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Mediating Citizen Complaints Against the Police: An Exploratory Study

*Samuel Walker and Carol Archbold**

I. INTRODUCTION

Conspicuously absent from the alternative dispute resolution movement is the mediation of citizen complaints against the police. While mediation has become a significant factor in the areas of divorce, employee grievances, intergroup disputes, small commercial claims, and other areas of the law including criminal law, it is very insignificant with respect to the resolution of routine citizen complaints against police officers for alleged misconduct.¹ Few police complaint mediation programs exist in the United States, and most of them handle only a very small number of cases per year. Moreover, there is no published research on the mediation of police complaints in the United States. The situation in the United States contrasts sharply with complaint practices in other English-speaking countries. Informal resolution of complaints is virtually universal in complaint procedures in the United Kingdom, Canada, Australia, and New Zealand.²

This article examines the subject of mediating citizen complaints against the police. It reviews the history of citizen complaints, presents data on existing police complaint mediation programs, and discusses the potential contributions of mediation to police accountability.

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1. ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION* 16 (1994); MIRIAM K. MILLS, *ALTERNATIVE DISPUTE RESOLUTION IN THE PUBLIC SECTOR* (1991); UNITED STATES DEPARTMENT OF JUSTICE, *COMMUNITY MEDIATION PROGRAMS: DEVELOPMENTS AND CHALLENGES* (1997).

2. SAMUEL WALKER, *POLICE ACCOUNTABILITY: THE ROLE OF CITIZEN OVERSIGHT* 6-7 (forthcoming 2001).

II. CITIZEN COMPLAINTS AGAINST THE POLICE

Citizen complaints about police misconduct have been a major controversy in the United States for the past half century.³ The issue has been closely related to the national crisis in race relations. A disproportionate share of citizen complaints are filed by African Americans.⁴ Civil rights leaders allege that African Americans are the victims of systematic police abuse (“police brutality”) and that police departments fail to investigate complaints and discipline guilty officers.⁵ In response to these problems, civil rights leaders have demanded the creation of independent citizen review boards to handle complaints.⁶ In the last fifteen years, these demands have been increasingly successful. The number of citizen oversight agencies has grown from an estimated twenty in 1985 to about 100 by 1999.⁷ Most important, about 80% of the police departments in the fifty largest cities have some form of citizen oversight.⁸

III. THE ADVERSARIAL NATURE OF CITIZEN COMPLAINT PROCEDURES

Although citizen oversight agencies represent alternatives to internal police complaint review procedures, they differ essentially in terms of institutional structure. They involve a separate government agency with responsibility for handling citizen complaints and some degree of citizen input into the complaints process.⁹ They do not, however, represent an alternative to the adversarial nature of complaint review procedures.¹⁰

The adversarial nature of citizen complaint procedures, both internal and external, involves the following elements: a citizen complaint is investigated to determine whether there is sufficient evidence to sustain it; the accused officer enjoys a presumption of innocence; disposition of the complaint is based on the strength of the evidence; and if the complaint is sustained, the finding is referred to the police chief executive for disciplinary action. Citizen review procedures are different from internal police procedures to the extent that they provide some input into the process by people who are not sworn police officers.¹¹

3. *Id.* at 19-49.

4. 2 ANTHONY M. PATE & LORI A. FRIDELL, POLICE USE OF FORCE: OFFICIAL REPORTS, CITIZEN COMPLAINTS, AND LEGAL CONSEQUENCES 95 (1993).

5. See NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS [KERNER COMMISSION] REPORT, (1968); BONNIE MATHEWS & GLORIA IZUMI, UNITED STATES COMMISSION ON CIVIL RIGHTS, WHO IS GUARDING THE GUARDIANS?: A REPORT OF POLICE PRACTICES (Oct. 1981).

