoing or anticipated, what fed "pattern and Practice" investigations mean.

Day 2: 4 hours

2 hours:

Models of Civilian Oversight in the US, in California; Riverside's Model
 Possible presenters: Sam Walker (U of Omaha); Sue Quinn (San Diego); Don Casimere (Sacramento)

2 hours:

California Local Government: Public Records & Public Meetings Laws
 Obtain *Ralph M. Brown Act: Attorney General's Guide* at
http://www.cfac.org/Law/BrownAct/AGuide/ag_guide/segment_2.html

Riverside's City Government & City Charter

Instruct Board to read the Brown Act Guide prior to the training (assume 2 hours reading);
 Have City Atty conduct training.

Day 3: 8 hours

Management and Supervision of Police: Polices, Practices and Operations,
 Police Hiring, Training,

Investigations of Police Officer Behavior/ Misconduct; Progressive Discipline

Officer Responsibilities: California Peace Officers, 830 et sec PC

Officer Rights: Peace Officer Bill of Rights; The POA and PORAC

Instruct Board to read Department documents prior to training (assume 6 hours reading);

Trainers/ Presenters: Riverside Police Department & POA

Day 4-6:

12 hours Review Board Operations & Monitoring Investigations

Day 4

1 ½ hours Riverside Oversight Board's Ordinance; Rules and Regulations; Basic Concepts in Oversight;

Use Riverside Ordinance, Rules & Regulations, NACOLE 1999 Training Document, *Investigation, Monitoring and Review of Complaints: Practitioner's Guidelines*. Instruct Board Members to ready materials prior to training (assume 4 hours reading).

Presenter: Don Williams

4 1/2 hours Monitor Internal Investigations
Require Board Members read *Investigative Procedures and Guidelines* Manual from San Jose prior to training; require reading of any similar manual Riverside Police have. (Assess availability and adequacy of any similar Riverside manual so you can train Board accordingly; if there isn't such a manual, assess recommending one.) Assume 6 hours reading.

Recommended Trainers: Teresa Guerrero-Daley, San Jose Independent Police Auditor; Judge-Elect Katherine Mader (First Inspector General, Los Angeles Police Commission)

Days 5: 3 hours:
Practice Cases: Give Board 2 Sample Cases consisting of Complaint/Officers' Statements/ One witness statement/ governing Policies & procedures. Assume 1 hour reading before meeting.

Presenter/ facilitator: Don Williams

Days 6: 3 hours:
Practice Case: Give Board 2 more difficult Sample Cases consisting of Complaint/Officers' Statements/ Witness statements/ Other evidence/ policies & procedures. Assume 1 hour reading before meeting.

Presenter/ facilitator: Don Williams

Ongoing Training Recommendation:

Board Members be invited to attend any Riverside Police Academy classes, and urged to attend classes that address issues in the complaint caseload, such as force application; communications; dealing with mentally ill.

2-4 RideAlongs Annually

Board Members receive as much training from outside the department as from within the department.

Schedule Trainings at Board Meetings



5.

CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager Richard C. Rossi, Deputy City Manager

July 30, 2001

To the Honorable, the City Council:

In response to Awaiting Report Item No. 01-200, regarding a report on the use of mediation by the Police Review Boards and staff in other cities and on the availability of mediation training for PRAB and staff, Personnel Director Michael P. Gardner reports the following:

The Police Review & Advisory Board budget includes \$6,700 for Professional & Technical Services and \$3,000 in Travel & Training, which may be used at the Board's discretion.

In addition, the Personnel Department budget contains funds that can be used by City employees/departments to attend training that their department head/supervisor deems necessary. Typically, the individual/department determines that appropriate training and the Personnel Department processes the payment information for the requesting department, provided funds are available. In the past, some departments have requested mediation training for employees (usually through the Community Dispute Settlement Center). The Personnel Department currently has funds available, and would be able to pay for mediation training for Police Review & Advisory Board staff, should they desire it.

I am also attaching a response received from Executive Secretary of the Police Review & Advisory Board Malvina Montierio.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", with a long horizontal flourish extending to the right.

Robert W. Healy
City Manager

RWH/mec



2875

Consent Agenda #5

Awaiting Report Item
Number 01-200, regarding
a report on the use of
mediation by the Police
Review Boards and staff in
other cities and on the
availability of mediation
training for PRAB and
staff.

In City Council July 30, 2001

PLACED ON FILE