



**San Francisco Police Department
Professional Standards & Principled Policing Bureau
Department of Justice Compliance**

Individual Recommendation Report	Reserved For Executive Sponsor Only
Bureau: Airport	Date Issued: December 6, 2016
Rec. Number: 29.4	Return Date: February 3, 2017
Assigned To Project Manager: Captain Curtis Lum	Success level: Choose One
Prepared by: Lieutenant Christopher Woon	Other Status:
Priority: Medium	Noncompliance:
	Waiver approval:

Notes:

DOJ Objective: Community Policing

DOJ Recommendation #: 29.4

SFPD leadership should explore the options for alternate dispute resolutions regarding bias complaints, including mediation.

This is an opportunity to bring police and community members together to foster an improved understanding of police practices and community perceptions. Because bias complaints are rooted in perception and often difficult to sustain, mediation provides for a timelier, more transparent, and potentially more procedurally just resolution for the community member who lodged the complaint.

Purpose:

The objective is to determine if there are current policies and procedures regarding alternate dispute resolutions (ADR) for bias complaints and, if not, develop a strategic plan for implementing one to better improve community relations and perceptions. If there are current mediation protocols in place, develop strategies to better invigorate the existing program.

Researching the above DOJ Recommendation began with examining the current policies and procedures in place regarding ADR for bias complaints. A search on the intranet for relevant Department General Orders (DGO's), Bulletins (DB's), Units Orders, and other internal policies was conducted. The following DGO's were located: 2.04 (Citizen Complaints Against Officers), 2.05 (Citizen Complaints Against Non-Sworn Members), 3.19 (Early Intervention System), 5.17 (Policy Prohibiting Biased Policing), and Manual 16 (Supervisory Investigation Manual, Section C, Citizen Complaints). Although none of the directives specifically mention the use of mediation for ADR, the most relevant procedures, DGO 2.04 and Manual 16, concurrently address the policy for "receiving, investigating and processing citizen complaints against officers." In essence, this policy generally directs the senior ranking officer in charge on duty to complete an Office of Citizen Complaints (OCC) form and forward the form to OCC for further investigation.

An internet search regarding OCC Mediation was subsequently conducted. The search revealed that the OCC has a Mediation Program already in place and directed interested parties to the OCC Website (www.sfgov.org/occ) for more information. Upon entering the website, the Mediation



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Program is explained on how it is an alternative manner of resolving police complaints with a downloadable OCC Mediation Program Brochure.

Since the OCC works in collaboration with the Internal Affairs Division (IAD), contact was made with the Officer in Charge of IAD, Lieutenant Robert Yick. Lt. Yick confirmed that OCC has a Mediation Program for many years and the program was active. Lt. Yick recommended contacting Deputy Director Erick Baltazar and Mediation Program Coordinator Donna Salazar of the OCC to obtain further information.

Dep. Dir. Erick Baltazar and Coordinator Donna Salazar were contacted regarding their Mediation Program. Mr. Baltazar confirmed that the OCC is obligated under Section 4.127 of the City Charter to investigate allegations of police misconduct by a member of the Police Department and the OCC has a distinguished Mediation Program. He subsequently provided supporting documentation such as OCC Eligibility Protocol and 2015 OCC Annual Report regarding mediations. Ms. Salazar relayed that the OCC Mediation Program had been in developed in the 1990's and their Office already do handle bias policing complaints.

Upon reviewing the supporting documentation provided by OCC and contacting the respective stakeholders, it is clear that there is already an active mediation program in place which includes handling bias complaints. The OCC clearly outlines in their Mediation Program Brochure that mediation is an alternative dispute resolution tool, highlighting substantial benefits such as improving community and police relations and understanding other's perspectives in a non-adversarial forum. There are also precise mediation program rules already set by the SF Police Commission (see OCC Eligibility Protocol) such as who is eligible, mediator selection process, scheduling, and the appeal process. In addition, there is an OCC mediation exit survey that is completed by participants. For 2015, 93% of participants surveyed were satisfied or very satisfied with the program reflecting its success. Moreover, the OCC maintains meditation statistics as a measure of performance recording items such as the number of eligible cases, requests made, cases mediated, and successful/unsuccessful mediations (see 2015 OCC Annual Report/Eligibility Protocol).

