

SEATTLE POLICE DEPARTMENT



OFFICE OF
PROFESSIONAL
ACCOUNTABILITY

Review of the OPA
Mediation Program

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ACKNOWLEDGEMENTS

The Office of Professional Accountability gratefully acknowledges Judicial Dispute Resolution and the Judges and staff who have so graciously volunteered their time and resources to the OPA citizen-police mediation program: Retired Judges Terrence Carroll, George Finkle, Larry Jordan, Steve Scott, Michael Spearman, and especially the key cog in the wheel that keep all the scheduling and administrative functioning under control, Beth Forbes.

FORWARD

Portions of this report were previously prepared and provided to the Police Accountability Review Panel that was convened by Mayor Nickels to look at how citizen oversight of the police complaint process was progressing in Seattle. That Panel released its final report on 29 January 2008. The report and the Panel's other activities can be accessed at:

www.seattle.gov/policeaccountabilityreviewpanel/

Previous OPA Mediation reports can be accessed at:

<http://www.cityofseattle.net/police/OPA/Docs/2005MediationReport.pdf>

and

http://www.cityofseattle.net/police/OPA/Docs/2006_Mediation_Report.pdf



THE SEATTLE POLICE MEDIATION ALTERNATIVE

Not every citizen with a complaint against a police officer wants to see the officer disciplined. Some complainants want to understand why an officer took a particular action, or to be able to explain their own actions in an incident. Through mediation, officers and citizens can clear up misunderstandings and miscommunication that might have occurred. The process helps citizens learn about the basis for police officers' actions in ways that promote an improved understanding of the officer's job, the dangers in police work, and the totality of circumstances that led the officer to act the way he or she did.

At the same time, mediation offers an opportunity for officers to learn more about the effect their words, behaviors, and actions can have on the public, and helps to demonstrate the impact and effectiveness of clear communication. Officers also benefit from an improved image of the department and better relations with the community.

Mediation even offers an opportunity for officers and citizens alike to express regret in a neutral, confidential setting when they may not have met their own standards. Both citizens and officers generally report being very satisfied with mediation, and express appreciation for new insights and perspectives gained.

2007 PROGRAM EXPANSION

When the OPA mediation program was initially instituted, cases were selected if minor misconduct was alleged and the complaint otherwise was suitable for mediation. These cases had usually been classified as Supervisory Referrals (SRs). In 2007, the program expanded to give a more critical look at mediation for complaints that do not necessarily include allegations of misconduct. Approximately 26% of the complaints filed with OPA are classified as Preliminary Investigation Reports (PIRs) and are now considered for the mediation process. Cases classified as PIRs may include citizen inquiries or complaints about the enforcement of the law, Department policy, procedures, or tactics, or concerns about service quality, including promptness of response and demeanor.

Often, a miscommunication or misunderstanding about the underlying event is at the heart of a complaint classified as a PIR, and mediation can be a very good way to resolve the dispute. Mediation provides a means to address such issues in a more productive fashion for both the citizen and the employee, as an opportunity to work through misperceptions is available. Inclusion of PIR complaints will further the value of the department's mediation goal of improved relationships with the community. It also provides both the citizen and the employee an opportunity to explore alternative means of conflict resolution even in the absence of actual employee misconduct.



2008 GOALS

As OPA moves forward in 2008, consideration is being given to further expanding the range of cases referred for mediation. There is no set definition of the types of complaints included or excluded from the mediation option, and exploring alternative dispute resolution in a variety of complaints, including those classified for Line or OPA-IS investigation, will benefit all concerned.

Second, OPA seeks to expand the mediator pool and move forward in relieving the dedicated professionals at Judicial Dispute Resolution from their on-going pro bono support function. As a pool of professional mediators is developed and trained to resolve these specialized complaints of misconduct, it is anticipated that the department will look at compensation for services provided.

CASES SELECTED FOR MEDIATION IN 2007

In 2007, the OPA Director selected 40 cases for mediation, representing a 15% increase in cases identified for the program as compared to 2006. Of those 40 cases, 24 (60%) were resolved through the mediation program. In 2006, 34 cases were selected for mediation and 13 (39%) were resolved as a result of the program. 2007 represents a 21% increase in cases successfully resolved through mediation when compared to 2006. The status of the 40 cases initially identified for mediation is as follows:

Mediation Completed in 2007 Cases ¹	-	17
Resolved during convening process ²	-	4
Mediation Scheduled then Canceled ³	-	3
Citizen refused mediation	-	9
Employee refused mediation	-	6
Other ⁴	-	1

¹ Due to scheduling issues, two mediations were actually mediated in January 2008, though identified for mediation in 2007.

