



Office of the Police  
Complaint Commissioner  
British Columbia, Canada

Fair Independent Principled

# ADR INITIATIVES IN BRITISH COLUMBIA

MAY 2012

# PARTNERSHIP WITH MEDIATE BC

- Development of an accreditation process for Mediators of Police Act complaints.
- Development of IR Training(Level 1).
- Developing a Advanced training in Alternative Dispute Resolution (Level 2).
- Developing a Roll Call Video.



# TRAINING SYLLABUS FROM LEVEL 1 COURSE

## Topic

Introduction & Course Objectives

Overview of Complaints

- Who complains and why?
- Types of disputes
- Choices for conflict resolution

Managing Perceptions of Bias

Effective Listening & Conflict Management Skills

Introduction of coaches and role play assignments

Role Play 1, 2 & 3 with debriefs

Plenary debrief

Closing words & evaluation

# INFORMAL RESOLUTION (s.157)

- At *any* time, before or during an investigation, if a matter is suitable for informal resolution, the DA may resolve the complaint informally – with written consent of both parties.



# WHAT IS SUITABLE FOR INFORMAL RESOLUTION?

➤ Generally:

- Less serious allegations
- Less complicated matters
- Where both parties communicate well

# WHAT IS NOT SUITABLE FOR INFORMAL RESOLUTION

- Complaints concerning:
  - Death, serious harm or a reportable injury (Police Act)
  - Bodily harm, endangerment of life or deceit (Guidelines)

# REVOCATION & REVIEW

(s.157)

- Both parties have **10** business days to revoke their consent – written notice to either DA or OPCC – if revoked the investigation proceeds to appropriate resolution.
- PCC must receive a copy of the signed informal resolution & be provided with further information upon request.

# OPCC OVERSIGHT

(s.157)

Within **15** business days, the PCC must either:

**Confirm the  
resolution**



- ✓ Resolution is final & binding
- ✓ Complaint will NOT appear on the Member's Service Record of Discipline

**or**

**Reject the  
resolution**



Complaint  
proceeds to  
through to decision



# BENEFITS FOR MEMBERS

- Opportunity to understand and appreciate the perspective of the complaint.
- Opportunity to explain their own perspective and action.
- Efficient and less stressful process.
- Avoid the potential for a substantiated complaint on a Service Record. (McNeil & promotion ramifications)
- Catalyst for a change in terms of future behaviour and reduced likelihood of future complaints.

# BENEFITS FOR COMPLAINANTS

- Participation towards a resolution early in the process.
- Allows the complainant to voice their opinion, feel heard in the process, and participation in a solution.

# MUTUAL BENEFITS

- Improving the relationship between police officers and members of the community and re-establish trust one relationship at a time.
- Allows for a better understanding between the two parties through a meaningful process.

# WHAT CONSTITUTES A MEANINGFUL RESOLUTION

- Resolving disputes through communication, understanding and reconciliation generally results in a more meaningful resolution for both parties.
- An agreement between the complainant and the member that recognizes the concerns of both parties.
- Acknowledging the different perspectives will likely modify future behaviour.
- May also include training and education to improve performance.

# APOLOGY ACT

**“Apology”** means an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault in connection with the matter to which the words or actions relate

# APOLOGY ACT & LIABILITY

An apology made by or on behalf of a person in connection with any matter:

- Does not constitute:
  - an expressed or implied admission of fault or liability by the person,
  - a confirmation of a cause of action in relation to that matter
- Does not void, impair or otherwise affect any insurance coverage that is available, or that would, but for the apology, be available, to the person in connection with that matter,
- Must not be taken into account in any determination of fault or liability

# INFORMAL RESOLUTION EXAMPLE: WEBB COMPLAINT

- Mr. Webb was the subject of a street check by Constable Cooke. The officer requested identification but Mr. Webb refused to cooperate on the grounds that no crimes had been committed.
- Mr. Webb alleged that he was arbitrarily detained as he had done nothing wrong and was not free to leave.
- Mr. Webb stated that he did not have to produce ID on request without having committed an offence and the officer disagreed. The officer became very aggressive and pinned Mr. Webb against a wall and performed a pat down.
- The officer retrieved Mr. Webb's wallet and checked his ID. There were no charges laid or tickets issued. The officer admitted that Mr. Webb had done nothing wrong but suggested he cooperate next time.



