Implementing Conflict Resolution Processes to Enhance Community-Police Relations: Lessons Learned in Convening Mediations and Dialogues

BY

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In many cities in the U.S. and around the world, trust between communities and law enforcement agencies is often sub-optimal, especially in areas with large minority populations or a history of tensions between government and civil society. Given that law enforcement agencies rely on community relationships and resources to provide and ensure public safety, it is important for communities and police officers to have opportunities for dialogue, especially surrounding difficult issues such as racial profiling, homelessness, and police responses in violent situations. The conflict resolution field can offer many tools to help build bridges between communities and law enforcement agencies, including community dialogue programmes for long-term systematic issues as well as mediation for short-term interpersonal disputes.

Mediation is more and more becoming recognised as a practical tool to address disputes as an alternative to traditional justice models such as time-consuming litigation and formal investigations that do not repair relationships. In the context of police-community disputes, mediation is increasingly used to handle certain kinds of disputes. Clearly, if a serious crime is committed by either the civilian or the responding officer, a formal criminal investigation would have to be conducted. However, when allegations of police misconduct are made, such as the use of foul language by an officer or the use of a tactic that appeared inappropriate to a civilian, mediation can be a beneficial process. Currently, several police departments across the U.S. have implemented community mediation forums to address such disputes, including departments in Denver, Berkeley, San Diego, Seattle, Portland, Minneapolis, Washington, DC, and Pasadena, CA. Several other departments in the U.S. and in the world have taken steps to create such mediation programmes, or some other form of community conflict resolution initiatives such as Restorative Justice or Victim Offender Mediation programmes. Given the voluntary and confidential nature of mediation, the police officers and community members involved in a specific dispute can participate in the process and share their perspectives on the conflict-producing incident. With the guidance of a trained mediator, they are able to derive mutually beneficial agreements.

What mostly evolves during the course of mediations between civilians and officers is an expression of the underlying reasons behind the civilian’s complaint and the officer’s actions, which ultimately helps both parties to reach an agreement. As one Pasadena police officer
shared after participating in mediation, “I had a very positive experience with mediation. I regret, during my earlier years, not taking more time to explain to unhappy citizens/suspects the reasons for the actions that I took.” In the usual investigative process, neither the civilian nor the officer gets a chance to speak to one another nor have knowledge of what is occurring in the investigation beyond their initial statements. The mediation process is much more empowering than the investigative process for these types of situations given that it allows for officers and community members to have an exchange and explain their unique perspectives. This may explain why in Portland, 90% of citizens and 87% of officers recommend mediation to resolve police-citizen complaints.

Typically, as a result of open and honest exchanges between an officer and the civilian during mediation, the parties realise that the issue is rooted in a misunderstanding or a systematic problem that extends beyond each of them as individuals. Typically, the misunderstanding happens because community members feel that they were unjustly targeted due to their race or socio-economic background, rather than knowing that the responding police officer was following protocol. Mediation is a great tool to address these micro-level conflicts, which can also have a beneficial impact in the long-term to mend broken relationships with the police and to enhance trust. When mediations conclude with an agreement or an understanding, civilians and officers are able to pass on knowledge of the general goodwill that has been built as a result of the process to their respective networks. They can also share a more specialised knowledge about police procedure and protocol and how police officers may often come across to civillians.

One area that has been raised as a potential red flag with regards to the handling of mediations is the confidentiality element. Many civil rights groups and police officers alike are weary of the confidential nature of mediation because it could mean that serious allegations of misconduct or threats – all of which would have to undergo a formal criminal investigation – would go undetected. California Evidence Code Sections1115-1128, for example, governs Mediation Confidentiality, making anything said or written for or during mediation inadmissible to discovery. For this very reason, it is absolutely essential to involve mediators who can ensure

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that an agreement is mutually beneficial. In fact, in the Pasadena Police Department’s mediation programme managed by the Western Justice Center, all parties are given the Information and Confidentiality Statement prior to coming to mediation, which states that mediator(s) may suspend or end the mediation if the mediator “feels that the mediation will lead to an unjust or unreasonable result.”

Clearly, mediators play a very important role. It is not easy for mediators to maintain neutrality and facilitate a Transformative model of mediation – which is the most suitable form of mediation in police-community disputes – while also remaining cognisant of their duty to ensure that violations and unfair outcomes do not occur during the mediation process.

A key point to consider when designing a mediation programme is to select a diverse pool of mediators. This includes having both female and male mediators of diverse cultural backgrounds and professional experiences. Having mediators who are comfortable handling police mediations and the power imbalances that this type of mediation can bring is also important, as is their knowledge of police protocols and procedures. Another critical element to the success of these programmes is obtaining buy-in from relevant stakeholders including local civil rights groups, community organisations, public attorneys, academics, police unions, and, of course, police officers amongst all the chain of command. Without the support of these key stakeholders throughout the process of developing and implementing a programme, the programme will ultimately flop. The design phase should include ample time for dialogue to exchange ideas on the dimensions of the programme. Ultimately, all of these stakeholders must see that police-community mediations enhance trust between community members and police officers, shorten the length of time for resolution of complaints, and, perhaps, most importantly, build healthier and safer communities.

Town halls, city forums, and community dialogues offer a great opportunity to provide exchanges between community members and police officers on systemic, more macro-level issues. This includes having community forums of varying sizes to discuss issues relevant to the community, whether it is the treatment of detained individuals, responses to community violence, racial profiling, addressing homelessness, or even hate crimes. Community forums

4 Pasadena Police Community Mediation Programme, “Information Statement and Confidentiality Agreement, Section 7.”
must be planned delicately, ensuring that an appropriate size is convened for each type of dialogue. Especially in diverse communities, it is important to understand how to build trust among various constituencies in order to draw participants to the table and provide safe platforms for people who express themselves in different ways. For instance, this may entail holding pre-dialogue meetings in order to illustrate to a particular constituency the integrity of the process. Similar to the development and implementation of a mediation programme, it is important to include community and police stakeholders in these processes.

An impartial entity with no particular stake in any given topic or with any deep ties to any of the participants must convene the conversation, and facilitate discussions. Maintaining neutrality, transparency, and humility are key ingredients for conveners and facilitators. In these types of situations, the convening entity must not assume any role of authority other than over the process of dialogue, as that will automatically conflict with the traditional roles of law enforcement and will surely lose the trust of community-based organisations. Just as with mediators facilitating the resolution of disputes in micro-level conflicts, dialogue facilitators in these macro-level conflicts must be cognisant of the different roles and perceptions that all stakeholders bring and play a delicate role to enhance understanding and to create a problem-solving environment. Finally, if there is no follow-up or action that develops out of a dialogue process, or if any such action is not adequately promoted, any good will built through the process may dissipate, or, worse, create more division if people feel the process was only for show.

While the challenges, resources, and skill-sets of each law enforcement agency vary, both mediation and dialogues are conflict resolution processes important to creating more positive community-police relations. By using these empowering tools, police officers build relationships with the communities that they serve and, thereby, rely on the community to make their jurisdictions safer. Likewise, community members begin to feel trust and confidence in the agencies that are designed to protect them, which is ultimately the broader vision and intention of these conflict resolution processes and of justice.

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