6. See Zenith Gross & Alan Reitman, AMERICAN CIVIL LIBERTIES UNION, POLICE POWER AND CITIZENS' RIGHTS: THE CASE FOR AN INDEPENDENT POLICE REVIEW BOARD (1966); NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, BEYOND THE RODNEY KING STORY: AN INVESTIGATION OF POLICE MISCONDUCT IN MINORITY COMMUNITIES (1995).

7. WALKER, *supra* note 2, at 6-7.

8. Samuel Walker & Betsy Wright Kreisel, *Varieties of Citizen Review: The Implications of Organizational Features of Complaint Review Procedures for Accountability of the Police*, AM. J. OF POLICE 65, 70 (1996).

9. WALKER, *supra* note 2, at 61-63.

10. Walker & Kreisel, *supra* note 8, at 78, 81.

11. WALKER, *supra* note 2, at 61-63.

Walker and Kreisel characterize complaint procedures in terms of a criminal trial model of dispute resolution.¹² That is to say, they resemble criminal proceedings. From the perspective of the sociology of law, complaint procedures represent a “penal” style of social control, with the ultimate solution being punishment. According to Donald Black’s framework, alternative styles of social control and their respective solutions include compensatory (payment), therapeutic (help), and conciliatory (resolution).¹³ Existing complaint procedures do not fall within any of those categories, as they include no process for payment to complainants, providing help to either complainant or police officer, or conciliating the complaint. Mediation falls within the conciliatory style of social control with the emphasis on resolution of conflict because it does not seek or result in punishment of police officers.¹⁴

IV. TRADITIONAL “INFORMAL” HANDLING OF COMPLAINTS

Police departments, in fact, have a long history of handling complaints on an informal basis. Practices in this regard have been a major part of the problem of inadequate complaint procedures and represent an abuse of the concept of informal dispute resolution. Until the 1960s, most police departments had no formal procedure for receiving or investigating citizen complaints.¹⁵ Anecdotal evidence indicates that when aggrieved citizens appeared at police stations to lodge complaints they were frequently turned away or even threatened with arrest.¹⁶ The Christopher Commission found that Los Angeles police officers engaged in this practice as recently as the early 1990s.¹⁷ Informal resolution, to the extent it existed, often involved desk officers attempting to dissuade citizens from pursuing the matter, arguing that they had no basis for a valid complaint or that someone would “take care of” the matter.¹⁸ There is additional evidence that even when the desk officer recorded a citizen’s allegation, a formal investigation often never resulted.¹⁹ A series of administrative reforms of the New York City Citizen Complaint Review Board (“CCRB”), following its creation in 1953, were directed toward ensuring that

12. Walker & Kreisel, *supra* note 8, at 78, 81.

13. DONALD J. BLACK, *THE BEHAVIOR OF LAW* 5 (1976).

14. *Id.*

15. PRESIDENT’S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *TASK FORCE REPORT: THE POLICE 195-96* (1967).

16. NATIONAL ADVISORY COMMISSION, *supra* note 5.

17. REPORT OF THE INDEPENDENT COMMISSION ON THE LOS ANGELES POLICE DEPARTMENT (1991). The Christopher Commission was created to investigate alleged misconduct within the Los Angeles Police Department after the Rodney King incident earlier that year. *Id.*

18. See Edward J. Littlejohn, *The Cries of the Wounded: A History of Police Misconduct in Detroit*, U. OF DET. J. OF URB. L. 173-219 (1981); UNITED STATES COMMISSION ON CIVIL RIGHTS WISCONSIN ADVISORY COMMITTEE, *POLICE PROTECTION OF THE AFRICAN AMERICAN COMMUNITY IN MILWAUKEE* 43-46 (1994).

19. See *POLICE PROTECTION*, *supra* note 18.

complaints would be formally recorded and sent to police headquarters for investigation.²⁰

The practice of using informal methods to discourage complainants is not confined to the United States. The Alberta (Canada) Law Enforcement Review Board concluded that "in some instances the procedure has been used to stall, deflect, bury, or marginally respond to complaints."²¹ This statement supports the idea that the use of informal methods to discourage complainants may not be a problem confined only to the United States.