² In one case, the complainant advised that employees were violating parking regulations. Between the time of the initial complaint and the discussion on mediation, the complainant advised that the behavior had stopped and that he was satisfied and desired no further action by the department. In three other cases, the complainants were all satisfied after the initial mediation intake discussions that their concerns would be addressed by supervisory personnel, were happy that they had been heard, and desired no further action.

³ These cases represent situations where the complainant changed his/her initial agreement to mediate after the process was scheduled. One complainant advised that the withdrawal was at the advice of counsel and the second stated that he did not want to mediate while there were criminal charges pending. When those charges were resolved with the second case, the complainant no longer desired to mediate. In the third case, the complainant initially agreed, then postponed the mediation. Multiple attempts to contact the complainant to reschedule the mediation failed. These cases are counted as resolved through mediation because the case is closed if the complainant reneges on the initial agreement to mediate.

⁴ During the initial discussion about mediation, it was determined that the wrong employee had been named in the complaint. This complaint was then referred back to the OPA-Investigations Section for further investigation.



SYNOPSIS OF COMPLETED MEDIATIONS

Mediation #1:

The complaint alleged that the named employees had conducted biased policing by stopping her and her companion due to their being a biracial couple.

At the conclusion of the mediation, the mediator stated that the success of this case was due to open and honest communications that allowed the parties to have an opportunity to explain their actions and perceptions.

Comments from the Participants

The citizen valued the chance to voice their concerns and learn from one another.

The officer stated that he hoped that the session cleared up misconceptions and that he believed the mediation process to be fair, open and more relaxed.

Both parties believed the other party understood their perspective better at the conclusion of the mediation.

Mediation #2:

The complainant stated that the officer used inappropriate language when admonishing her for a traffic violation.

The mediator stated that the process was successful and that both parties were very cooperative.

Comments from the Participants

The citizen advised that they had achieved their goal of improving awareness and they thought it was a good process for complaint resolution.

The employee stated that he believed the process provided for the citizen to have a better understanding of his responsibilities.

Mediation #3:

The complainant alleged that the named employee failed to take appropriate enforcement action and respond to his concerns.

The mediator advised that while this mediation did not result in full resolution, he believed the mediation to be useful.

Comments from the Participants

The citizen thanked the employee and the mediator and advised that the process had allowed him to be now able to put the event behind him and move on. He was appreciative of the resolution.

The officer did not provide any comments.

Mediation #4:

The complainant advised that he had been wrongly stopped and cited for a jaywalking violation. He emphatically denied the violation. The mediator believed the

Comments from the Participants

The citizen was appreciative of the opportunity to voice his concerns. At the conclusion of the mediation, he still believed the employee had taken



mediation to be moderately successful. While the parties agreed to disagree, both had the opportunity to talk to each other directly.

Mediation #5:

The complainant alleged that the named employee had made inappropriate comments during an investigation and was targeting a neighborhood for enforcement activity based on the minority makeup of the community.

The mediator rated the session highly successful noting that both parties showed a willingness to discuss their perspectives and understand the others.

Mediation #6:

The complainant believed that the employee was rude when he refused to answer questions on a parking issue and ultimately wrote them a citation.

While the mediator rated the session as successful, neither party left with a feeling of full satisfaction. The evaluation indicated that both parties were able to engage and talk, but could not come to resolution. The mediator believed the complainant felt that the employee needed to admit fault.

Mediation #7:

The complainant alleged that the named employee stopped him for a possible shoplifting violation that had been reported by the retail store's security personnel. He believed the employee had other means available to resolve the situation that would have been choices.

The mediator advised that this mediation

inappropriate enforcement action. The employee stated that while he didn't agree with the complainant, the process certainly allowed him to better understand the complainant's position.

Comments from the Participants

The complainant stated that they believed the employee gained an understanding of how his comment may have been interpreted. They further advised that they had appreciated the exchange.

The employee acknowledged that different perceptions create a great need for the police and the community to continue to engage in dialog. They further stated that this process offered a chance for each party to be heard in a respectful manner.

Comments from the Participants

The citizen advised that while she had hoped for the employee to concede on the issue, that agreeing to disagree was not a failure. She stated that ability to participate had been satisfying and that she hoped the engagement would impact the employee's future behavior.

The employee felt that the issue was personal, but that he valued the opportunity to have the personal contact with the citizen that the mediation program provided.

Comments from the Participants

The citizen advised that the process allowed him to answer many of the "why" questions and that it provided insight into the officer's perspective.

The officer indicated that he was highly satisfied and believed that the process allowed for the citizen to get more of the officer's perspective and for the officer to



was highly successful. Both the officer and showed mutual respect and a willingness to listen to each other and understand each other's perspectives.

