



Colorado Springs Police Department

General Order

604 Mediation of Complaints

Section 600 – Complaints & Internal Investigations

Effective Date: 4/21/2021

Supersedes Date: 5/30/2013

.01 Purpose

The purpose of this directive is to establish guidelines for the use of mediation as an alternative method of resolving complaints.

.02 Cross Reference

[GO 1610 Discipline](#)

[GO 1620 Complaints and Internal Investigations](#)

.03 Discussion

Mediation is designed as an opportunity for persons, either Colorado Springs Police Department (CSPD) personnel and/or community members, to come together and discuss how a set of actions, comments, and/or behaviors affected the other during a particular situation or set of circumstances.

Mediation is not a process to make judgments about who is right or wrong nor is it meant to force parties to "shake hands and make up". Mediation is a means to air grievances in a constructive manner that facilitates better understanding of various experiences as a resolution.

Benefits of utilizing mediation can include:

- Allowing those involved resolve complaints themselves then relying on the judgment of others
- It can be more satisfying than the regular complaint process
- It can make a real difference in the understanding, attitude, and behavior of participants
- It often improves relationships between community members and the police
- It is cost effective

.04 Policy

Complaints received by CSPD will be reviewed and if deemed eligible and approved for mediation, the process may be utilized as an alternative to the traditional complaint and disciplinary process.

Even if a complaint is eligible for mediation, the deputy chief, division commander, or the executive director of the mediation firm has the authority to determine, for any reason, that a case should not be assigned for mediation.

The approved mediation process can be used for situations involving department members and the community, as well as situations between employees of the department.

The goal is to complete the mediation process within thirty (30) days of determining a case is appropriate for mediation.

Only the contracted mediation firm mediators may provide professional mediation services for the CSPD Citizen-Police Mediation program. All mediators must be specifically trained in citizen-police mediation and provide proof of certifications.

.05 Definitions

Good Faith: an honest, sincere intention to meet to share your perspective of the situation in a constructive and respectful manner, and to listen to the other person's perspective with the intention of better understanding their actions.

Mediation: a voluntary and confidential process in which a professional mediator facilitates an opportunity for involved persons, community members and/or CSPD personnel, to talk, listen, in an effort to better understand each other.

Support Person: A support person is a third party who was not present at the incident and is not otherwise a witness. The inclusion of a support person must be agreed upon by the other party, must sign a confidentiality agreement, and is allowed to speak during the mediation at the discretion of the mediator. **Exception:** when the complainant is a minor, a parent of the minor is highly encouraged to accompany their child. The parent will be provided an opportunity to speak at the discretion of the mediator, or at the end of the session.

.10 Program Management & Responsibilities

The Internal Affairs Section (IA) lieutenant is the designated Mediation Program Coordinator for CSPD. The IA lieutenant will:

- Serve as the point of contact to the contracted mediation firm for all scheduling and reporting
- Ensure all contracts with the mediation firm remain current

- Mediation staff credentials are on file
- Transmit, receive, maintain relevant mediation documentation in accordance with the appropriate retention schedule
- Conduct an annual review of the mediation program, evaluating its effectiveness, and any recommendations for improvement

Mediation Firm

An external, professional mediation firm will contract with CSPD to ensure the greatest likelihood for program success.

The mediation firm will provide CSPD with related credentialing information regarding the firm's standing and mediators' certification from the appropriate state of Colorado licensing boards.

The mediation firm will make every reasonable effort to conduct mediations within two (2) weeks of accepting a case and contacting the involved parties.

Community Available Information

Resources are available to the Colorado Springs community regarding the CSPD Mediation Program.

These community outreach efforts include:

- Information included in the city of Colorado Springs website
- Links from the city's website to the contracted mediation firm
- Informational brochures
- Press releases
- Complaint filing procedures and forms

.20 Criteria for Mediation

Appropriate Cases for Mediation

Cases appropriate for mediation include incidents where a lack of communication or a miscommunication between the parties is a substantial factor in the complaint or where such communication resulted in an escalation of the conflict between the involved parties.