Sergeant Friday of the X Police Department Professional Standards Section initially spoke with Mr. Webb on April 18, 2012 at which time Mr. Webb advised that he wished to proceed by way of an informal resolution. The two agreed to meet the following day to discuss the matter.

On April 19, 2012, Mr. Webb met Sergeant Friday and explained that his main interest in filing the complaint was to ensure Constable Cooke's behaviour was documented in case there was a history of similar behaviour or to prevent future situations such as Mr. Webb was involved in. Mr. Webb expressed concern over being arbitrarily detained and the use of force used by Constable Cooke. Mr. Webb was not interested in meeting with Constable Cooke to discuss the matter. Sergeant Friday advised Mr. Webb that he would speak to Constable Cooke and explain the concerns and speak to Constable Cooke's supervisors regarding the manner as well. Further, Sergeant Friday advised Mr. Webb that all *Police Act* complaints remain on a police officers' files.

On April 20, 2012, Sergeant Friday met with Constable Cooke and explained Mr. Webb's perspective on the matter. Constable Cooke acknowledged that he could have dealt with the situation differently. He fully understands Mr. Webb's perspective on the matter regarding both arbitrary detention and use of force.

Since receiving Mr. Webb's complaint, Constable Cooke has spoken with his supervisors, Staff Sergeant Ben Romero and Sergeant Bill Gannon (XPD Legal subject matter expert). They addressed the issue of arbitrary detention and use of force with Constable Cooke. Constable Cooke stated that as a result of those conversations he has a better understanding of his legal authority in the above noted issues. Further, since then, Constable Cooke has discussed the above noted information with his partner and they applied the lessons learned in a recent incident, which resulted in a productive encounter for all concerned.

Sergeant Friday spoke with Staff Sergeant Romero and Sergeant Gannon to ensure they were satisfied with the outcome of their conversations with Constable Cooke. Both stated that Constable Cooke took full responsibility for his actions. They are confident in Constable Cooke's abilities as a police officer and they have not noted any previous behaviour that has caused them concern. They believe that the conversations with Constable Cooke will ensure appropriate future behaviour in similar situations as he faced with Mr. Webb.



# OUTCOME OF RESOLUTION

- Mr. Webb stated that the Informal Resolution was to his satisfaction and that he believed it resulted in a valuable resolution.
- Constable Cooke's supervisors were involved in the resolution. He received advice from one supervisor in regard to the law in terms of arbitrary detention and use of force.
- Constable Cooke shared the information with his partner and they applied the lessons learned in a recent incident, which resulted in a productive encounter for all concerned.

## INFORMAL RESOLUTION EXAMPLE: SMITH COMPLAINT

- Mr. Smith was hit by a car while riding his bicycle. The car apparently ran a red light.
- Mr. Smith believed the officers were negligent in their investigation of the traffic accident , including their failure to interview witnesses and completion of a Motor Vehicle Act Accident Report.
- Mr. Smith was concerned that the failure to complete a police report resulted in no charges were subsequently able to be filed against the responsible driver.

After speaking with Constable Carter and Constable Riggs, Sgt. Coltrane was provided with an understanding of the circumstances that led to their interaction with Mr. Smith. That, Constable Carter and Constable Riggs, based on information reportedly provided to them by the attending EHS personnel, were left with the impression that Mr. Smith's injuries were superficial and his transport to hospital was precautionary. The call was concluded as "advise" and therefore no report was submitted nor was there any follow up done with witnesses.

It turned out that Mr. Smith suffered extensive injuries. He broke his thumb and toe and seriously injured his knee. In addition he suffered cuts, extensive bruising and short-term memory impairment. Based on this information a report should have been written and Mr. Smith would have been able to obtain a copy of this report from the Public Information Counter. Mr. Smith made three attempts to obtain copies of the report and/or related material – directly through his ICBC adjuster and through Freedom of Information routes. In each instance, VPD Public Counter staff stated that no report or similar information existed or was available.