Mediation #8:

The complainant alleged that the employee displayed anger and hostility during a traffic stop. She alleged that the employee yelled at her and that his tone and demeanor had shaken her.

The mediator indicated that the parties were satisfied in the resolution and process. The mediator advised that both parties understood why they were there and what it was they were trying to do.

Mediation #9:

The complaint alleged that the employee was rude during the investigation of a traffic fatality accident investigation.

The mediator stated that this was the most successful mediation that he had done for SPD. He stated that both parties were willing to listen and see the others perspective.

Mediation #10:

The complainant alleged that the named employee targeted him for selective parking enforcement and further, that the employee was providing preferential treatment to other violators in the same area.

The mediator advised that this successful mediation was due to both the party's good

understand the citizen's points.

Comments from the Participants

The citizen indicated that she believed a better understanding had been reached at the conclusion of the mediation. She felt that she had a better understanding of the officer's perspective and that the employee had acknowledged her problem. The citizen stated that she was very impressed with the process.

The officer stated that he was satisfied with the mediation and that by participating he was better able to understand the complainant's view of the encounter. The employee felt that the mediation program was a positive program that gives both parties an opportunity for a positive outcome.

Comments from the Participants

While the citizen did not provide any written comments, the evaluation form was "maxed" out with the highest number possible for every evaluated area.

The employee too "maxed" out the evaluation form and also stated that he credited the success to the fact that both parties respected each other and at the end understood why what happened, happened.

Comments from the Participants

The citizen was appreciative of the efforts of the department to resolve his complaint. He stated that the department should, "...keep up the good work."

While the employee did not provide any written comments, they did "max" out the evaluation.



faith efforts. Each party had independent information that, when shared, helped the other understand their position.

Mediation #11:

The complainant alleged that the named employee inappropriately cited him following a traffic accident. The complainant also believed his appearance and ethnicity were also considered in the decision to cite.

Note: This was the mediator's first SPD mediation. Some process issues did arise and were addressed for future mediations.

Mediation #12

The complainant advised that employees that were pursuing a fleeing suspect bumped into and caused injuries to bystanders. The complainant also advises that while the arrest was unfolding, the employees used inappropriate language to address the on lookers and subsequently failed to identify themselves when requested to do so.

The mediator advised that the success of this mediation could be attributed to open conversation and communication between the citizen and the employee.

Mediation #13:

The complainant advised that the employee was rude and disrespectful during a traffic incident.

The mediator advises that this mediation was highly successful. The mediator states that both parties were able to appreciate the others perspective and the employee was even willing to acknowledge the complainant's version of the events.

Comments from the Participants

While the mediation was determined to have only limited success, (due to some process issues), the parties both believed in the value of the program and felt that it provided an excellent opportunity to resolve conflict in a productive environment that allows for learning and educating.

Comments from the Participants

The citizen felt that they had been heard and that the employee may pay better attention to the public after the fact.

The employee expressed his hope that the complainant had a better understanding of what his primary concerns were at the time of the incident.

Both parties ranked the mediation with high marks.

Comments from the Participants

Both parties strongly agreed that they had a better understanding of the other's perspective. Both parties also "maxed out the evaluation" form with the highest marks.



Mediation #14

The complainant advised that the employee was rude and disrespectful when dealing with her juvenile daughter on a behavior issue.

The mediator stated that he was reluctant to give the mediation such high marks, but that the session truly deserved it. The mediator states that the employee is “a real credit to the department and the complainant (and her mother that accompanied her) were genuinely interested in learning more about and learning from what happened.

Mediation #15:

The complaints stated that the named employee was discourteous and failed to take a missing persons report when asked to do so.

The mediator advised that the parties could attribute this successful mediation to the openness and discussion. He further stated, “The process works!”

Mediation #16:

The complaint stated that the named employee was threatened to arrest the complainant and impound his car during a traffic stop.

The mediator advised that the parties had completely different perspectives as to what had actually happened. The actual traffic infraction had not been resolved at the time of the mediation. The mediator thought that it may have clarified the issues had the underlying case been previously resolved in court.

Comments from the Participants

The complainant’s mother advised that she really appreciated the process and that it was beneficial for all parties. The complainant (juvenile daughter) stated that she now has a good feeling towards police officers and that the process allowed her to reflect and have a better understanding.

The employee stated that the process had allowed him to explain everything and that he would recommend the process to others as it allows an opportunity to solve the problem and potentially satisfy all involved.

Comments from the Participants

All parties ranked the mediation very high on the evaluations. One of the complainant advised that, “Everything is A OK-FINE” and concluded with a “God Bless”

The employee maxed out the evaluation form and stated, “I thought the process worked well.”