Cases Requiring Additional Approvals

The following categories require approval from a deputy chief and the director of the mediation firm that complaint is appropriate for mediation:

- Cases of harassment that appear as more of a matter of perception than substance

- Cases involving the attempted, threatened, or actual use of force that did not result in bodily injury and/or involve the use of an impact weapon, TASER's, K-9, deadly force, hard control techniques, or chemical agents

Cases Not Appropriate for Mediation

Cases that are inappropriate for mediation may include, but are not necessarily limited to:

- Allegations of a serious nature that if sustained would likely result in a discipline greater than a written reprimand.
- Use of force complaints that resulted in bodily injury and/or involve the attempted or threatened use of an impact weapon, TASER, K-9, deadly force, hard control techniques, or chemical agents.
- Law violations for an offense for which a conviction would be a felony or a misdemeanor under Colorado statutes; except that, with respect to a misdemeanor for any vehicle or traffic related matter, the only misdemeanor offenses or traffic infractions that shall be inappropriate for mediation are the following: an offense for which a conviction would be individually assessed eight (8) or more points under CRS § 42-2-127(5); driving while license is under suspension or revocation or in violation of a restriction; and violation of compulsory insurance provisions.
- Alcohol related traffic violations are not suitable for mediation.
- Cases where criminal or traffic charges are not resolved through court (a secondary complaint, such as rudeness, may be appropriate for mediation)
- Racial or ethnic intimidation
- Sexual harassment
- Departing from the truth
- Misappropriation of property
- Under the influence or use of alcohol on duty
- Substance/drug abuse
- Responsibility of supervisory members to investigate all complaints
- Solicitation or acceptance of gratuities

.22 Intake Process

Receipt of Complaints

Upon receipt of a complaint, via the internal investigation software program, the receiving supervisor will review and determine if the complaint meets established criteria for mediation.

The investigating supervisor or any reviewing supervisor will include a recommendation that the case proceed forward for potential mediation.

Additionally, the accused employee may also make the initial request for mediation through their supervisor. The supervisor recommending mediation will document the recommendation and present the documentation to their supervisor for approval. This process will continue until the mediation recommendation can be reviewed by the member's division commander. The commander will make the final decision to recommend mediation or return the complaint to the member's immediate supervisor to complete an investigation. If the accused member requests mediation, but any supervisor does not agree, the member's request will be included in the documentation and forwarded to the division commander for review.

If the accused member's division commander agrees that mediation is appropriate, the case will be referred to the IA Lieutenant to coordinate with the mediation firm. If the accused member's division commander disagrees that mediation is appropriate, the commander will return the complaint to the accused member's direct supervisor for investigation.

It is the intention and expectation that the review process for mediation will be completed as soon as practical. If one member of the review chain is out on vacation, the request will be forwarded up the review chain to the next person for review.

.24 Potential Mediation Cases

Once a case has been approved as appropriate for mediation, the case will be forwarded to the IA Lieutenant who in turn will notify the mediation firm by email that a case is being sent to mediation. Notification of the IA Lieutenant should include an email/voicemail message and forwarding of all documentation. The IA Lieutenant will then send all relevant information to the mediation firm, including:

- All information regarding the complaint including; IA case number (if assigned), incident date, police reports, citations, and affidavits (if available), a summary of the complaint and allegations, and all other information regarding the specific complaint
- Any information regarding unusual or extenuating circumstances for either the member or the citizen, (e.g., mental health issues, emotional instability, individual concerns expressed regarding mediation or use of a support person, physical limitations, need for a translator, etc.).
- Contact information for everyone, to include phone numbers for work and cell if available, email addresses, and the members division commander
- All correspondence to members and citizens

.26 Complainant's Consent to Mediate

The mediation firm will contact the citizen and provide an introduction to themselves and the process. The mediation firm will explain the benefits of mediation to the citizen:

- Increased likelihood of satisfaction with the process and outcome
- Opportunity to address the conflict directly with the member, instead of through departmental supervisors
- Opportunity for face-to-face explanation of issues and concerns
- Increased likelihood of a timely resolution of the complaint
- Potential for increased likelihood of having a positive effect on member's future behavior
- The mediation session will be facilitated by a professional mediator from the contracted firm

The mediation firm will explain the outcomes of agreeing to mediate:

- If the member agrees to mediate as well, the complaint will be removed from the disciplinary process and no further action will be taken. Taking advantage of mediation as a way to address the citizen's concerns should be beneficial for both parties
- If the member does not agree to mediate, the case will be returned to the normal internal disciplinary process
- The mediation session will remain confidential under Colorado law (CRS §13-22-307)
- This is "pure" mediation or facilitated communication. There is no requirement that an agreement be reached or an apology be made. Instead, mediation is offered as an opportunity to hear and be heard.

The mediation firm will verify that the complainant meets the criteria required to mediate, is willing to participate in mediation, and appears suitable for a successful mediation. They will also determine if there are other individuals who were involved in the incident that need to be at mediation. This will include the opportunity to include a "support person".

Except under exceptional circumstances, attempts to obtain the complainant's consent to mediate should be completed within a ten (10) day period. Should the citizen choose not to participate in mediation, the mediation firm will provide to the IA Lieutenant a closeout letter explaining the citizen's unwillingness to mediate. The complaint will then be returned to the normal internal disciplinary process.

