

POLICE TRAINING AND STANDARDS COMMISSON (PTSC)

**COMMUNITY MEMBER-POLICE COMPLAINT
MEDIATION PROGRAM (MODEL)**



Adopted by the Police Training and Standards Commission, April 19, 2017

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

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III. BACKGROUND:

Mediation is one of several alternate dispute resolution techniques that are used to settle disagreements or conflicts. It is based on the voluntary participation of the disputing parties who agree to discuss their differences in the presence of a third party, an independent, trained mediator. Mediation calls for a “good faith” conversation between the disputing parties in a safe environment where they can meet and air their views about the events or issues that created the dispute. The mediation process is intended to develop mutual understanding between the conflicting parties with the goal of resolving the dispute.

The use of mediation to resolve complaints against sworn personnel differs from the AGENCY’S NAME standard, formal procedures which have traditionally been used to investigate and resolve complaints filed by members of the community. The traditional complaint resolution process focuses on fact finding, pinpointing responsibility, determining guilt or innocence, and punishing those found guilty of violating agency policies and procedures, rules and regulations or other directives. The AGENCY’S NAME traditional complaint review procedures, for example, focuses on determining whether or not a member of the agency has committed the alleged misconduct and whether that member should be punished for the violation. While there are still a number of instances in which its established complaint investigation/resolution process must be used, the AGENCY NAME believes there are also a number of cases in which mediation is a more practical and effective way to resolve differences between members of the community and law enforcement officers. In addition to effectively satisfying certain complaints generated by community members the AGENCY NAME believes that the use of mediation will broaden the perspectives of both the complainants and agency personnel as they share their views and feelings about the incident in which they were involved.

Mediation does not focus on punishment or determining who was “right-wrong.” Mediation is intended to be conciliatory, i.e. it emphasizes a resolution of the conflict that focuses on outcomes sought by the both parties. The AGENCY NAME believes this approach is especially useful when dealing with a number of complaints lodged by community members against its personnel especially those that are based on perceptions of rudeness and discourtesy, or a misunderstanding caused by miscommunication. In contrast to the traditional investigative complaint resolution procedure which focuses on guilt or innocence mediation focuses on understanding, problem solving, and reconciliation. The AGENCY NAME believes that by candidly discussing differences, the complainant and the officer can hopefully not only resolve their personal dispute but can open a wider door to a better understanding of each other’s views thereby lessening the potential for future disputes between the officer and community members.

The AGENCY NAME recognizes that mediation’s application to resolving community member complaints against its personnel is a new concept. While to date, it has been used sparingly by a limited number of law enforcement agencies nationwide over the past two decades to resolve these complaints, mediation is now being examined by a greater number of law enforcement agencies as a complaint resolution technique. To this end, the AGENCY NAME has examined mediation’s potential as a complaint resolution technique and a way to broaden both the perspectives of its personnel and the community members whom it serves. The AGENCY NAME has decided to offer mediation under certain circumstances to complainants and agency personnel who are willing to resolve their differences through face-to-face interaction in a safe environment.

During mediation, a trained, neutral/independent third party, referred to as a mediator, will facilitate the mediation process. The mediator will not try to influence/pressure/otherwise impose on either party an agreement or settlement in order to resolve the dispute in any particular way. The disputing parties will own the process, i.e. they will set the ground rules for how the mediation session will go and what results they hope to achieve during mediation. Hopefully, they will see mediation as their opportunity to resolve their differences in a way that is satisfactory to both of them. In essence, mediation gives both participants control over the final resolution of the complaint.

To this end, the AGENCY NAME has contacted the NAME OF INDEPENDENT MEDIATION ORGANIZATION and has requested that it provide the mediation services in this effort. Together with the NAME OF THE INDEPENDENT ORGANIZATION, various members of the agency, including members of the command staff, rank and file and labor organization, and members of the community, the AGENCY NAME has developed the Community Member-Police Complaint Mediation Program presented in this policy and procedure.

IV. PURPOSE AND OBJECTIVES:

The **AGENCY NAME** understands that not everyone who has a complaint against a police officer wants to see the officer punished. Some complainants simply want to understand why an officer took a particular action, or want an opportunity to explain their own actions to the officer. Other complainants want to retain some control over how their complaint gets handled rather than turning the complaint entirely over to the law enforcement agency or civilian review board for decisions and resolution. Some complainants truly understand that taking an adversarial approach is not constructive or ultimately helpful to anyone. When it comes to how to resolve complaints against law enforcement officers, one size does not fit all, and that is why the **AGENCY NAME** offers its Community Member-Police Complaint Mediation Program as an alternative to its traditional standard complaint resolution process.

The **AGENCY NAME** recognizes that the traditional standard investigation and adjudication process used to investigate complaints does not provide opportunities for complainants and officers to interact in a controlled setting in a way that is calculated to increase mutual understanding and bring closure to problem incidents. Experience has shown that the traditional investigative process frequently leaves both the complainants and the involved officers further alienated from each other and dissatisfied with the entire complaint resolution process.

The **AGENCY NAME** has as one of its primary goals in establishing its Community Member-Police Complaint Mediation Program to increase the level of trust and understanding between the community at large and members of the agency. Mediation empowers both community members and officers to exercise their voice in a safe and productive environment. Mediation gives all participants a chance to be heard and be understood and to be exposed to new viewpoints from the other participant. It also gives officers and community members an opportunity to consider new and more satisfactory ways of interacting with each other in the future.

The **AGENCY NAME** believes that mediation can bridge the communication gap and create greater understanding and appreciation between community members and officers. This, in turn, has the significant potential to improve community relations between agency members and the individuals they are sworn to protect and serve. The **AGENCY NAME** believes that informal resolution and mediation enhances community policing by improving the relationship between members of the community and law enforcement officers one complaint at a time. In addition, a successful complaint resolution can have a positive impact on the participants' family, friends and the community as a whole.

Because mediation is a confidential process, statements made by any of the parties may not be subsequently used in a formal legal proceeding including administrative hearings. Thus, each side can freely discuss the issue at hand.

This Policy and Procedure sets forth the **AGENCY NAME Community Member-Police Complaint Mediation Program**.

V. DEFINITIONS:

For purposes of this policy and procedure the following terms have the following meanings

COMPLAINT: an allegation made by a community member in which he/she believes that a sworn officer of this agency was engaged in misconduct or behavior that was perceived by the complainant as inappropriate under the circumstances; complaints made by community members may reflect behavior which, if true:

- a) violates one of the policies, procedures, rules/regulations or other directives of the agency, agency training standards, or, in some cases, violates the law, e.g. traffic violation; or
- b) expresses dissatisfaction with the level of service given by a member of the agency; or
- c) indicates dissatisfaction with an agency policy, procedure, agency philosophy, etc.

NOTE: a disagreement over the validity of any citation, e.g. a traffic/vehicle code citation, parking violation, criminal citation, etc., is not grounds for the initiation of a complaint; that is a matter for adjudication by the court of jurisdiction; however, a complaint can be filed about the conduct of the officer issuing the citation.

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CONFIDENTIAL MATERIAL: refers to any communication occurring during a mediation session that could be/has the potential to be used in a judicial, administrative or other proceeding involving a party to the mediation, as set forth in CP § 3 – 1803.

IMPASSE: an outcome of a mediation session in which neither party is willing to compromise any further on an issue; an **IMPASSE** occurs when, after engaging in good faith discussion in the presence of a mediator, the parties agree that they are unable to resolve the complaint, dispute or disagreement that initiated the mediation session; for purposes of the **AGENCY NAME** complaint resolution program an **IMPASSE** does not indicate that mediation was unsuccessful;

INDEPENDENT MEDIATION ORGANIZATION [IMO]/LOCAL MEDIATION PROVIDER: an organization, separate and apart from the **AGENCY NAME** that will supply/refer affiliated mediators who will conduct mediation sessions between complainants and agency personnel according to this policy and procedure; the IMO will also perform the various administrative duties associated with conducting, training for and documenting mediation sessions as mutually agreed upon by the IMO and **AGENCY NAME**; the IMO will be an organization/entity recognized by the Mediation and Conflict Resolution Office [within the Administrative Office of the Court – Maryland];

EXAMPLE:

COMMUNITY MEDIATION MARYLAND: the umbrella organization contracted by the **AGENCY NAME** to act as the Independent Mediation Organization [IMO] as required by law [www.mdmediation.org];

LETTER OF AGREEMENT/CONSENT TO MEDIATE: documentation signed by both parties in mediation, [and any other person in attendance during a mediation session] witnessed by the mediator, which indicates that both parties are consenting to voluntarily participate in mediation; in addition the parties acknowledge that they understand and agree to abide by the confidentiality requirements as set forth in CP § 3 – 1803.