Comments from the Participants

While both of the parties acknowledged that mediation provided an opportunity to share ones perspective on a specific event, neither was satisfied that the other actually heard their perspective or that the sharing of those perspectives would impact the conduct of either party in the future.



Mediation #17:

The complaint advised that the named employee threatened to arrest him and abused his power with an “all mighty attitude.” The employee also allegedly failed to identify himself when asked.

The mediator ranked this mediation as only moderately successful and advised that the parties had difficulty seeing the incident for the other’s perspective.

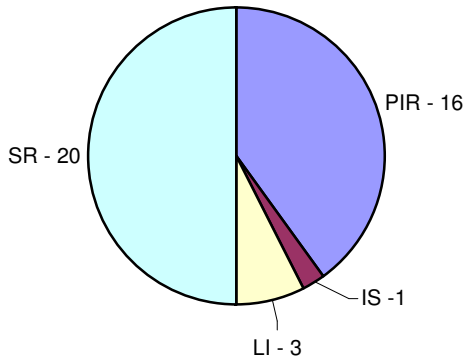
Comments from the Participants

The citizen stated that the employee seemed “stubborn” but acknowledged that it was good to hear his perspective. He further stated that he felt the format was good and it allowed his views to be heard.

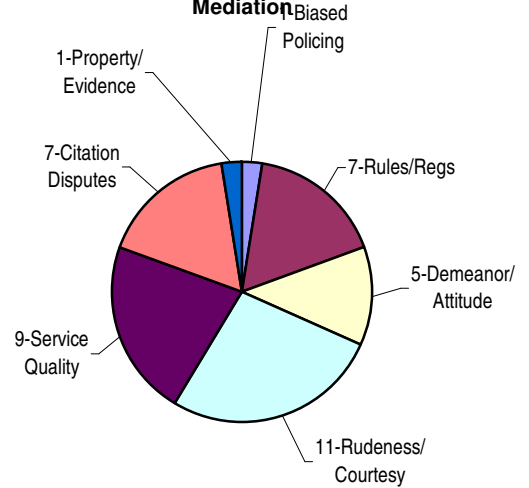
The employee stated that mediation gives the officer an opportunity to explain their actions to citizens. The employee felt that this situation may have been better served by a supervisor intervening v. mediation.



Cases Selected for Mediation (original classifications)

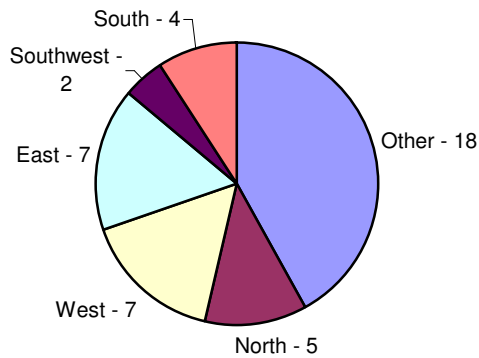


Allegations included in Cases Selected for Mediation

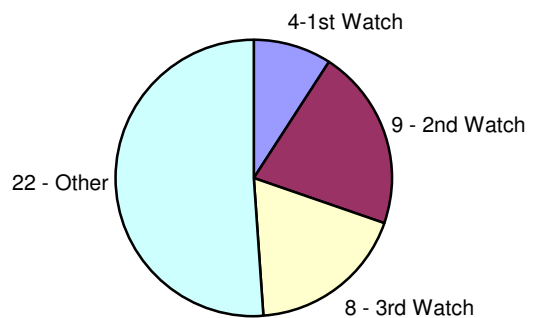


*Note: One Case could include multiple allegations/issues

Assignment of Employee for Selected Cases (by Precinct)*



Cases Selected for Mediation (by Watch)*



Other Includes:

- Administrative Assignments
- Crime Prevention Teams
- Anti-Crime Teams
- Detective Positions
- Parking

* Some cases may include multiple employees from different work units that may work different schedules



CONCLUSION

To date, the OPA mediation program has relied on the pro-bono support of Judge Carroll and Judicial Dispute Resolution. Their support and commitment of time and expertise has added immeasurably to the program's success. As the current OPA Director is committed to expanding mediation opportunities, it is understood that additional pro-bono or paid mediators will be required.

We also continue to share our success with other agencies and the program has been cited as a "best practice" in numerous discussions. While the raw numbers appear low, the implementation of this program has been instrumental in furthering our efforts of transparency, outreach to the community, alternative conflict resolution, and to further "demystify" the issues of police culture.

For many citizens who bring complaints and concerns to OPA, and for the officers who are the subject of the complaints, mediation provides a more immediate, effective, and gratifying alternative. Both parties can walk away feeling understood, and understanding more themselves about how their words, actions, and attitudes impact others.