.28 Employee's Consent to Mediate

When the complainant agrees to mediation, the contracted mediation firm will contact the accused member, generally by email, and confirm their identity and willingness to participate in the mediation process. The employee's division commander and the IA Lieutenant will be copied on the email.

The mediation firm will clarify the nature of the complaint that was received and determine if the member was aware of the complaint against them.

The benefits of mediation will be explained:

- Increased likelihood of satisfaction with the process and outcome
- Opportunity to resolve the conflict directly with the citizen instead of through departmental supervisors
- Increased likelihood of a timely resolution of the complaint
- Potential for increased likelihood of having a positive effect on citizen's future behavior
- The mediation session will be facilitated by a professional mediator
- The mediation session will be confidential under Colorado law
- This is "pure" mediation or facilitated communication. There is no requirement that an agreement be reached or an apology be made. Instead, mediation is offered as an opportunity to hear and be heard

Additionally, through the same email to the member, the mediation firm will:

- Explain the outcomes of agreeing to mediate
- The citizen has already agreed to mediate. If the member agrees to mediation, attends the mediation, and conducts himself or herself in good faith, the complaint will be removed from the internal disciplinary process and will be closed by "Mediation"
- If the member does not agree to mediate, the case will be returned to the normal complaint process
- Obtain the member's shift and training/vacation schedules
- Determine if there are other individuals who were involved in the incident that need to be at mediation
- Request that the member contact the mediation firm within three of the member's working days to acknowledge the receipt of the email and consent or decline mediation
- Advise the member if there is a request from the complainant for a support person

If the mediation firm encounters difficulties contacting the employee or receiving a return message from the member in a timely manner, the mediation firm will refer the issue to the IA Lieutenant.

Should the employee choose not to participate in mediation, the mediation firm will provide to the IA lieutenant a closeout letter explaining the employee's unwillingness to mediate. The mediation firm will also contact the complainant and advise that mediation will not be moving forward. The complaint will then be returned to the normal internal disciplinary process.

.30 Scheduling of Mediation

The mediation firm will schedule mediations to be held in neutral locations (e.g., public libraries, recreational centers, or online video chat). The city of Colorado Springs will work with the mediation firm to make facilities available for mediation as possible and when appropriate.

The mediation firm will schedule mediation at a time when both the complainant and the employee are available. Every effort will be made to schedule mediations at a time when the employee can attend during their regularly scheduled shift.

In the event that scheduling the mediation session during the employee's regularly scheduled shift is significantly inconvenient or impossible, the employee's commander may authorize schedule adjusting or overtime/compensatory time to accommodate the mediation schedule.

The mediation firm will provide all parties with information about the upcoming mediation session to include:

- Explaining the use of professional mediators and the likelihood of increased satisfaction rates
- Information regarding expectations of the mediator in mediation
- Information regarding the expectations for both parties to come prepared to mediate in good faith
- Explaining the complaint will be dismissed upon the agreement to mediate
- Advise and confirm if there is a request from the complainant for a support person

.40 Mediation Session & Participation Requirements

If, for any reason, a request is made for an observer to be present, this will be at the discretion of the director of the mediation firm and the IA Lieutenant.

The CSPD employee is expected to participate in the mediation in "good faith." If, in the opinion of the mediation firm, the department member does not participate in good faith, this will only be documented internally within the mediation firm.

If the employee does not participate in good faith in a second subsequent mediation, the mediation firm will notify the IA Lieutenant. This information will be communicated to the employee's

division commander and the employee will not be allowed to participate in future mediations without the approval by their assigned deputy chief.

.50 Mediation Closeout

The mediation firm will provide a closeout letter to the IA Lieutenant, via email once mediation has been completed.

If either party declines to participate, the case will be closed out with an informational letter sent to the IA Lieutenant explaining the circumstances and the case will revert to the standard IA investigative process.

If either party fails to appear and no reasonable explanation is provided, the case will be closed out with an informational letter sent to the IA Lieutenant.

- If a reasonable explanation is provided, the mediation firm will attempt to facilitate a second session, if the other party who appeared consents.
- If the mediation is not rescheduled, the case will be referred to the employee's division commander to determine if the case will be closed or be returned to the normal complaint process.

.60 Program Review

The mediation firm will survey all participants and compile the data to be shared on a quarterly basis.

The mediation firm executive director will meet quarterly with IA Lieutenant to review program performance measures.

.70 Notifications

If the mediation firm or the IA Lieutenant will not have access to email for more than two work days, an out-of-office notification with an alternate contact person must be activated.

Online correspondence between the mediation firm and the IA Lieutenant or their designee should generally be responded to within 24 hours, excluding weekends and holidays.

.75 Media Contact

No person will release information to the media regarding the program or any case assigned to the mediation program without a court order or specific authorization from both the chief of police and the mediation firm's executive director.