LETTER OF CONCLUSION: a document signed by the mediator of record that is forwarded to the **AGENCY NAME** via the IMO indicating that a mediation session was held as scheduled between the complainant and the officer; unless mutually agreed to by the parties involved in the mediation session no additional information will be furnished by the mediator to the **AGENCY NAME** or any other party;

MEDIATION: a process in which parties in a dispute work with one or more impartial mediators who assist the parties in reaching a voluntary agreement for the resolution of a dispute or issues that are part of a dispute [CP § 3-1801]; it is one of several recognized alternate dispute resolution techniques in which a trained impartial mediator(s) helps people in conflict to communicate with one another, understand each other, and if possible, reach agreements that satisfy the participants' needs;

MEDIATION- ELIGIBLE COMPLAINT: a complaint alleging misconduct or inappropriate behavior, filed by a member of the community according to existing agency policies and procedures which the **AGENCY NAME** has determined is eligible to be considered for mediation as set forth in this policy and procedure; with the exception of the types of misconduct described in this policy and procedure as being mediation-ineligible, the **AGENCY NAME** will carefully review and evaluate the complaints and attendant circumstances that are filed against its personnel so as to determine their suitability for an offer of mediation;

MEDIATION-INELIGIBLE COMPLAINT: complaints about the actions and/or behavior of agency personnel that, if true, would have a significant, adverse effect on either a community member, the public at large and/or the ability of the **AGENCY NAME** to provide lawful, fair/equitable and professional law enforcement services to the community; in general, allegations involving criminal conduct, complaints of excessive/ inappropriate use of force or force considered to be greater than a *de minimis* level of force or one involving injury or medical treatment, clearly indicate discriminatory policing and/or Constitutional violations, any ethical violation or any violation of the policies/procedures, rules/regulations or directives of this agency that, if true, could result in a suspension from duty greater than allowed for “summary punishment” or could result in termination from the agency are **NOT** “mediation eligible” unless specifically deemed “mediation-eligible” by the head of the agency;

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MEDIATION SESSION: the discussion between a complainant and officer which takes place in the presence of a mediator in a private, neutral setting;

MEDIATOR: is a trained, impartial third party, affiliated with an independent mediation organization, who will facilitate the conduct of a mediation session; a mediator does not provide legal advice or recommend or impose the terms of any agreements; a mediator helps the individuals involved in the mediation session to reach their own agreements, rebuild their relationship, and if possible, find lasting solutions to their disputes;

MISCONDUCT: is any act or omission by an employee which if proven true would normally result in some form of discipline, sanction or remediation. This would include:

1. commission of a criminal act;
2. neglect of duty;
3. violation of an agency policy, procedure, rule or regulation, or other agency directive or agency training standard;
4. conduct which may tend to reflect unfavorably on the individual as a law enforcement officer or the agency.

“NON-VIOLENT” COMPLAINT: a complaint filed against a member of the agency that involves a **DE MINIMIS** use of force that does **not** result in an injury or medical treatment is considered **“NON- VIOLENT”** for purposes of this policy;

DE MINIMIS uses of force normally are:

1. “hands-on” techniques that are intended to guide/direct/restrain/ maintain control/custody of an individual, including handcuffing or other means of restraint; or
2. the mere display of a weapon;

For purposes of this policy and procedure, a **NON-VIOLENT** complaint is one in which there is **NO** indication/allegation that the member used an impact weapon, electronic control device, K-9, “hard control” technique, or chemical agent or pepper spray;

DE MINIMIS USE OF FORCE: refers to uses of force that are applied in “good faith” to maintain control of or restore discipline” of an individual and are not “maliciously and sadistically [used] to cause harm;” **de minimis** amounts of force are “objectively reasonable in light of the facts and circumstances confronting [the officer], without regard to [the officer’s] underlying intent or motivation.” [*Graham v. Connor*, 490 U.S. 386 (1989)]

VI. LEGAL REFERENCES:

Public Safety Article § 3 – 207 (D) (1-3):

(D) The Commission **SHALL**:

- (1) establish a **POLICE COMPLAINT MEDIATION PROGRAM** to which a law enforcement agency **MAY** REFER, subject to the agreement of the complainant, a **NONVIOLENT COMPLAINT** made against a police officer out of the standard complaint process;
- (2) REFER a complaint referred to the program to **VOLUNTARY MEDIATION** conducted by an **INDEPENDENT MEDIATION SERVICE**; and
- (3) **ADOPT REGULATIONS TO IMPLEMENT THE PROGRAM**, including criteria concerning eligibility for referral of complaints.

Courts and Judicial Proceedings Article § 3-1803 et al.:

§ 3-1803. Duties of mediator and participants:

- (a) Mediator and participants requested by mediator. -- Except as provided in § 3-1804 of this subtitle, a mediator or any person present or otherwise participating in a mediation at the request of a mediator:
 - (1) Shall maintain the confidentiality of all mediation communications; and
 - (2) May not disclose or be compelled to disclose mediation communications in any judicial, administrative or other proceeding.

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- (b) Parties or participants requested by parties. -- Except as provided in § 3-1804 of this subtitle:
- (1) A party to a mediation and any person present or otherwise participating in the mediation at the request of a party may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding; and**
 - (2) The parties may enter into a written agreement to maintain the confidentiality of all mediation communications and may require any person present or otherwise participating in the mediation at the request of a party to maintain the confidentiality of all mediation communications.**

§ 3-1804. Requirements and exceptions

- (a) Written agreement of confidentiality required.** -- A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.
- (b) Disclosures allowed. -- In addition to any other disclosure required by law, a mediator, a party, or a person who was present or who otherwise participated in a mediation at the request of the mediator or a party may disclose mediation communications:
- (1) To a potential victim or to the appropriate law enforcement authority to the extent that the mediator, party, or person reasonably believes the disclosure is necessary to prevent bodily harm or death to the potential victim;**
 - (2) To the extent necessary to assert or defend against allegations of mediator misconduct or negligence;
 - (3) To the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a party or any person who was present or who otherwise participated in the mediation at the request of a party, except that a mediator may not be compelled to participate in a proceeding arising out of the disclosure; or
 - (4) To the extent necessary to assert or defend against a claim or defense that, because of fraud, duress, or misrepresentation, a contract arising out of a mediation should be rescinded or damages should be awarded.
- (c) Disclosure by court order; limitations.** -- A court may order mediation communications to be disclosed only to the extent that the court determines that the disclosure is necessary to prevent an injustice or harm to the public interest that is of sufficient magnitude in the particular case to outweigh the integrity of mediation proceedings.

§ 3-1805. When communications subject to discovery:

Mediation communications that are confidential under this subtitle are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Maryland Rule § 17-205 - Qualifications of Court-Designated Mediators:

1. at least 21 years old, unless waived by both parties;
2. have **completed at least 40 hours of basic mediation training in a program meeting the requirements of Rule 17-104 (outlined below), or for individuals trained prior to January 1, 2013, former rule 17-106;**
3. be **familiar with the rules, statutes and practices governing mediation in circuit courts;**
4. have mediated or co-mediated at least two civil cases;
5. **complete in each calendar year four (4) hours of continuing mediation-related education** in one or more of the topics set forth in Rule 17-104;
6. **abide by the mediation standards adopted by the Court of Appeals;**
7. **submit to periodic monitoring of court-ordered mediations by a qualified mediator** designated by the county administrative judge; and

8. comply with procedures and requirements prescribed in the court’s case management plan filed under Rule 16-202 b relating to diligence, quality assurance and a willingness to accept, upon the request of the court, a reasonable number of referrals at a reduced fee or pro bono.

Maryland Rule 17-104, Basic Mediation Training Programs:

To qualify under Rule 17-205 (above) or 17-304, a **basic mediation training program shall include the following:**

- a. conflict resolution and mediation theory, including causes of conflict, interest-based versus positional bargaining and models of conflict resolution;**
- b. mediation skills and techniques, including information gathering skills; communication skills; problem-solving skills; interaction skills; conflict management skills; negotiation techniques; caucusing; cultural, ethnic and gender issues; and strategies to:**
 - 1) identify and respond to power imbalances, intimidation, and the presence and effects of domestic violence, and**
 - 2) safely terminate a mediation when such action is warranted;**
- c. mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics and standards of practice; and**
- d. simulations and role-playing monitored and critiqued by experienced mediator trainers.**

Public Safety Article §3–110:

- (a) On written request, a law enforcement officer may have expunged from any file the record of a formal complaint made against the law enforcement officer if:
 - (1) (i) the law enforcement agency that investigated the complaint:
 1. exonerated the law enforcement officer of all charges in the complaint; or
 2. determined that the charges were un-sustained or unfounded; or
 - (ii) a hearing board acquitted the law enforcement officer, dismissed the action, or made a finding of not guilty; and
 - (2) at least 3 years have passed since the final disposition by the law enforcement agency or hearing board.
- (b) Evidence of a formal complaint against a law enforcement officer is not admissible in an administrative or judicial proceeding if the complaint resulted in an outcome listed in subsection (a) (1) of this section.

VII. POLICY STATEMENT:

It is the policy of the **AGENCY NAME** to offer the option to **voluntarily participate in mediation** both to a community member who has filed a complaint involving certain types of conduct against a member of the agency and to the member about whose behavior the complaint has been filed. The mediation session will be conducted by a trained, neutral mediator affiliated with a recognized Independent Mediation Organization [IMO], at a neutral location at a time convenient to both parties.

The **AGENCY NAME** will identify certain behaviors/conduct in this policy and procedure as being normally “mediation eligible.”