Analysis was then conducted to determine the supporting and opposing arguments for SFPD to create its own mediation program as an alternative dispute resolution. Below is a summary of the conclusions:

ADVANTAGES

-POSSIBLY MORE OFF. PARTICIPATION/ACCEPTANCE

DISADVANTAGES

-LACK OF INDEPENDENT OVERSIGHT
-LACK OF TRANSPARENCY/ACCOUNTABILITY
-LACK OF PUBLIC TRUST & CREDIBILITY
-VIOLATES CITY CHARTER & DGO, OCC HANDLES CITIZEN COMPLAINTS
-DUPLICATION OF OCC MEDIATION PROGRAM
-RESOURCES NEEDED FOR START-UP: FUNDING, OPERATIONS, ETC

As shown above, there are minimal advantages and significant negative consequences of the SFPD creating a mediation program. Foremost and most importantly, there would be a lack of independent oversight inherently creating an atmosphere of community distrust and a perception of an illegitimate mediation program. Coupled with the lack of transparency, accountability, and credibility, the SFPD creating a separate mediation program would not be optimal. In fact, a National Survey of Citizen Complaint Mediation Programs in 1998 identified 15 out of 16 mediation programs were not



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coordinated by the police department, but instead by oversight commissions or review boards (see U.S. DOJ COPS Manual).

The OCC Mediation Program is well-established, respected, and successful and should be fully embraced by members of the SFPD to fully maximize the potential benefits. However, it is not uncommon that mediation programs in general have low caseloads (see U.S. DOJ COPS Manual). For instance, in 2015, the OCC mediated 45 cases which was roughly 7% of the total number of complaints filed. To invigorate and increase participation in the Mediation Program, a Department Bulletin should be written providing members an overview of the program's existence, highlights, and more importantly, the Chief's critical endorsement in order for the program to flourish (see attached draft copy). By doing so, it will not only create a formal department policy on mediating complaints, but ultimately create another opportunity where the community and police can listen to each other's perspectives and positively resolve differences. Moreover, the bulletin should be incorporated into a training curriculum for new recruits at the Academy, in the FTO manual, at Continuing Professions Training, and during roll call line-ups.

Mediation is an invaluable tool to resolve differences with community members in a constructive manner to improve community relations and gain a better understanding of each other's perspective. Although the SFPD does not have a mediation program, the OCC by City Charter is mandated to investigate citizen complaints against officers and does have a well-established mediation program since the 1990's. A review of the potential benefits of the SFPD implementing a separate mediation program revealed little to no incentive with an abundance of negative consequences such as the lack of independent oversight, public trust, and credibility. To fully embrace and utilize the OCC Mediation Program, a department policy should be written to formalize the intent of the SFPD to collaboratively work together to effectively resolving differences and improving community relations.

Policy:

This policy informs members of the current OCC Mediation Program and stresses the importance of why members should participate in this beneficial program, not only to effectively resolve differences in a non-adversarial forum, but to be more transparent and ultimately invigorate a better understanding of police practices and community perceptions.

Written Directive: (D.G.O., Dept. Manual, Bureau Orders, Dept. Bulletins, etc.)

DGO 2.04

DGO 2.05

DGO 3.19

DGO 5.17

DM-16

Disciplinary Penalty & Referral Guidelines Manual

Supporting Documentation: (Learning Domains, Power points, Lesson Plans, Policies)

-OCC Mediation Program Brochure

-OCC Eligibility Protocol

-2015 OCC Annual Report XVII: Mediations, Pages 40-54



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- San Francisco City Charter 4.127
- U.S. DOJ COPS Manual: Mediating Citizen Complaints Against Police Officers: A Guide For Police and Community Leaders
- Los Angeles City Attorney's Dispute Resolution Program Brochure (2)
- Internet articles regarding mediation from:
 - U.S. DOJ COPS
 - California Courts
 - City of Houston, TX, Alternate Dispute Resolution
 - City of Denver, CO, Office of the Independent Monitor

Implementation, training & records (How to prove we did what we said?)

A Department Bulletin (see attached draft copy) will be issued informing members the importance of participating in the OCC Mediation Program. As will other bulletins, members will electronically sign and acknowledge that one has read and understood the directive. In addition, Platoon Commanders will ensure roll call training will be conducted to maximize participation in the Mediation Program.

The bulletin would be also incorporated into training curriculum for new recruits at the Academy, in the FTO manual, at Continuing Professions Training, and during roll call line-ups.

Each station or unit will ensure there is a sufficient supply of OCC Mediation Brochures available to officers as a resource.

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Civil Grand Jury: