

Washington, D.C. Office of Police Complaints



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"Mediation: A Win-Win-Win Situation"
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Main OPC Functions

- With respect to resolving police misconduct complaints:
 - Investigate
 - Mediate
 - Adjudicate
- Issue policy recommendations
- Conduct community outreach
- Monitor police handling of large protests (NEW)

OPC Jurisdiction

- Complaints alleging:
 - Use of unnecessary or excessive force
 - Harassment
 - Discriminatory treatment
 - Use of language or conduct that is insulting, demeaning, or humiliating
 - Retaliation against a person for filing a complaint with OPC
 - Failure by officers to identify themselves or to provide name and badge number when requested

Goals of Mediation

- For the citizen and officer to work together to reach a mutually agreeable resolution of the complaint
- To avoid the stress of a protracted investigation and possible hearing

Mediation Statistics

- From April 2001 through September 30, 2005 OPC referred 158 complaints to mediation
- 96 mediation sessions took place (60.7%)
- 72 out of 96 were successful (75%)
- 24 out of 96 were not successful (25%)

Mechanics

- Decision to mediate made by OPC's executive director, not the parties
- Officer can be disciplined for failure to participate in mediation while the citizen's complaint can be dismissed if he or she refuses to take part
- Complaint can be sent to mediation at any point
- OPC contracts with Community Dispute Resolution Center, which draws from a pool of about 30 trained mediators
- Most complaints eligible for mediation, except those involving use of force where physical injury results
- Most mediation referrals involve inappropriate language or conduct complaints where: (1) the incident was somewhat protracted or (2) the parties are likely to come into contact again
- Officer cannot mediate a complaint if within the past 12 months: (1) the officer has mediated a similar type of complaint or (2) the officer had a sustained complaint involving similar misconduct
- Only mediator (s) and the parties allowed inside the room
- Parties are required to sign confidentiality agreement
- All agreements resolving mediation are totally voluntary

Examples of Resolutions

- Acknowledgement of increased understanding
- Apology by the officer, citizen or both parties
- Promise by the officer to undertake some type of training (e.g., anger management, sensitivity, etc.)
- Promise by the officer to take the citizen on a ride along
- Promise by the citizen to get more driver training
- Terms of an agreement are limited only by the creativity of the parties

Advantages

- Benefits to Officer
 - Successful mediation resolves the complaint without discipline
 - Opportunity to explain officer training and MPD policies
 - Opportunity to hear citizen's perspective about interaction
- Benefits to Citizen
 - Opportunity to meet face-to-face with officer with assistance of a neutral third party
 - Opportunity to explain perspective on interaction
 - Opportunity to learn about officer training and MPD policies
 - Successful mediation avoids dissatisfaction of dismissed complaint
- Benefits to OPC
 - Promotes better relations between citizens and the police
 - Saves on resources: reduces number of complaints to be investigated or adjudicated

What OPC Has Learned

- Need to sell the mediation program BEFORE and AFTER launching the program
- Establish clear criteria for referring cases to mediation
- Consider giving agency the authority to “force” parties into the mediation room

Mediation Resources

- Washington, DC (Office of Police Complaints)
<https://www.policecomplaints.dc.gov>
- New York (Civilian Complaint Review Board)
<https://www.nyc.gov/html/ccrb/home.html>
- Portland (Independent Police Review Division)
<https://www.portlandonline.com/auditor/index.cfm?=26646>
- Denver (Independent Monitor) [New]
<http://198.202.202.66/OIM/default.asp>

OPC Website

- <http://www.policecomplaints.dc.gov>
 - Mediation information
 - Annual reports
 - Decisions regarding police misconduct
 - Policy recommendations
 - Community outreach information

Mediation Example #1

The citizen (or complainant), a female, alleged that the officer, also a female, used inappropriate language and conducted herself in an unprofessional manner during a traffic stop. The complainant believed that she was mistreated because she was a woman. She filed the complaint in order to prevent the officer from harassing other females during traffic stops and to compel the officer to seek counseling. Even though the complainant felt intimidated during the traffic stop, she was hopeful that meeting with the officer during a mediation session could resolve the matter.

During the mediation session, both the citizen and the officer stated their respective perceptions about the incident. The officer acknowledged how her actions might have been wrongly interpreted by the citizen and in the end agreed to take a “verbal judo” training course provided by the MPD training academy. The training course is designed to cover relevant subject matter, such as communication and listening skills. In return, the citizen agreed in writing that the mediation process had successfully resolved the issues pertaining to her complaint and agreed to release the officer and MPD from any claim of wrongdoing.

Mediation Example #2

A married couple filed a complaint against an officer for aggressive and hostile behavior and for behaving in an unprofessional manner. At the mediation, the husband explained that they had been called to the scene of an accident involving their only son. Upon their arrival, they saw that their son was not there so they approached the officer to find out where their son was and to ask about his condition. He said the officer spoke to them in a belligerent tone and was argumentative instead of being responsive to their needs. He felt that the officer's behavior made the situation even more difficult. He explained that since the officer would not give them information, his wife approached the other driver involved in the accident, at which point the officer became agitated and interfered with the conversation. The officer did provide some information, telling them the name of the hospital to which their son had been taken. Unfortunately, upon arrival at that hospital they learned that the information was incorrect and they were sent to another hospital. When they arrived at the second hospital, they learned that their son had died.

The officer expressed his sincere regret at their loss as well as for his behavior that added to their pain. He explained that he was alone that evening responding to a very bad accident in a tough neighborhood. He and the couple were able to share their perspectives about what happened and to talk about their feelings both at the time of the accident and after. It was a very emotional meeting for all of the parties. In the end, the parties came to an agreement in which the officer, working with his sergeant, would identify and complete an appropriate course in anger management or stress management.

Mediation Example #3

The complaint was filed against a police officer for alleged discrimination based on race. On the morning in question, the police officer was directing traffic past a city block that had been closed off for purposes of a public event. Her police vehicle blocked access to the street.

The entrance to the complainant's office building was also located on that street. As the complainant, who is white, approached the officer's vehicle, he observed that the officer, who is black, let several cars pass into the blocked street, while others were turned away. He observed that one of the individuals that the officer let pass was a black female and that an individual that the officer did not let pass was a white male. At a point where the officer moved her vehicle away from the street in order to let another vehicle pass, the complainant made an attempt to turn his vehicle into the street as well. As the complainant was moving his vehicle, the complainant's and officer's vehicles almost collided. A somewhat heated exchange between the two parties ensued, and the officer did not let the complainant pass. When the complainant filed his complaint, his view was that the officer's decision to allow entry to some individuals and exclude entry to others was discriminatory.

At the mediation session, the two parties had different recollections about what was said on that day. The complainant recalled that the officer told him, "discrimination does not matter," while the officer recalled that she allowed people to pass into the street only if they made clear that they worked there. As the parties talked, they discovered that the complainant had been angry at the officer because he believed that she intended to hit his vehicle as he tried to pass into the street; while the officer believed that the complainant deliberately tried to hit her vehicle as she attempted to block the street. In reality, the officer had been in the process of moving her vehicle back into a blockade position after she had allowed another vehicle to pass; and the complainant had been in the process of moving his vehicle into the street when he believed that the officer's vehicle had pulled away. Neither party had been aware of the other's actions prior to the point that their vehicles almost came into contact. In response to the complainant's concern, the officer made clear that discrimination in no way plays a role in her job. The complainant thanked her for making that clear, and stated that his concern about discrimination was the reason why he had filed his complaint. Then, the complainant and officer shook hands and declared the issue resolved.