The **AGENCY NAME** will, whenever possible at the time of the initial complaint, explain the mediation process to the complainant and provide the complainant with a copy of its **CITIZEN COMPLAINT RESOLUTION BROCHURE** which contains a summary of the voluntary complaint mediation program as well as an explanation of the traditional investigative complaint process used by the **AGENCY NAME**.

The **AGENCY NAME** will also publish and maintain a copy of this policy and procedure as well as its brochure on its website.

The **AGENCY NAME** will treat all mediation sessions as confidential as defined in CP § 1804 of the Code of Maryland. As such, the **AGENCY NAME** will require the mediators affiliated with the Independent Mediation Organization to obtain a signed Agreement/Consent to Mediate Letter from each of the involved parties and any other attendees at the session. The Agreement /Consent to Mediate Letter will be witnessed by the mediator, prior to the mediation session taking place.

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It is the policy of the **AGENCY NAME** to consider that once a scheduled mediation session has begun that the complaint will be considered as “mediated,” and, therefore, categorized as “closed by mediation.” Mediated complaints will have the same status as complaints that are classified as **UNSUSTAINED** and shall be maintained in file as allowed by PS § 3 -110 (a).

It is the policy of the **AGENCY NAME** not to consider an officer’s acceptance of or declination of mediation in any subsequent disciplinary matters. However, the **AGENCY NAME** will limit the number of times any officer can participate in mediation during a **[TIMEFRAME TBD BY AGENCY]** to no more than **[# TBD BY AGENCY]**.

VIII. DEVELOPING THE CITIZEN-POLICE COMPLAINT MEDIATION PROGRAM:

The **AGENCY NAME** Community Member-Police Complaint Mediation Program has been developed with the input from a number of key agency personnel including members of the command staff, supervisory staff, rank and file officers as well as representatives from the labor organization. Likewise, representatives from the community and of **NAME OF INDEPENDENT MEDIATION ORGANIZATION** have also been involved in discussing critical issues regarding mediation and developing this program.

The **AGENCY NAME** Community Member-Police Complaint Mediation Program conforms to the standards and regulations established and provided by the Maryland Police Training and Standards Commission and the recommendations of the **NAME OF INDEPENDENT MEDIATION ORGANIZATION**.

IX. COMPLAINT MEDIATION PROGRAM ADMINISTRATION:

The **AGENCY UNIT NAME** commander is designated as the administrator for the agency’s Community Member-Police Complaint Mediation Program and has the authority and responsibility to:

- ▶ provide administrative oversight for the agency’s Community Member Police Complaint Mediation Program as required:
 - develop and implement any internal procedures for record keeping and other administrative duties, etc., as relates to the mediation of complaints;
- ▶ act as agency liaison with the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** regarding Community Member-Police Complaint Mediation Program;
- ▶ develop and conduct complaint mediation training for agency personnel as required;
- ▶ review and evaluate community member complaints and select those that are mediation-eligible as described in this policy and procedure:
 - consult with the agency head or his/her designee regarding questions about a complaint’s mediation eligibility when necessary;
- ▶ contact the officer involved in the mediation-eligible complaint to determine if he/she wishes to mediate the complaint;
- ▶ ensure that mediation –eligible complaints and complainant contact information are forwarded to the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** as soon as practical **after an officer has agreed to mediation** so the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** can contact the complainant with an offer to mediate his/her complaint;
- ▶ maintain Closure Letters of all mediation sessions conducted by mediators affiliated with **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**;
- ▶ with the assistance of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** compile an annual report of /about the use of and citizen-agency personnel satisfaction with the agency’s complaint mediation program for the agency head;
- ▶ periodically review and update as necessary this policy and procedure;
- ▶ post a current copy of this policy and procedure as well as the **AGENCY NAME** Complaint Resolution Brochure on its website;

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X. SELECTION OF COMPLAINT FOR MEDIATION:

X – A. GENERAL:

Upon consulting with the **NAME OF INDEPENDENT MEDIATION ORGANIZATION**, the **AGENCY NAME** does not believe that **categorically** excluding a complaint from consideration for mediation is in the best interests of the community, in particular if the allegation appears, on its face, to be a matter of misunderstanding or miscommunication between the officer and the community member.

Therefore, the Mediation Program Administrator will carefully review and evaluate each complaint and the circumstances reported in that complaint prior to determining if mediation should/should not be offered to the parties involved in the incident.

In addition, prior to making a decision as to whether a particular complaint is eligible/not eligible for mediation, the Mediation Program Administrator shall also weigh the potential benefits of an offer of mediation as they apply to the complainant, the community at large and the agency against the potential exposure to harm, i.e. potential civil liability and potential damage to the ability of the agency to protect the community.

To provide guidance to all agency personnel, the **AGENCY NAME** has determined that, **in general**, depending on the particular circumstances surrounding the complaint, mediation **may** be offered to resolve a complaint that appears to be based on:

- a. **a lack of communication or miscommunication** between a community member and officer involved in an incident;
- b. **a misunderstanding about an officer's authority to act;**
- c. **a misunderstanding about an officer's application of an agency standard operation procedure or other professionally accepted practice;**

When deciding whether to consider any complaint for mediation as an alternative to a traditional investigation, the Mediation Program Administrator will consider, at a minimum, the following:

- 1) the **type and severity of the alleged violation and the particular circumstances involved in the complaint;**
- 2) the **work history and disciplinary record of the officer involved** including previous mediation history;
- 3) **whether mediation will potentially:**
 - a) **result in greater complainant satisfaction;**
 - b) **improve citizen understanding of police procedures and actions;**
 - c) **result in improved officer conduct; and**
 - d) **contribute to improved citizen-police relations.**

While the **AGENCY NAME** recognizes that there are several potential benefits for the community member, officer, agency and community at large that can accrue through a successful mediation, the **AGENCY NAME** understands that there is **no right to mediation**, either expressed or implied in this policy, **for any party involved in a complaint**. The **AGENCY NAME** reserves the right to decline to offer mediation for **any** complaint filed by a community member.

Additionally, circumstances may prompt the **AGENCY NAME to withdraw/rescind the mediation option from either the community member or the officer before a mediation session takes place.**

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X – B. MEDIATION ELIGIBLE COMPLAINTS:

As part of its established complaint resolution process, the **AGENCY NAME** has determined that community member complaints that fall within the following categories are normally “**ELIGIBLE**” to be **considered for mediation**. As described above, the circumstances outlined in the initial complaint will be reviewed by the Mediation Program Administrator and the several objective eligibility factors listed in this policy and procedure will be factored into the decision as to whether to offer mediation.

1. Conduct that has a **MINIMAL** negative impact on the operations or professional image of the agency:

Examples:

- ▶ Plainclothes Officer – Failure to Identify Self as Officer;
- ▶ Failure to Provide Name and Badge Number on request;
- ▶ Traffic Violation by Officer/Emergency Vehicle Operation complaint;
- ▶ Discourtesy/Rudeness;

2. Conduct that has **MORE THAN A MINIMAL** negative impact on the operations or professional image of the agency or that negatively impacts relationships with other officers, agencies or the public:

Examples:

- ▶ Responsibilities to Serve Public;
- ▶ Displaying an Impartial Attitude;
- ▶ Discourtesy – Language or Behavior;
- ▶ Department Vehicle Operation;
- ▶ Failure to Make, File or Complete Official Report;

3. Conduct that has a **PRONOUNCED NEGATIVE** impact on the operations or professional image of the agency, or on relationships with other officers, agencies or the public;

Examples:

- ▶ Display of Firearms;
- ▶ Verbal Assault and Abuse of the Public;
- ▶ Unwarranted Action [no arrest];
- ▶ Careless handling of firearm [no discharge];
- ▶ Harassment/Racial/Ethnic/Cultural Disparagement;
- ▶ Mistreatment of Prisoners or Suspects [**no injury**];
- ▶ Soliciting, Accepting Gifts or Gratuities;

X – C. OTHER ELIGIBILITY FACTORS TO BE CONSIDERED:

The **AGENCY NAME** recognizes that all complaints that appear, at first glance, to be potentially eligible for mediation by type of behavior may not be, in reality, good candidates for mediation. In addition to the severity of or the minimal nature of the consequences caused by the behavior alleged in the complaint, the agency will also use the following additional **objective** factors to determine if a complaint should be offered to the officer and complainant for mediation. Those objective factors include an officer’s:

- ▶ **COMPLIMENTARY** history:

- awards/commendations/positive public recognition or acknowledgment;

- ▶ prior **WORK HISTORY:**

- positive performance evaluations and/or voluntary, advanced, job-related training; or
- recommendation of supervisor(s)/command officers within chain of command;

- ▶ **DISCIPLINARY** history:

- minimal or lack of prior disciplinary history relative to the officer’s years of service:
 - nature and seriousness of any prior sustained violation(s);
 - number of prior sustained violation(s);
 - length of time between prior sustained violation(s) and current case;
 - **[number of prior complaints TBD by agency]** of any type in past 12 months;
 - prior complaint mediation experience:
 - ◆ participation in **[# TBD by agency]** mediation sessions during past **[timeframe TBD by agency]**;
 - ◆ participation in a mediation session for the same type of complaint in past **[timeframe TBD by agency]**;
 - relationship between any prior violation(s) and the present alleged misconduct;
 - whether the officer’s prior history demonstrates a continuation or pattern of the same or similar misconduct; and
 - whether the prior history demonstrates continuous misconduct evidencing a failure to conform to rules or to correct inappropriate behavior.

Whenever a question arises as to the mediation–eligibility of a complaint, the Mediation Program Administrator will consult with higher command within his/her chain of command before making a determination as whether or not to offer mediation.

X – D. MEDIATION OF DE MINIMIS USE OF FORCE COMPLAINTS [NON-INJURY/NO MEDICAL TREATMENT COMPLAINTS/RACIAL/ETHNIC/CULTURAL DISPARAGEMENT COMPLAINTS [NO CONSTITUTIONAL RIGHTS VIOLATION]:

Overview:

The AGENCY NAME recognizes the potential seriousness and consequences when a complainant alleges that they believe that personnel used unnecessary force, inappropriately applied force or exhibited racial/ethnic or cultural insensitivity/bias during an encounter with a community member.

However, the AGENCY NAME also understands that a number of complaints alleging such behavior may be caused by a misunderstanding/miscommunication between a community member and officer. It also recognizes that such complaints are often difficult to sustain when subjected to a traditional standard investigation when only the word of the participants is available. The AGENCY NAME believes that **categorically excluding these complaints from the mediation process means losing a potentially valuable opportunity for community members and agency members to better understand each other’s perspective, to explore how they might prevent similar problems in the future, and to reach a satisfying resolution to the complaint.**

Therefore, it is because of the potential benefits to the community and agency personnel that may accrue when such sensitive incidents can be discussed in the presence of a neutral, independent third party that the AGENCY NAME, with the concurrence of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**, allows the Mediation Program Administrator to consider extending an offer of mediation to the individuals involved in the above types of complaints under the following circumstances:

X – D – 1: MEDIATION OF COMPLAINTS INVOLVING DE MINIMIS FORCE:

Community member complaints that involve the attempted/threatened/actual use of DE MINIMIS “hands on” force that did **NOT** result in **bodily injury requiring medical treatment** and/or did **NOT** involve the use of an **impact weapon, electronic control device, K-9, “hard” control techniques, or chemical agents/pepper spray** are considered to be **NON-VIOLENT** for purposes of this policy and procedure and **MAY** be appropriate for mediation depending upon the circumstances surrounding the complaint.

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Prior to offering an offer of mediation to the officer the Mediation Program Administrator shall:

- a. review the complaint and any available attendant agency reports about the incident to determine the potential severity of the complaint and its mediation-eligibility otherwise;
- b. determine if any force used during the incident was **de minimis** such as “hands-on” force only, i.e. handcuffing/holding/restraining /weapon display/threat of force, etc.:
 - **no** weapon/**no** chemical agent/electronic device, etc. was used on the complainant;
- c. determine that **no** injury requiring medical treatment occurred to the complainant as a result of the officer’s action;
- d. if the complaint resulted in an arrest or issuance of a citation, the matter has been adjudicated.

X – D – 2: MEDIATION OF COMPLAINTS INVOLVING RACIAL/ETHNIC/CULTURAL DISPARAGEMENT:

In addition to complaints that involve a **DE MINIMIS** amount of force, the **AGENCY NAME** has also decided not to categorically exclude any citizen complaint alleging racial/ethnic/cultural insensitivity on the part of its personnel from the possibility of mediation.

The agency believes that such cases are an opportunity for citizens and officers to share their perspectives on these sensitive topics. **Because allegations of harassment or other racial/ethnic/cultural disparagement may be a matter of perception rather than substance [name calling, derogatory language, etc.] such complaints MAY be appropriate for mediation pending the consent of the complainant.**

On receiving a complaint that claims racial/ethnic/cultural disparagement the Mediation Program Administrator will:

- a. review the complaint and any available attendant agency reports about the incident to determine the potential severity of the complaint and its mediation-eligibility otherwise;
- b. determine whether there is/is not indication of discriminatory policing/Constitutional violation:
 - i. if necessary, speak with the complainant as part of his/her review;
- c. determine if the complainant was/was not arrested:
 - i. if arrested, the complaint is ineligible for mediation until the case is adjudicated in court;
- d. determine the mediation eligibility of the complaint as otherwise required by this policy/procedure;**
- e. after determining the complaint’s eligibility for mediation, the Mediation Program Administrator will **forward a recommendation to the head of the agency or his/her designee, via channels, for approval before extending an offer of mediation to the officer and complainant.**

If approval for mediation is granted, the Mediation Program Administrator shall extend offers of mediation as outlined in this policy. If either the officer or the complainant declines to mediate the complaint then the complaint will be subject to the agency’s investigative process.

If the Mediation Program Administrator determines, after a review and evaluation of a community member complaint that may also include a conversation with the complainant, that a member of the agency was engaged in an act/behavior that is one of discriminatory policing or involves a Constitutional violation, then that complaint will be investigated by the **AGENCY NAME in accordance with established standard procedures.**

X – E. INELIGIBLE COMPLAINTS:

While the AGENCY NAME has concluded that there is significant benefit in mediating certain complaints against its personnel, it also realizes that complaints alleging certain types of misconduct normally require a thorough administrative investigation in order to resolve a complaint from a community member. Such administrative investigations are intended to protect the interests of the public as well as the agency. Administrative investigations occur when complaints involve actions or behavior that, if true, would have a significant adverse effect on either a community member, the public at large and/or the ability of the AGENCY NAME to provide lawful, fair/equitable and professional law enforcement services to the community.

Complaints/allegations that indicate one of the following actions/behaviors will normally be subject to a standard administrative investigation by the agency:

1. criminal conduct [traffic violations excluded];
2. a use of more than a “*de minimis*” amount of force as described in this policy and procedure;
3. an inappropriate use of force or a misapplication of an agency sanctioned use of force technique;
4. a use of force that results in an injury/medical treatment to a complainant;
5. a violation of an agency policy-procedure/rule-regulation/other directive or a professional ethical standard that, if sustained, could result in a suspension greater than allowed for “summary punishment” or could result in termination from the agency;
6. conduct/behavior/action that clearly indicates a violation of a Constitutional right; or
7. conduct/behavior/action that clearly indicates discriminatory policing.

Examples:

- ▶ Sexual misconduct;
- ▶ Drinking while on duty or in uniform;
- ▶ Performing Law Enforcement Duties under the Influence;
- ▶ Conduct prohibited by law [traffic offenses excluded];
- ▶ Clearly discriminatory policing/Constitutional violation;
- ▶ Aiding and Protecting Fellow Officers from Misconduct – Intentional;
- ▶ Inappropriate Use of Force;
- ▶ Ethical violations/officer corruption;

NOTE:

Whenever a question arises as to the mediation–eligibility/ineligibility of a complaint, the Mediation Program Administrator will consult with higher command within his/her chain of command before making a determination as to whether or not the complaint is mediation eligible. If a clear determination cannot be made at this point, then the complaint will be forwarded to the agency head or his/her designee for a final decision as to whether to offer mediation or not to the complainant and officer involved.

Any complaint resulting from an arrest or the issuance of a traffic or criminal citation that is subject to adjudication by a court may only be mediated POST trial or POST payment of the citation.

XI. INITIAL NOTIFICATION OF COMPLAINANT ABOUT MEDIATION PROCESS:

Many complainants may be unaware that the AGENCY NAME participates in a mediation program to resolve some community member-police complaints. They may think that all complaints against officers are routinely investigated by other officers in the agency. Likewise, even complainants who do know that a mediation option exists may be unfamiliar with how the mediation process works and what it means for them.

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

It is, therefore, critical that agency personnel who are first notified of, and are required to document, a community member's complaint under existing agency policy be responsible for notifying the complainant that he/she may be offered the opportunity to resolve his/her complaint through mediation after the complaint is reviewed by the department and determined to be eligible for mediation.

Agency personnel who first receive/document a citizen complaint shall:

- a. **record and forward the complaint and complainant contact information including mailing address as per existing agency policy;**
- b. if the **complainant is physically present** when the complaint is being recorded:
 - ▶ **provide the complainant with a copy of the AGENCY NAME COMMUNITY MEMBER COMPLAINT RESOLUTION BROCHURE:**
 - ▶ briefly explain that community member complaints are resolved in one of two ways:
 - through a traditional investigation; or
 - through voluntary community member – officer mediation by a neutral, independent, trained mediator;
 - ▶ briefly explain the agency's voluntary mediation process including the fact that a representative from the agency will be contacting them within **# of business days [TBD by agency]** to discuss their options for resolving their complaint;
- c. if the **complaint is being made by telephone or other electronic device**:
 - ▶ **refer the complainant to the agency's website to view a copy of the above brochure;**
 - ▶ briefly explain that community member complaints are resolved in one of two ways:
 - through traditional investigation; or
 - through voluntary community member – officer mediation by a neutral, independent, trained mediator;
 - ▶ briefly explain the agency's voluntary mediation process including the fact that a representative from the agency will be contacting them within **# of business days [TBD by agency]** to discuss their options for resolving their complaint.

In cases where telephonic or electronic complaints are reported to the agency the Mediation Program Administrator will ensure that an agency brochure is mailed to the complainant of record as soon as possible after the complaint is received.

XII. NOTIFICATION OF PARTIES – OPTION TO MEDIATE:

Once a complaint has been initially reviewed to determine its mediation eligibility as described in this policy, the parties involved in the complaint will be notified of the option to mediate in the order and manner described below:

XII – A. OFFICER:

The officer against whom the complaint has been lodged will be contacted by the Mediation Program Administrator [electronically or in writing] to determine if he/she chooses to voluntarily participate in mediation with the complainant. The officer will have **# of days [TBD by agency]** to make a decision and to notify the Mediation Program Administrator

If the **officer voluntarily agrees** to mediation of the complaint, the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** will be notified by the Mediation Program Administrator and be requested to contact the complainant to determine if he/she will voluntarily participate in mediation.

If the **officer declines to participate** in mediation, the complaint will be investigated and resolved according to existing agency policy and procedure.

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After the complainant has been contacted by the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** the officer will be contacted by the Mediation Program Administrator as to whether the complainant has agreed to mediation or not. He/she will be instructed to contact the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** directly to establish a mutually convenient time for the mediation session. **Failure of the officer to contact the mediation provider within # of days [TBD by IMO] of notification to mediate will be viewed as a withdrawal from the mediation process and the complaint will be investigated and resolved as per existing policy and procedure.**

The **AGENCY NAME** will **not** consider an officer's decision to mediate or not mediate a complaint during any later disciplinary proceedings.

A complaint will be considered closed upon the completion of a mediation session administered by the NAME OF INDEPENDENT MEDIATION ORGANIZATION. The complaint will be labeled as "CLOSED - MEDIATED" in the files and will be classified by the agency as "Un-sustained."

XII – B. COMPLAINANT:

If the officer voluntarily agrees to mediation of the complaint, the Mediation Program Administrator will forward the complainant's contact information to the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** which will contact the complainant to determine if the complainant will voluntarily participate in the mediation process. The **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** has agreed to attempt to contact the complainant immediately upon notification and will do so for a period of # of days [TBD by IMO]. If the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** is unable to contact the complainant the Mediation Program Administrator will be notified and will attempt to contact the complainant on behalf of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**.

If the complainant agrees to mediation, the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will contact the Mediation Program Administrator to inform the officer and to instruct the officer to contact the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** directly to establish a time for the mediation session.

If the complainant declines to mediate the complaint, the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will notify the complainant that his/her complaint will be investigated and resolved by the agency. The **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will then contact the Mediation Program Administrator with the complainant's refusal to mediate.

XIII. SCHEDULING A MEDIATION SESSION:

If both parties voluntarily agree to participate in mediation, the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will schedule a mediation session at a mutually convenient time for both participants, at a neutral location. If deemed necessary by the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**, each party in mediation will be provided a written notification of the date and time of the mediation session. The Mediation Program Administrator will also be provided with the date and time of the mediation session.

Personnel who attend a scheduled mediation session while off-duty will be entitled to be compensated as per established agency overtime procedures.

XIV. APPEARANCE AT THE MEDIATION SESSION:

Once the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** has scheduled a mediation session and contacted the officer, the officer is required to appear at the mediation session as scheduled. The **NAME OF INDEPENDENT MEDIATION ORGANIZATION** will contact the Mediation Program Administrator as soon as practical if an officer fails to appear at a scheduled mediation session.

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An officer's failure to appear for a scheduled mediation session without a justifiable reason and/or without contacting the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** prior to the session, will nullify the agreement to mediate and result in the complaint being investigated and resolved as per existing agency policy and procedure.

Additionally, failure to appear at a scheduled mediation session without a justifiable reason and/or without contacting the mediation provider may lead to the exclusion from the mediation program for a period of time as determined by the head of the agency.

If the complainant fails to appear for a scheduled mediation session without a justifiable reason and/or without contacting the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**, the officer will have the option of rescheduling the mediation session or requesting that the agency dismiss the complaint.

XV. VOLUNTARY PARTICIPATION IN MEDIATION:

While the decision to allow mediation is made after careful consideration of the circumstances and characteristics of each case, the **AGENCY NAME** makes the option of mediation available in order to allow the involved parties to decide for themselves whether mediation is an appropriate or desirable way to resolve their concerns and/or differences.

Participation in the agency's Community Member-Police Mediation Program by the complainant and the officer is **VOLUNTARY**.

Each party to the mediation will be required to agree to and sign a "Consent to Mediate Agreement Letter" provided by the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** prior to the commencement of the mediation session [See Appendix A].

There is **no** right to mediation. Even if a complaint is eligible for mediation, any stakeholder/party to the process [the complainant, the officer and/or the agency] may decline to agree that a complaint should be resolved through the mediation process.

No stakeholder/party to the process shall be required to state the reason for declining to participate in mediation or for agreeing to assign a case for mediation.

If a complainant or officer declines to mediate the complaint or withdraws from the mediation process prior to the beginning of the mediation session the complaint will be investigated according to this agency's established complaint investigation policy and procedure.

XVI. CONFIDENTIALITY OF MEDIATION SESSION:

The **AGENCY NAME** recognizes that **CONFIDENTIALITY** is an essential element of mediation both for the complainant and for the officer involved. For mediation to succeed, both parties must feel free to speak candidly/openly. The **AGENCY NAME** understands that the confidentiality of the proceedings has special relevance for its personnel because they must be assured that any apology or acknowledgment of wrongdoing will not be used against them, either by this agency or by a private attorney in a legal proceeding including a criminal, civil or administrative hearing.

Therefore, the **AGENCY NAME**, along with the **NAME OF INDEPENDENT MEDIATION ORGANIZATION**, will adhere to confidentiality requirements set forth in the Courts and Judicial Proceedings Article § 3-1803, et al.:

§ 3-1803. Duties of mediator and participants:

- (a) **Mediator and participants requested by mediator.** -- Except as provided in § 3-1804 of this subtitle, a mediator or any person present or otherwise participating in a mediation at the request of a mediator:
- (1) Shall maintain the confidentiality of all mediation communications; and
 - (2) May not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding.

- (b) **Parties or participants requested by parties.** -- Except as provided in § 3-1804 of this subtitle:
- (1) **A party to a mediation and any person present or otherwise participating in the mediation at the request of a party may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding; and**
 - (2) **The parties may enter into a written agreement to maintain the confidentiality of all mediation communications and may require any person present or otherwise participating in the mediation at the request of a party to maintain the confidentiality of all mediation communications.**

§ 3-1804. Requirements and exceptions.

- (a) **Written agreement of confidentiality required.** -- A document signed by the parties that records points of agreement expressed by the parties or that constitutes an agreement reached by the parties as a result of mediation is not confidential unless the parties agree otherwise in writing.
- (b) **Disclosures allowed.** -- In addition to any other disclosure required by law, a mediator, a party, or a person who was present or who otherwise participated in a mediation at the request of the mediator or a party may disclose mediation communications:
- (1) **To a potential victim or to the appropriate law enforcement authority to the extent that the mediator, party, or person reasonably believes the disclosure is necessary to prevent bodily harm or death to the potential victim;**
 - (2) **To the extent necessary to assert or defend against allegations of mediator misconduct or negligence;**
 - (3) **To the extent necessary to assert or defend against allegations of professional misconduct or malpractice by a party or any person who was present or who otherwise participated in the mediation at the request of a party, except that a mediator may not be compelled to participate in a proceeding arising out of the disclosure; or**
 - (4) **To the extent necessary to assert or defend against a claim or defense that, because of fraud, duress, or misrepresentation, a contract arising out of a mediation should be rescinded or damages should be awarded.**
- (c) **Disclosure by court order; limitations.** -- A court may order mediation communications to be disclosed only to the extent that the court determines that the disclosure is necessary to prevent an injustice or harm to the public interest that is of sufficient magnitude in the particular case to outweigh the integrity of mediation proceedings.

§ 3-1805. When communications subject to discovery:

Mediation communications that are confidential under this subtitle are not subject to discovery, but information that is otherwise admissible or subject to discovery does not become inadmissible or protected from disclosure solely by reason of its use in mediation.

Mediation **CONFIDENTIALITY** includes **ALL mediation communications**, which include speech, writing, or conduct made as part of a mediation session.

The parties to a mediation session may mutually agree to document in writing an agreement signed by the parties as a result of mediation. This document is **not** confidential unless the parties agree in writing otherwise.

In order to protect the integrity of the mediation process, a mediator should **not** communicate information about the parties, their behavior, the merits of their case or any settlement to the **NAME OF AGENCY** or **NAME OF INDEPENDENT MEDIATION ORGANIZATION** or other party outside the mediation session. A mediator may report to the **AGENCY NAME** and **NAME OF**

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INDEPENDENT MEDIATION ORGANIZATION the date and time when a mediation session took place and the outcome of the mediation session, i.e. “Mediated/Not Mediated.”

Confidentiality should **not** be construed to prohibit the effective monitoring, research, or evaluation of a mediation program by responsible persons approved by the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION ORGANIZATION**. Under appropriate circumstances, researchers and mediation evaluators may be permitted to obtain access to statistical data and, **with the permission of the parties**, to individual case files, mediation sessions, observations, and interviews with participants.

XVII. THE MEDIATION PROCESS:

To ensure neutrality, mediation will be provided by the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** [such as Community Mediation Maryland] that is not affiliated with the **AGENCY NAME** or any advocacy group.

The mediation process will be one that focuses on dialogue, relationships, and building understanding. There are a number of examples of mediation approaches that fit this criterion including **INCLUSIVE MEDIATION, TRANSFORMATIVE MEDIATION, Narrative Mediation**, and some types of Facilitative Mediation. The **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will determine the type of mediation protocol to use for each mediation session.

At the discretion of the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** one (1) or two (2) affiliated mediators will be referred to each scheduled mediation session.

The mediation session will take place in a neutral location, with all participants in a room together. A private session [caucus] will only occur when there is a concern for safety or fear of retaliation and the mediators need to explore whether to end the session.

The **NAME OF INDEPENDENT MEDIATION ORGANIZATION**, relying on its experience in facilitating community member-police complaint resolution sessions, has informed the agency that it **normally** uses either the **INCLUSIVE** Mediation Framework or the **TRANSFORMATIVE** Mediation Framework to conduct police complaint mediation sessions. Both of these two mediation frameworks are described below:

XVII – A: INCLUSIVE MEDIATION:

In the **INCLUSIVE** framework:

- a. co-mediation is almost always used;
- b. mediators do not set ground rules;
- c. mediators focus on strategically listening for values, feelings, and topics and reflect these back to the participants using language that captures the intensity the participants expressed:
 - mediator must check to make sure that the participants feel the reflection is accurate;
- d. mediators attempt to understand each participant, making it more possible for them to understand each other;
- e. mediators follow a defined process that includes time for participants to:
 - talk about whatever they chose;
 - build clarity as to what is important;
 - identify topics participants want to resolve;
 - identify the goals each participant has for each topic;
 - brainstorm options;
 - consider each of the generated options in terms of which would meet all participants’ goals; and
 - determine areas of agreement, if any;

- f. mediators rarely use caucuses:
 - do so in situations where mediators need to check if mediation is a good fit for the conflict;
- g. if agreement is reached, it can be written by the mediator based on the direction of the participants:
 - reviewed and confirmed by all participants in the mediation;
- h. mediators guide the process and the participants are in charge of whether agreement or any other outcome is reached;

One way to divide mediator techniques is listening, reflecting, reframing, summarizing, providing information, making suggestions, and persuading. **INCLUSIVE mediators use listening, reflecting, and some summarizing, and do not use reframing, providing information, making suggestions, or persuading strategies.**

XVII – A – 2: TRANSFORMATIVE MEDIATION:

The goal of transformative mediation is to work with people in conflict to help them change the quality of their conflict interactions from negative and destructive to positive and constructive as they discuss and explore various topics and possibilities for resolution.

In the **TRANSFORMATIVE** framework:

- a. mediators look for barriers to effective interactions:
 - assist the participants in dealing with and removing them;
- b. mediators look for and affirm shifts in empowerment by participants:
 - addressing each other more directly;
 - growing more articulate and fluent; and
 - showing more confidence and self-reliance and recognition:
 - **talking to** rather than about each other;
 - acknowledging new information; and
 - becoming more able to see the other’s point of view:
 - ◆ achieved by the participants themselves;
- c. mediators reflect back:
 - using, insofar as possible, the same words and emotional expression used by the participants;
 - highlighting differences as well as commonalities between the participants;
 - asking open-ended questions to aid in broader understanding and quality decision making;
- c. if agreement is reached, it is written by the mediator at the direction of the participants:
 - reviewed and confirmed by all participants to the mediation;
- d. TRANSFORMATIVE mediation occurs with everyone in the same room relying minimally on caucus:
 - may be requested by the participants or the mediator;
- e. participants help shape the process with the mediator;
- f. mediator’s goals are to:
 - assist with removing barriers;
 - fostering quality interaction and decision making:
 - from which agreement and other outcomes chosen by the participants emerge.

One way to divide mediator techniques is listening, reflecting, reframing, summarizing, providing information, making suggestions, and persuading. **Transformative mediators rely primarily on listening, reflecting, and summarizing, with minimal providing information and do not rely on reframing, persuading or making suggestions.**

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XVIII. SELECTION OF MEDIATOR:

The **NAME OF INDEPENDENT MEDIATION ORGANIZATION** is responsible for selecting and referring all mediators who will participate in the **AGENCY NAME** Community Member-Police Complaint Mediation Program. Mediators are affiliated with the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** and are individuals who are:

- ▶ Impartial [no conflict of interest];
- ▶ Trained in the Art of Mediation;
- ▶ Experienced and Competent;
- ▶ Able to Maintain Procedural Fairness during Mediation Sessions;
- ▶ Able to Maintain Confidentiality;
- ▶ Culturally Neutral.

XVIII – A. QUALIFICATIONS:

They will meet the **basic qualifications** for a **court** appointed mediator as outlined in **Maryland Rule § 17-205 [Chapter 2], *Qualifications of Court-Designated Mediators***:

1. be at least 21 years old, unless waived by both parties;
2. have completed at least 40 hours of basic mediation training in a program meeting the requirements of Rule 17-104 (outlined below), or for individuals trained prior to January 1, 2013, former rule 17-106;
3. be familiar with the rules, statutes and practices governing mediation in circuit courts;
4. have mediated or co-mediated at least two civil cases;
5. complete in each calendar year four (4) hours of continuing mediation-related education in one or more of the topics set forth in Rule 17-104;
6. abide by the mediation standards adopted by the Court of Appeals;
7. submit to periodic monitoring of court-ordered mediations by a qualified mediator designated by the county administrative judge; and
8. comply with procedures and requirements prescribed in the court's case management plan filed under Rule 16-202 b relating to diligence, quality assurance and a willingness to accept, upon the request of the court, a reasonable number of referrals at a reduced fee or pro bono.

XVIII – B. TRAINING:

In addition to the basic qualifications outlined above, each mediator must successfully complete a **basic MEDIATION training program** as outlined in **Maryland Rule § 17-104 [Chapter 1], *Basic Mediation Training Programs*** which includes:

- a. conflict resolution and mediation theory, including causes of conflict, interest-based versus positional bargaining, and models of conflict resolution;
- b. mediation skills and techniques, including information gathering skills; communication skills; problem-solving skills; interaction skills; conflict management skills; negotiation techniques; caucusing; cultural, ethnic and gender issues; and strategies to:
 - 1) identify and respond to power imbalances, intimidation, and the presence and effects of domestic violence, and
 - 2) safely terminate a mediation when such action is warranted;
- c. mediator conduct, including conflicts of interest, confidentiality, neutrality, ethics and standards of practice; and
- d. simulations and role-playing, monitored and critiqued by experienced mediator trainers.

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NOTE: In addition to the above listed qualifications, mediators affiliated with the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** have also participated in an advanced sixteen (16) hour police complaint mediation skills training program.

XIX. ROLE OF THE MEDIATOR:

Mediators affiliated with the **NAME OF INDEPENDENT MEDIATION ORGANIZATION:**

- ▶ typically use either **INCLUSIVE** MEDIATION or **TRANSFORMATIVE** MEDIATION:
- ▶ do not set ground rules for the mediation session;
- ▶ focus on listening for values, feelings, and topics and reflect these back to the participants, checking to make sure that the participants feel the reflection is accurate:
 - while not providing information, making suggestions, or persuading strategies;
- ▶ attempt to understand each participant, thus making it more possible for them to understand each other;
- ▶ follow a defined process which includes:
 - time for participants to share the situation;
 - build clarity as to what is important;
 - identify topics participants want to resolve;
 - identify the goals each participant has for each topic;
 - brain-storm options;
 - consider each of the generated options in terms of which would meet all participants' goals; and
 - determine areas of agreement, if any;
- ▶ rarely use caucuses:
 - usually in situations where mediators need to check if mediation is a good fit for the conflict;
- ▶ if agreement is reached, write down the agreement based on the direction of the participants:
 - review and confirm the agreement with the participants;

XX. MEDIATION SESSION:

XX – A. STRUCTURE AND PROCESS:

Agency personnel should be aware that **no two mediation sessions are alike**. While this section of this policy and procedure is intended to provide personnel with a general picture of how a mediation session may evolve, there is no foolproof way to forecast how a particular mediation session will unfold; the particular manner in which each mediation session develops depends on the parties involved in the mediation and the issues to be discussed. Agency personnel should keep this in mind when participating in a mediation session.

In general, a mediation session evolves in the following way:

(1) mediator's OPENING REMARKS: [Some mediators may use a prepared opening statement and/or check list to ensure that they cover one or more of the following points.]

