

Some common questions community – police complaint mediations

1. Do the officers come to the mediation in their uniforms, with gun? If so, have there been any problems with perceived power imbalance; either by the mediator or the community members who have filed complaints against police officers feeling intimidated?
 - a. They come on duty, which means that if they're an undercover officer, they don't have a uniform, but they do have a gun. At least 90% of the officers come in full uniform with a gun. This tends to cause more angst among my new mediators than with the complainants. There are power issues, but often it is with issues other than the gun.
 - b. Many of the officers have training in verbal jujitsu, so can be manipulative, if they choose. As a mediator, you'll have to watch this. We've done it long enough in Denver, that it isn't the problem it used to be.
 - c. In my training, I spend time talking about the power issues you'll encounter.

2. The Chief has expressed the hope that this mediation program will help to “raise the consciousness” of some police officers who may not have been thinking enough about how their actions and attitudes may be perceived in the community. Do you think that happens?
 - a. Yes, we hear and see it in the officers. They work hard to do their jobs, but sometimes they forget or get too busy to think of some of the more nuanced aspects that make all the difference.
 - b. Quoting from a paper written by through the University of Washington's Evans School of Public Affairs, “Another intriguing finding on the effectiveness of citizen-police mediation comes from a study of the NYPD, the largest police department in the U.S., conducted by the New York City Civilian Complaint Review Board (CCRB). This as yet unpublished study found that officers who went through mediation as a means to resolve citizen complaints receive 5%-10% fewer complaints in the next year, hinting at a promising potential for use of mediation as a police performance management tool.”

3. How do you define “impasse” in these mediations? Conversely, since there's no plan for written agreements between the parties, and nobody is required to apologize to the other party, what's the definition of success or resolution in a mediation?
 - a. We are looking for “good faith participation” by all parties, honesty, respectfulness, and an engagement in the process.
 - b. We also need a genuine willingness to listen to the other person's perspective (whether you agree or not), and an attempt to understand why and how they may have arrived at the perspective they hold to be true.
 - c. It sounds too elusive and undefined, but in doing over 500 of these specific types of mediations, we continue to be amazed at the significantly beneficial outcome and satisfaction of the parties. The success speaks for itself.

4. The plan for the program here is that if a complaint is filed against an officer, and if the officer successfully mediates with the person who filed the complaint, the complaint will not go into the officer's personnel file. Is that a sufficient incentive for the officers to want to participate in these mediations?
 - a. Yes and in addition, the complaint must be considered resolved – the complainant does not get a second bite of the apple.
 - b. In some of our jurisdictions, it is entered as “resolved through mediation.”

5. Have you encountered initial resistance or distrust of the program, or of the mediators among police officers or community members? If so, how do you deal with it?
 - a. There is always skepticism. “What’s the catch?” “Will this really work?” “Why would I want to sit down with ‘that’ person?”
 - b. We ask them to give it a try. It is a unique opportunity and it takes about 45-60 minutes of your time.
 - c. They try it and it works!
 - d. Police are a small community. If you don’t do these mediations absolutely correctly each time, they will talk to each other and your program will fail – there is not much room for error.

6. What’s the procedure you use? Who speaks first? Do these mediations follow the classical steps of a mediation, including brainstorming about possible resolutions to the conflict that occurred, or is it more a process of helping each party to “hear” what the other one has to say without having them come up with specific solutions?
 - a. It is really a process of hearing and understanding. That being said, we have several well defined steps;
 - i. The opening, where the mediator explains expectations and ground rules.
 - ii. Story telling (and there are pitfalls which are different than traditional mediations in this phase) Each party gets to speak uninterrupted for 3-5 minutes regarding how they remember the event.
 - iii. Positions to interests
 - iv. Options (what might have made this different for both of you?)
 - v. Closure

7. Do you find that complainants sometimes want to bring in other concerns or resentments, possibly long standing, against the police department instead of keeping the conversation confined to the specific incident that occurred? How do the mediators deal with those situations?
 - a. Yes, we’re OK with this as long as it is managed.
 - b. We’ve discovered that this is the best place to resolve these issues. We want to create an experience where both the officer and complainant walk out having benefited from the 45-60 minutes spent.
 - c. We particularly want the complainant to re-enter his or her community with a very different perspective on the police department.

8. Where do you hold the mediations?
 - a. City buildings and libraries. Generally, not a police district building.
9. Have you found situations where it's useful to have two co-mediators working together, or are the mediations usually done by one mediator?
 - a. Yes. I make that determination, based upon the situation and the particular skills of the mediator. There are times when we'll have 2-3 officers and 2-4 complainants and in these instances it is helpful to have two mediators.
10. To whom does the mediator report the outcome of the mediation? What information is included in the report? Do you have concerns about maintaining confidentiality if police department officials want to know what transpired during the mediation?
 - a. The outcome is reported to me, the Executive Director of our nonprofit.
 - b. I report the information to my contact at Internal Affairs.
 - c. I report; "This mediation was held on February 17, 2014, and the parties had the opportunity to listen to each other's perspective and to better understand the issues and concerns the other person had. I believe it was helpful and beneficial for both parties."
 - d. I've cultivated a relationship with the Chief's and Internal Affairs in each of the municipalities where we work. They know not to ask for specifics.
 - e. On the other hand, this relationship also enables me to verbally, and with appropriate confidentiality, let the appropriate person know if an officer behaves badly.
11. How do you deal with a situation involving multiple complainants? Also, what if complainants wish to bring an attorney or other friend or representative to the session? If others come to the session, are they allowed to participate in the discussion?
 - a. Everyone signs a confidentiality agreement.
 - b. Attorney's cannot attend.
 - c. Complainants can only bring another person if they're able to satisfy our intake person that there is a genuine reason to have that person there.
 - d. All additional participants must have the consent of the primary parties.
 - e. Multiple complainants and multiple officers are not a problem.
12. Do you ever caucus individually with the parties during a mediation?
 - a. More often in these types of mediations than in our typical ones. I explain the nuances and purpose of this in training.
13. Greensboro police officers now wear body cameras that record audio and video of everything the officer does. Thus, there will usually be a record of the interaction between an officer and a citizen that lead to the complaint in question. Do you ever view such recordings during a mediation, especially if the officer and the complainant differ in

their recollections of what happened? If so, is there a danger that the mediator assumes more of a “judge” role than is appropriate?

- a. Remember, this isn’t about determining who is right and who is wrong.
 - b. (No one can record the mediation sessions.)
 - c. We will have officers offer to replay an incident. It is ultimately the mediators call and depends upon the situation. If either party are trying to introduce an element of “I am right, I’ll show you.” Then it probably isn’t helpful. If the mediation has reached a place where a recording might be constructive, we’re OK. Sometimes some clarification is useful.
14. How much do the police departments pay for you to do these mediations?
- a. About \$95/hour, but I don’t nickel and dime them.