V. THE CURRENT STATUS OF CITIZEN COMPLAINT MEDIATION

To assess the current state of mediation of citizen complaints against the police, this study sought to (1) identify the number of official mediation programs; (2) determine the scope of mediation, as indicated by the number of complaints successfully mediated in each program; and (3) identify the factors associated with the success and failure of mediation programs.

A. Definition of Terms

For purposes of this study, mediation is defined as a formal program designed to resolve citizen complaints against the police through face-to-face meetings between the complainant and the police officer with a neutral third party serving as mediator or facilitator.²² This definition does not include informal methods of resolving complaints that do not involve face-to-face meetings, such as the conciliation programs operated by the CCRB²³ and the Kansas City Office of Citizen Complaints.²⁴

B. Methodology

No directory or listing of police mediation programs exists. Consequently, four different steps were taken to identify all existing programs. First, the official documents related to all citizen oversight agencies in the United States were examined to identify active mediation programs. These documents,²⁵ collected as part of an ongoing national survey of citizen oversight, include enabling ordinances

20. Ronald Kahn, *Urban Reform and Police Accountability in New York City: 1950-1974*, in *URBAN PROBLEMS AND PUBLIC POLICY* 114-117 (Robert L. Lineberry and Louis H. Masotti eds., 1975).

21. ALBERTA LAW ENFORCEMENT REVIEW BOARD, ANNUAL REPORT 226 (1997).

22. JENNIFER E. BEER & EILEEN STIEF, *THE MEDIATOR'S HANDBOOK* (3d ed. 1997).

23. NEW YORK CITY POLICE DEPARTMENT CIVILIAN COMPLAINT REVIEW BOARD, ANNUAL REPORT (1998). The New York City Police Department Civilian Complaint Review Board has handled citizen complaints against the police since 1953. *Id.* The N.Y.C.P.D. Review board is an independent and non-police mayoral agency. *Id.*

24. KANSAS CITY OFFICE OF CITIZEN COMPLAINTS, ANNUAL REPORT (1996). The Kansas City Office of Citizen Complaints was created in 1969 in response to recommendations made by the city's mayor on the formal handling of citizen complaints filed against the police. *Id.*

25. Annual Reports, Citizen Oversight Agencies in the United States (1991-1999) (on file with authors).

or executive orders, rules and procedures, and annual reports.²⁶ Second, the staff members of all active mediation programs identified in step one were interviewed by telephone and asked to identify other police mediation programs of which they had knowledge. Third, officials with the two citizen oversight professional associations — the International Association for Citizen Oversight of Law Enforcement (“IACOLE”) and the National Association for Citizen Oversight of Law Enforcement (“NACOLE”) — were contacted and asked to identify all police mediation programs of which they were aware. Fourth, officials of over 200 mediation agencies listed in the directory of the National Association for Community Mediation were contacted and asked whether they handled citizen complaints against the police.²⁷

Three measures were used to determine the relative scope of mediation in each program identified: the total number of complaints referred to mediation, the percentage of those cases successfully mediated, and the percentage of all (total number) complaints filed by citizens. Data were derived from the annual reports of oversight agencies and where necessary from telephone interviews with officials.

To identify the factors associated with the success and failure of mediation programs, officials associated with each active program were interviewed by telephone. Officials from a total of fourteen mediation programs were interviewed. In addition to questions about the basic structure of the program, the officials were asked to identify any factors they believed to be associated with the success or failure of mediation programs. These interviews were intended to be exploratory and not designed to generate definitive findings. It was recognized that all of the persons interviewed had a vested interest in mediation and that future research on the success and failure of mediation would require interviews with a broader range of stakeholders.