- ▶ Introduce all participants/attendees to one another;
- ▶ Qualify self as mediator;
- ▶ Explain role as mediator;
- ▶ Assert neutrality/impartiality;
- ▶ Explain the goal of the mediation session;
- ▶ Explain that mediation is **NOT** a legal proceeding, i.e. is not bound by rules of evidence, etc.;
- ▶ Confirm participants are voluntarily participating in the session;

- ▶ Establish ground rules for participating in the discussion;
- ▶ Explain the mediation process/stages of;
- ▶ Explain the **CONFIDENTIALITY** of the session;
- ▶ Commend the participants for voluntarily participating in the session;
- ▶ Address any questions;

(2) involved parties' OPENING STATEMENTS:

- ▶ **each party is given an opportunity to present a statement:**
 - the complainant is usually goes first;

(3) Summary/issue identification:

- ▶ mediator **may** summarize the problem in a neutral and evenhanded manner to ensure accurate understanding of the issue(s) to be discussed:
 - may ask parties to explain what they hope to achieve during mediation [expectations];

(4) involved parties' DISCUSSION:

- ▶ mediator helps (facilitates) the two parties to identify specific issues that need to be mediated and encourages the parties to discuss the issues with each other:
 - dialog between the two parties is the most important part of the process;
 - parties are encouraged to direct their comments to each other rather than to mediator;
- ▶ if the parties are unable to communicate with each other, mediator will attempt to serve as a buffer between them;
- ▶ the parties discuss alternative ways to resolve the dispute:
 - mediator will **NOT** impose a solution:
 - emphasis is on dialog and not on a quick settlement;
 - resolution of the complaint does **NOT** REQUIRE AN APOLOGY by either party;
- ▶ mediator encourages two parties to come up with/agree on an appropriate resolution:
 - may include but does **NOT** require a written settlement agreement signed by both parties:
 - in the case of community member-officer complaint mediation session a written agreement is **NOT** the same as an agreement required in court-ordered mediation but is intended to remind the participants of their commitment to complete the mediation process by honoring their agreement;

(5) CONCLUSION:

- ▶ typical outcome of a "successful"/effective mediation session is an understanding that the complaint is resolved to the satisfaction of **both** parties:
 - the two parties have had a chance to express themselves and hear the other's response even if they agree to disagree about the events;

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

XXI. IMPASSE:

The **AGENCY NAME** and the **INDEPENDENT MEDIATION ORGANIZATION** are reasonably confident that, once participation is agreed to by both parties, a mediation session will be an effective tool in creating dialogue and some degree of understanding between agency personnel and the complainant. However, the **AGENCY NAME** and **INDEPENDENT MEDIATION ORGANIZATION** also understand that it is possible that one or both parties may remain inflexible and not be able to move from their original position or consider alternative future actions. In some rare instances, a complainant or officer may abruptly terminate a mediation session and not agree to further discussion. In that event the mediation will be considered as at **IMPASSE**. The mediator will then close the session.

For its part, the **AGENCY NAME** considers that when the officer and complainant have agreed to disagree during a mediation session in which the parties exhibited good faith during their discussion that **the original complaint is CLOSED BY MEDIATION**. The **AGENCY NAME** considers the good faith discussion between the parties as an effective exchange of viewpoints that otherwise might not have occurred during the agency's traditional complaint investigation procedures.

XXII. ATTENDANCE OF OTHERS AT MEDIATION SESSION:

While confidentiality seems to suggest that individuals other than the two parties and the independent mediator should be excluded from a mediation session, the **AGENCY NAME** and **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** have agreed that occasionally a third party may need to be included in a mediation session, such as when the complainant is a juvenile or an individual with intellectual/mental health special needs. Those individuals may need to be accompanied in the mediation session by a parent/guardian.

In other instances, one or both parties to mediation may request that another individual accompany them as "support" during the mediation session.

In case a party requests to have another individual accompany them in the mediation session, the **AGENCY NAME** and **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** have agreed that:

1. a request for the presence of an individual to accompany one of the parties to a mediation **should be communicated to the NAME OF THE INDEPENDENT MEDIATION ORGANIZATION at the time that mediation is offered** to the party; in any case, the request for a "third" party appearance **must be communicated to the NAME OF THE INDEPENDENT MEDIATION ORGANIZATION prior to the beginning of the scheduled mediation session**;
2. the **non-requesting** party shall have the opportunity to withdraw from the mediation, without prejudice, when informed of the presence of a "third" party; the complaint will then be referred back to the agency for investigation;
3. the "third" party shall agree to attend the mediation session **solely as an observer** and will participate in the session only if and when asked to do so by the independent mediator;
4. the "third" party shall agree to and sign a **Consent to Mediate Letter that includes the confidentiality requirements for attending a mediation session [Appendix A] prior to the beginning of the mediation session**.

XXIII. PRESENCE OF INTERPRETERS:

If needed, the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will supply/arrange for a professional sign language or language interpreter for a mediation session for the complainant. If necessary, the **AGENCY NAME** will defray the costs associated with providing a professional interpreter as per its working agreement with the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**. The interpreter shall agree to and sign a "Consent to Mediate Letter" that includes the Confidentiality requirements for attending a mediation session [Appendix A] prior to the beginning of the mediation session.

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

XXIV. LETTER OF CONCLUSION:

The **INDEPENDENT MEDIATION ORGANIZATION** will notify, **in writing**, the Mediation Program Administrator when a mediation session has been completed. This notification will occur within **# of business TBD by IMO and Agency** of the conclusion of the mediation session.

In keeping with the confidential nature of mediation, the **Letter of Conclusion** will contain only the names of the parties involved in the session and mediator, the agency control/identification number for the complaint, and the date and the time of the mediation session; the Letter of Conclusion will be accompanied by copies of the signed **Consent to Mediate Letter**.

XXV. WEARING THE UNIFORM:

The **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION ORGANIZATION** have agreed that **agency personnel shall normally wear the uniform of the day when participating in a mediation session. Appearance in uniform is intended to ensure that the interaction between the two parties to the mediation is an authentic one, based on the reality of how the officer and citizen experienced each other in the past and may experience each other in the future.**

An exception is extended to those agency personnel who are in plainclothes/undercover assignments **and** who's personal appearance is such that wearing the uniform of the day would not be **professionally** acceptable, i.e. full beard, long hair, body piercings, etc. or who are injured and cannot appear in uniform. **Individuals who intend to appear at a mediation session out-of-uniform shall first consult with their immediate supervisor to determine if an appearance in uniform is appropriate or not prior to attending the mediation session.**

Attendance at a mediation session by those excluded from wearing the uniform of the day shall be in appropriate court appearance [business] attire.

XXVI. USE OF VIDEO RECORDINGS DURING MEDIATION:

Video recordings of community member-law enforcement officer interactions are increasingly more available for review either because an event has been recorded by a complainant, a witness, an officer, a nearby security camera or other means. The **AGENCY NAME** recognizes that the recording may enable a community member and an officer to have a more enlightened discussion about an event if the recording is played during a mediation session. Therefore, based on the input of the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** it is an acceptable practice to play video recordings of the interaction in question during a mediation session with the concurrence of the mediator. Mediators will ensure that both parties understand that the use of a video recording is **not** intended to assign blame to any party but to facilitate discussion between the parties.

Any video/audio recording from an agency body-worn camera or in-car video system shall be obtained as per established policy and redacted as appropriate prior to use during a mediation session. Because each camera video/audio recording is the property of the **AGENCY NAME** it is to be returned to the administrator of the agency's BWC or in-car video program as soon as practical after the mediation session is concluded by the officer who requested the recording.

XXVII. SESSION LENGTH:

Given the fact that a mediation session is dialogue-driven, it is **typically scheduled to last for two (2) hours by the NAME OF INDEPENDENT MEDIATION ORGANIZATION** although a session can be concluded before the end of the 2 hours. Likewise, if additional time is needed as determined by the independent mediator, it can continue upon agreement of the parties or another mediation session can be scheduled.

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

XXVIII. COMPLAINT CLOSURE:

The **AGENCY NAME** and the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** have agreed that if both the officer and the community member attend and participate in the mediation session, then the case is closed with an outcome of **“CLOSED BY MEDIATION.”** Complaints that are **“CLOSED BY MEDIATION”** will be labeled as such and may be expunged from an officer’s file under the same rules that apply to an **“UNSUSTAINED”/“NOT SUSTAINED”** complaint under PS § 3-110 and the existing disciplinary policies and procedures of this agency. Complainants will be advised of this point of order prior to the mediation session.

XXIX. TRAINING:

The Mediation Program Administrator, with the input and assistance of the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** will develop agency orientation/training into the mediation process for all agency personnel prior to implementation of the Community Member-Police Complaint Mediation Program.

Additionally, the Mediation Program Administrator will provide training on the program to new agency personnel as warranted and follow-up training as needed.

Likewise, the **AGENCY NAME** and **NAME OF INDEPENDENT MEDIATION ORGANIZATION** will offer a reasonable number of public orientation sessions to community organizations, elected public officials, the media and other interested community stakeholders **prior** to beginning the program.

Both the **AGENCY NAME** and the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will co-produce an information brochure on the Community Member-Police Complaint Mediation Program available for distribution to the public. A copy of the brochure will be posted on each entity’s website.

XXX. EVALUATION – MEDIATION SESSION:

Before the mediation session begins the mediator may ask the complainant and law enforcement officer to complete the **Pre-mediation Survey** that appears in Appendix B. This survey is intended to determine:

- a. the attitude of the complainant towards the agency and law enforcement officers
- b. the attitude of the law enforcement towards the complainant and community:
 - prior to the mediation session beginning; and
- c. if either party experiences a change in attitude **after** the mediation session is completed.