Arrangements were made for Sergeant McGavin to contact Mr. Smith and act as a liaison between him and the two officers. Sergeant McGavin did extensive follow up to address Mr. Smith's concerns. He arranged for the following to happen: Constable Carter and Constable Riggs completed an Accident Report and an MV 6020. Sergeant McGavin spoke with a supervisor at the Public Information Counter and a memo was distributed to all staff. This memo established a protocol that guarantees a proper response will be provided by Public Information Counter (PIC) personnel to address any queries from members of the public. Mr. Smith should have been advised that a Computer Aided Dispatch (CAD) report existed and he should have been provided with sufficient information to address his initial query. If Mr. Smith had been provided information available to him when he made his Initial inquiry at the PIC, the members would have been able to deal with this back in July 2011.

That Mr. Joe Smith, Constable Carter and Constable Riggs agree to the following resolution:

That Constable Carter and Constable Riggs appreciate the difficulties Mr. Smith has gone through as a result of this incident and would like to sincerely apologize to him. They realize their actions directly impacted Mr. Smith and would like to assure him that they have learned from this experience. They will be more vigilant in future investigations of this nature, and will rely on their own instinct /observations when dealing with injured parties and not defer to others.

# OUTCOME OF RESOLUTION

- Mr. Smith was pleased with the timely and effective response as well as the follow up with his complaint.
- Mr. Smith was happy to see action taken on a broader base and that a reminder was given to the officers to pay more attention to bicycle accidents.
- Mr. Smith was glad that he went through the informal resolution process and was satisfied with the efforts of the investigator.

## INFORMAL RESOLUTION EXAMPLE: DUKE COMPLAINT

- Police responded to a call for assistance to the lobby of the Bosman Hotel. Mr. Duke was alleged to have uttered threats. Mr. Duke has a history of mental health issues.
- Mr. Duke alleged that during his arrest he was tied down, beaten, and kicked repeatedly while handcuffed. Mr. Duke felt he may have lost consciousness.





s. The officers were required to use an appropriate amount of force to arrest an extremely e and intoxicated Mr. Duke.

13th, 2011, Mr. Duke submitted his complaint to the Office of the Police Complaint ioner concerning the interaction with the officers. The OPCC, after review, deemed it an e complaint and forwarded for investigation. Due to the nature of the incident and the action ed parties, Sergeant Mackey, the assigned investigator, after reviewing all the relevant on believed it was important and would be beneficial to all the parties to informally resolve the complaint. Mr. Duke has struggled with mental health issues which was a significant factor in his adversarial relationship with law enforcement agencies. A meeting with the involved parties would sh the following:

- to enable Mr. Duke to have a positive interaction with police.
- to enable Mr. Duke to voice his concerns about the incident.
- to enable Mr. Duke to provide some insight of living with mental health issues
- to further educate the officers regarding mental health issues
- to enable the officers to provide Mr. Duke with their perspective of the incident.
- to enable the officers, to voice their concerns and fears regarding violent incidents.

Sergeant Mackey, Constable Medavoy, Constable Irvin, Constable Jones, Mr. Duke and Mr. West (Mr. Advocate) met with the goal of informally resolving Mr. Duke's complaint. Everyone was very calm and engaged in the meeting. Both sides were focused on the goals of the meeting and left with a better understanding of each other. As for Police Constables Medavoy, Irvin and Jones, they gained a new perspective of the issues and the challenges that Mr. Duke and the other residents of the Boswell face on a daily basis.

Mr. West's comments from Mr. West were included in the Informal Resolution: Mr. Duke appreciated being part of this process. Sgt. Mackey was universally respectful and honest with Mr. Duke. Mr. Duke talked about the process and the desired outcomes. Mr. Duke clearly appreciated the opportunity to be heard and taken seriously and has come out of the process with a significantly more positive outlook.

# OUTCOME OF RESOLUTION

What transpired as a result of the informal resolution:

- Mr. Duke is more trusting and respectful of police.
- Mr. Duke will assist police if he witnesses events that need to be reported
- Mr. Duke is receiving his medication on a more consistent basis with the assistance of staff, which has significantly improved his emotional stability.
- Members have gained insight and better understand the difficulties that those with mental health issues experience.



# ADR TRENDRING