C. Findings

1. The Prevalence of Mediation Programs

Mediation occupies a very small place in the handling of citizen complaints against the police in the United States. The national survey identified a total of sixteen mediation programs.²⁸ Two of these programs were only recently authorized, however, and are not yet operational. Additionally, a mediation program operated by the Flint, Michigan, Ombudsman is currently non-functional.²⁹ All but one of the current mediation programs are operated by or in conjunction with citizen oversight agencies. These programs represent a tiny percentage of the estimated 17,120 state and local law enforcement agencies in the United States. The fifteen programs

26. *Id.*

27. Steps two, three, and four added only one additional program to the list developed in step one and resulted in the deletion of one program from that list.

28. See Table 1.

29. Telephone Interview with Flint Ombudsman (1996); See also FLINT OMBUDSMAN’S OFFICE, PROCEDURES AND POLICY MANUAL (1993).

associated with citizen oversight agencies, meanwhile, represent only about 15% of the estimated 100 oversight agencies.³⁰

2. *The Scope of Mediation — Eligible Cases*

Eight of the fourteen currently active mediation programs limit mediation to cases involving allegations of less serious or non-violent police misconduct.³¹ One program mediates any complaint except those involving the death of a person.³² Three programs mediate any and all complaints.³³ The procedures for the remaining four programs are ambiguous. The Minneapolis Civilian Review Authority does not mediate cases involving officers who have participated in mediation in the previous twelve months.³⁴

3. *Cases Mediated*

The number of cases mediated in active programs remains small.³⁵ The program in Santa Cruz, California, for example, did not have a single complaint referred for mediation in 1998, while three other programs have not successfully mediated any of the cases referred. The percentage of cases referred to mediation and then successfully mediated ranges from 0% to 100%. The percentage of all citizen complaints received that are successfully mediated is extremely low. The CCRB and the San Francisco Office of Citizen Complaints (OCC) successfully mediated less than 1% of all citizen complaints in 1998. The highest mediation rate was found in Minneapolis (11.5%).³⁶

4. *Obstacles to Mediation*

Mediation program staff members that have experience with handling police-citizen disputes identified four factors associated with the failure or minimal success of mediation programs: police officer and police union opposition, lack of understanding of mediation, lack of resources for mediation programs, and a lack of participation incentives for officers and complainants.

The single most important obstacle to mediation is opposition from rank and file police officers and their police unions. This factor was mentioned by 64% of all persons interviewed. Interviewees characterized police officer opposition in a variety of terms. Some viewed it in terms of union opposition per se, with no accompanying rationale. Two interviewees believe that officers oppose mediation

30. WALKER, *supra* note 2, at 2.

31. Mediation program material (on file with authors).

32. *Id.* See Table 1, Berkeley, CA Police Review Commission.

33. Mediation program material (on file with authors). See Table 1, Syracuse, NY Citizen Review Board; New Haven, CT Community Mediation Inc.; Milwaukee, WI Milwaukee Fire & Police Commission.

34. MINNEAPOLIS CIVILIAN REVIEW AUTHORITY, ADMINISTRATIVE RULES 15-16 (1990).

35. See Table 1.

36. *Id.*

because they do not want to admit guilt or “have to say I’m sorry.”³⁷ Along the same lines, two interviewees stated that officers see mediation compromising their status as police officers because the process places them on an equal footing with complainants. Another interviewee stated that officers could accept the idea of citizens undergoing mediation (presumably alone) but could not see themselves as clients in a mediation process.

Because mediation requires the voluntary cooperation of police officers, a posture of hostility represents a nearly insuperable obstacle to the development of viable programs that handle a significant number of cases. It is important to note, however, that the existence of a police union and a formal collective bargaining agreement does not pose a formal legal barrier to mediation. The two most successful mediation programs, Portland and Minneapolis, operate in police departments with reputedly strong police unions. The problem posed by police unions, in short, is one of attitude and not of law.