The survey is for the use of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** to gauge the effectiveness of the mediation process. The **statistical** results developed from these surveys will be shared with the agency as part of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION’S** annual report.

At the conclusion of a mediation session, the mediator, on behalf of the **NAME OF INDEPENDENT MEDIATION ORGANIZATION**, will request that each party, including the mediator, complete a brief evaluation of the mediation process [See Appendix C]. Those evaluations will be collected by the mediator and returned to the **NAME OF INDEPENDENT MEDIATION ORGANIZATION** for review. The results will be shared with the Mediation Program Administrator with the intent of improving the complaint mediation program as part of its annual report.

The **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION** will not share the results of any **individual** surveys or evaluations with the **AGENCY NAME** but will report their findings in an aggregate manner in its annual report about the program.

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

The **NAME OF INDEPENDENT MEDIATION ORGANIZATION** will also conduct an evaluation survey using a modified version of the same form [See Appendix D] **one month after** the mediation session has concluded and share those results with the Mediation Program Administrator as part of its annual report.

The Mediation Program Administrator with the assistance of the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**, will compile an annual report of mediated complaints with a summary of the type of complaint mediated. This report will be made part of the agency's annual report and distributed as appropriate and will be published on the agency's website.

XXXI. POLICY AND PROCEDURE REVIEW:

The Mediation Program Administrator, in concert with the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**, will periodically review and have the Community Member – Police Complaint Mediation Program policy and procedure revised, as necessary. Review and revision will take place **according to the established time table for policy review used by the AGENCY NAME**.

The revised policy will be posted on the agency's website and provided to the **NAME OF THE INDEPENDENT MEDIATION ORGANIZATION**.

APPENDIX A:

Consent to Mediate/Confidentiality Agreement

By signing below, I agree to participate in mediation conducted by this Community Mediation Center. I understand that:

- The discussions in this mediation and those with the mediation program staff will remain confidential. This means that the mediators and staff will not share information gathered during intake or during this mediation session with anyone outside of the program.
- All participants in the mediation, other than the mediator, are free to talk about what was said in mediation with others (other than in a judicial, administrative, or other hearing), **unless they agree otherwise in writing.**
- The mediators and program staff will not voluntarily share any information from the mediation in any judicial, administrative, or other hearing. We (mediation participants) will not voluntarily share this information in a judicial, administrative, or other hearing. It is our intention to comply with annotated Code of Maryland Section 3-1802 and Judiciary Rule Title 17, which state that mediators and mediation participants “may not disclose or be compelled to disclose mediation communication in any judicial, administrative, or other proceeding.”
- Information regarding child abuse, abuse of vulnerable adults or credible threats to do bodily harm are exceptions to confidentiality, and may be disclosed.
- Unless we agree otherwise in writing, any written agreement which comes out of mediation is not considered confidential.
- The mediators signing below have read and, consistent with state law, will abide by the Maryland Standards of Conduct for Mediators during this mediation session. Participants are welcome to request a copy of these standards and a copy can be found at www.mdmediation.org.
- Mediation is a voluntary process and each participant may withdraw from the mediation process at any point during the mediation.
- In the mediation process, I will be responsible for making my own decisions. The mediators will facilitate the process and are prohibited from giving advice or suggestions. Because the decisions made here are mine, I will not hold CMC liable for any decisions made here.

We, the undersigned, consent to mediate. We understand that agreements reached in mediation may be enforceable contracts.

Name: _____

Signature: _____

Date: _____

Name: _____

Signature: _____

Date: _____

Parent/Legal Guardian (for participants under 18)

Name: _____

Signature: _____

Date: _____

Mediator's Name: _____

Mediator's Signature: _____

Date: _____

Mediator's Name: _____

Mediator's Signature: _____

Date: _____

Observer's Name: _____

Observer's Signature: _____

Date: _____

Observer's Name: _____

Observer's Signature: _____

Date: _____

File #: _____

Appendix B:

Police Complaint Mediation Evaluation

COMMUNITY MEMBER: PRE - Mediation

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us to improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer with whom I am about to mediate.					
I have respect for the police, in general.					
I trust the police officer with whom I am about to mediate.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community they serve.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer with whom I am about to mediate.					

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Police Complaint Mediation Survey

OFFICER: PRE-Mediation

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person with whom I am about to mediate has respect for the police.					
If the person with whom I am about to mediate knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person with whom I am about to mediate.					
I trust the people of _____, in general.					
I trust the person with whom I am about to mediate.					

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APPENDIX C:

Police Complaint MEDIATION EVALUATION FORM: POLICE OFFICER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1) The mediation process was adequately explained to me by the mediators and/or the program staff.					
2) As a result of the explanation of mediation, I understood the mediation process before the session began.					
3) The mediators listened to what I had to say without judging me or my ideas.					
4) I was able to express myself, my thoughts, and my concerns during the mediation process.					
5) Through this process, I think I understand the other people involved in the conflict better.					
6) Through this process, I think the other people involved in the conflict understand me better.					
7) I would bring other conflicts to mediation in the future.					
8) I would recommend mediation to others involved in conflicts.					
9) As of today, I am satisfied with the process of mediation.					
10) As of today, I am satisfied with the results of the mediation.					

Feel free to elaborate on your responses to any of the above questions.

Did you reach an agreement in the mediation? Yes No

Do you think your conflict is resolved? Yes No

Who came up with the ideas for solutions? (check all that apply)

I did the other participant did the mediators did n/a didn't get to solutions today

See back for Police Complaint Mediation survey.

For Office Use Only: Final Session? <input type="checkbox"/> Yes <input type="checkbox"/> No

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person I mediated with has respect for the police.					
If the person I mediated with knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person I mediated with.					
I trust the people of _____, in general.					
I trust the person I mediated with.					
The mediation helped build mutual respect between the resident and me.					
The mediation helped me gain a better understanding of how my manner of policing affects other people.					
The mediation helped me better understand the actions and thoughts of the resident at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

Revised 1/16

Police Complaint MEDIATION EVALUATION FORM: COMMUNITY MEMBER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
1) The mediation process was adequately explained to me by the mediators and/or the program staff.					
2) As a result of the explanation of mediation, I understood the mediation process before the session began.					
3) The mediators listened to what I had to say without judging me or my ideas.					
4) I was able to express myself, my thoughts, and my concerns during the mediation process.					
5) Through this process, I think I understand the other people involved in the conflict better.					
6) Through this process, I think the other people involved in the conflict understand me better.					
7) I would bring other conflicts to mediation in the future.					
8) I would recommend mediation to others involved in conflicts.					
9) As of today, I am satisfied with the process of mediation.					
10) As of today, I am satisfied with the results of the mediation.					

Feel free to elaborate on your responses to any of the above questions.

Did you reach an agreement in the mediation? Yes No

Do you think your conflict is resolved? Yes No

Who came up with the ideas for solutions? (check all that apply)

I did the other participant did the mediators did n/a didn't get to solutions today

See back for Police Complaint Mediation survey.

<p>For Office Use Only:</p> <p>Final Session? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
--

SAMPLE POLICY/PROCEDURE – FOR ILLUSTRATION PURPOSES (PTSC Adopted 4-19-17)

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer I mediated with.					
I have respect for the police, in general.					
I trust the police officer I mediated with.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community s/he serves.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer I mediated with.					
The mediation helped build mutual respect between the officer and me.					
The mediation helped me gain a better understanding of policing, police practices, or police policies.					
The mediation facilitated a greater understanding of the actions of the police officer at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation with a police officer in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

Appendix D:

Police Complaint Mediation Evaluation

POLICE OFFICER: ONE MONTH LATER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

Revised 1/16

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
The community has respect for the police.					
The person I mediated with has respect for the police.					
If the person I mediated with knew about a crime or incident in the neighborhood, they would share it with me.					
I have respect for the community I serve.					
I have respect for the person I mediated with.					
I trust the people of _____, in general.					
I trust the person I mediated with.					
The mediation helped build mutual respect between the resident and me.					
The mediation helped me gain a better understanding of how my manner of policing affects other people.					
The mediation helped me better understand the actions and thoughts of the resident at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

Police Complaint Mediation Evaluation

COMMUNITY MEMBER: ONE MONTH LATER

Please evaluate the mediation process by rating the following items in terms of whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree. Your answers will help us improve our services. Thank you.

BIRTHDATE: _____

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
I have respect for the police officer I mediated with.					
I have respect for the police, in general.					
I trust the police officer I mediated with.					
I trust police, in general.					
Police officers generally respect the communities they serve.					
The officer involved in this incident respects the community s/he serves.					
If I knew about a crime or incident in the neighborhood, I would share it with the officer I mediated with.					
The mediation helped build mutual respect between the officer and me.					
The mediation helped me gain a better understanding of policing, police practices, or police policies.					
The mediation facilitated a greater understanding of the actions of the police officer at the time of the incident.					
Based on what I learned in mediation, I would probably respond differently in a similar situation with a police officer in the future.					

What did you like best about the mediation process?

What suggestions do you have to improve the mediation process and program?

Anything else?

APPENDIX E:

AGENCY COMPLAINT PROCESS BROCHURE

Adopted by the Police Training and Standards Commission, April 19, 2017