Union opposition to mediation reflects the historically polarized nature of the issue of citizen complaints against the police. In the face of criticisms by civil rights groups, the police have vigorously denied allegations of “brutality” and have bitterly fought proposals for external citizen complaint mechanisms.³⁸ By the same token, civil rights activists, angry and frustrated by police opposition, have also defined the issue of complaints in adversarial terms. In this highly polarized context, neither side has been receptive to the values of reconciliation that are inherent in the concept of mediation.

The second most important factor is a lack of understanding of mediation, particularly on the part of police officers but also on the part of citizens. To a great extent, this lack of understanding reflects the novel aspect of mediation in the context of policing. Not only are both police officers and complainants unfamiliar with mediation, but given the absence of any literature on the subject, community activists or elected officials are also likely to be unaware of mediation. The historically polarized nature of the issue of citizen complaints contributes to the lack of public understanding. The political climate of conflict and lack of trust surrounding police misconduct is not an atmosphere in which a procedure based on reconciliation is likely to thrive. A number of informants suggested that a lack of understanding is a major contributor to police officer and police union opposition. They believe that opposition would lessen if only officers understood what mediation really involved.

Lack of resources was cited as a third obstacle to mediation. The number of complaints referred for mediation declined in Portland in part because of staff reductions in the Neighborhood Mediation Center. Police officials indicated that they were interested in referring more cases for mediation but did not do so because they could not guarantee that mediators would be available.³⁹

The fourth factor inhibiting mediation programs is a lack of incentives for choosing mediation, particularly for police officers. Given a lack of understanding

37. Telephone Interviews with experienced mediation personnel (1999).

38. AMERICANS FOR EFFECTIVE LAW ENFORCEMENT, POLICE CIVILIAN REVIEW BOARDS AELE DEFENSE MANUAL BRIEF No. 82-2, 7-21 (1982).

39. See Table 2.

of mediation and the fact that police officers “win” 90% of all traditional complaint investigations, they have little if any incentive for choosing an alternative.⁴⁰ Citizen review officials in Minneapolis, however, believe that the advent of a new police chief and tougher standards on discipline explain the significant increase in mediated cases in that city. In effect, the “stick” of threatened discipline provides an incentive that makes the “carrot” of mediation appear more attractive. The four factors identified as obstacles to mediation explain both the low number of mediation programs and the low volume of cases handled by existing mediation programs.

5. *Factors Contributing to the Success of Mediation*

Interviewees identified three interrelated factors associated with the development of successful mediation programs: an attitude of openness and willingness to try mediation on the part of the police, good information about what mediation involves, and incentives to participate in mediation. To a great extent, the factors associated with the success of mediation are the converse of the factors associated with failure. It is important to note, however, that many of the responses from interviewees on this issue were conditional. That is, they were indicating that mediation would be successful if these factors existed.

An attitude of openness toward mediation was, in various ways, mentioned by eleven of the interviewees. Five of those specified that citizens as well as police officers need to have an open mind. The experience of the two most successful mediation programs, Portland and Minneapolis, provide some indication of what factors contribute to an attitude of openness on the part of the police. An evaluation of the Minneapolis Civilian Review Authority (“CRA”) concluded that an increase in the number of informal resolutions was due to an “enhanced level of trust that exists between the Executive Director [of the CRA] and the Police Federation [the local police union]”.⁴¹ The Police Federation, in fact, publicly endorsed mediation in its official newspaper.⁴² Two factors appear to be at work in Minneapolis. First, the CRA, which operates the mediation program has, after several years of operation, won the respect of police officers for conducting investigations fairly.⁴³ Second, the appointment of a new police chief in 1995 who has since imposed higher standards of discipline has given officers an incentive to choose an alternative to the conventional disciplinary process.⁴⁴

The second factor interviewees associated with success was information about and understanding of mediation as a method of resolving disputes. The city of Portland has made a strong commitment to mediation with regard to all forms of disputes and to that end operates a mediation center as an official government agency. At the same time, the city of Portland has made a serious commitment to community policing, which places great emphasis on building partnerships with

40. PATE & FRIDELL, *supra* note 4, at 116.

41. MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY REDESIGN TEAM, ANNUAL REPORT 15 (1997).

42. Bruce Johnson, *CRA Mediation: Is It the Way to Go?* SHOW UP, Aug. 1998, at 1.

43. MINNEAPOLIS CIVILIAN REVIEW AUTHORITY ANNUAL REPORT (1999); Leigh Herbst & Samuel Walker, Presentation at the American Society of Criminologists (2000).

44. See Table 3.

community residents. These developments appear to have created a general climate of knowledge about and understanding of mediation that affects police officer attitudes. Mediation in Portland functions with the tacit support of, or at least a lack of active opposition by, the police union. In Minneapolis, police union leaders have publicly endorsed mediation. In both cities, moreover, it would appear that the increase in the number of successfully mediated cases increases awareness and understanding and legitimizes the concept among the rank and file.

With respect to incentives, a new police chief and tougher standards of discipline have contributed to the significant increase in the number of mediated cases.⁴⁵ No other possible incentives were identified by any informants.

To summarize the interviews with mediation officials, there appears to be a strong consensus of opinion that the lack of widespread use of mediation for complaints against the police is the result of a set of closely interrelated factors that primarily involve opposition based on lack of understanding about the nature of mediation.

VI. THE POTENTIAL CONTRIBUTIONS OF MEDIATION

Despite the relatively minor role that mediation currently plays in the resolution of citizen complaints against police officers, it offers potentially significant contributions to both the complaint process and to police accountability.

A. Meeting Complainant Goals

Research on the goals of persons who file complaints against the police suggests that mediation better meets their goals than does the conventional complaint procedure. The Vera Institute interviewed 371 complainants who had filed complaints with the CCRB.⁴⁶ Only 20% of complainants had “serious” goals in filing complaints, defined as wanting the officer punished.⁴⁷ Most (60%) wanted some kind of “moderate” disciplinary action taken or had “mild” objectives such as simply reporting the incident.⁴⁸ Complainants whose complaints were ultimately conciliated (not mediation as defined in this article) reported far higher levels of satisfaction (59%) compared with those whose complaints were investigated in the conventional manner (16%).⁴⁹ Significantly, interviews with police officers who had been the subject of complaints also found that officers would like an opportunity to confront complainants.⁵⁰ Similarly, the Alberta Law Enforcement Review Board found that “[i]n some instances all the citizen wants is an apology,” and that mediation also provides officers with a “forum” to “explain to a citizen why he/she

45. See Table 3.

46. MICHELE SVIRIDOFF & JEROME E. MCELROY, PROCESSING COMPLAINTS AGAINST POLICE: THE CIVILIAN COMPLAINT REVIEW BOARD 81-87 (1988).

47. *Id.* at 27-31.

48. *Id.* at 30.

49. *Id.* at 50.

50. *Id.* at 36-37.

acted in a particular manner.”⁵¹ The Vera evaluation concluded that there was a bad “fit” between the existing complaint procedure and the goals of most complainants and the desires of many police officers.⁵²

In a series of focus groups in Omaha, Nebraska, individuals were asked to discuss what they would do in response to a hypothetical incident of police misconduct.⁵³ A large percentage of the participants indicated a desire to receive an explanation or an apology from either the officer or a responsible official, to receive that apology in person, and to have an opportunity to express their views to the police in person.⁵⁴ As was the case in New York City, few participants indicated a desire to have the officer in question fired.⁵⁵ The Omaha study supports the Vera conclusion that there is a poor “fit” between existing complaint procedures and complainant goals. A desire for an in-person meeting was particularly strong in both studies. By its very nature, mediation is designed to serve this goal better than standard complaint procedures, which allow for no contact with the officer or other police officials once the complaint has been formally investigated.

Establishing complaint procedures that better meet the goals of complainants relates directly to the effectiveness of police complaint procedures. Complaint procedures have multiple goals: punishing officers guilty of misconduct, deterring future misconduct, providing satisfaction to individual complainants and to police officers, improving public attitudes toward the police, and enhancing the professionalism of the police department.⁵⁶

Studies in both the United Kingdom and Queensland, Australia, found that complainants were more satisfied with mediation or informal resolution than with conventional complaint investigation. In the United Kingdom study, 30% of complainants reported being “very satisfied” with the process, compared with 0% of those whose cases were fully investigated.⁵⁷ In Queensland, 34.6% of complainants were “very satisfied” with informal resolution compared with 16.2% of those whose complaints received a formal investigation.⁵⁸

B. Enhancing Police Accountability

Mediation also has the potential for enhancing the accountability of the police in a way that is not presently served by existing accountability mechanisms. The term accountability means “having to account to” someone or something.⁵⁹ Under existing complaint procedures an officer accused of misconduct only has to account to other police officers: internal affairs investigators, the immediate supervisor, and

51. ALBERTA LAW ENFORCEMENT REVIEW BOARD 226 (1997).

52. SVIRIDOFF & MCELROY, *supra* note 41, at 141-43.

53. Samuel Walker, *Complaints Against the Police: A Focus Group Study of Citizen Perceptions, Goals, and Expectations*, CRIM. JUST. REV. 207, 226 app. (1997).

54. *Id.* at 218-19.

55. SVIRIDOFF & MCELROY, *supra* note 41, at 30.

56. WALKER, *supra* note 2, at 54, 56.

57. Claire L. Corbett, *Complaints Against the Police: The New Procedure of Informal Resolution*, POLICING & SOC’Y 47, 54 (1991).

58. Robert C. Holland, *Informal Resolution: Dealing With Complaints Against Police in a Manner Satisfactory to the Officer and the Complainant*, INT’L J. OF COMP. & APPLIED CRIM. JUST. 83, 89 (1996).

59. SAMUEL WALKER, *POLICE IN AMERICA* 268 (3d ed. 2000).

in some instances the chief of police.⁶⁰ The officer never has to directly face or account to the citizen who has filed the complaint. By its very nature, mediation provides for a face-to-face meeting between the officer and complainant.

There is no research on the impact of the face-to-face form of accountability that mediation involves. Nonetheless, it is possible to speculate on the potential impact. One of the unfortunate (and unforeseen) consequences of the professionalization of the police was the emergence of an impersonal style of policing. Indeed, early in this century reformers saw impersonality as a desirable goal, an improvement over the inefficient and often corrupt personal style that developed in the nineteenth century.⁶¹ The police-community relations crisis of the 1960s, however, dramatized the extent to which police and citizens were separated by a wide social gulf, particularly in racial and ethnic minority communities. Community policing emerged as a strategy for overcoming that gulf and building bonds of trust.

To the extent that it forces police officers to face their accusers and to account for their behavior, mediation also potentially dissolves the impersonality of contemporary policing and builds bonds of understanding. This particular effect of mediation is speculative at this point. Nonetheless, it is a subject that can be readily investigated. One obvious strategy would be to survey both complainants and officers following successful mediations. Both parties could be asked to evaluate the mediation process, the mediator, and to indicate whether their attitudes toward the other party had changed as a result of the mediation.

VII. CONCLUSION

Mediation is currently an extremely underutilized process for handling citizen complaints against police officers in the United States. This situation contrasts sharply with the growth of mediation in other areas of American life. The underutilization of mediation to resolve citizen complaints against the police in the United States is the result of a combination of mutually reinforcing factors: the historically polarized nature of the citizen complaints issue, the lack of information about what mediation involves, and as a consequence of the first two factors, a lack of experience with the process. The experience of the two most successful programs, Minneapolis and Portland, however, suggests that these obstacles can be overcome. The limited research to date suggests that mediation provides greater satisfaction to complainants than conventional forms of citizen complaint investigation. Finally, by requiring police officers to engage in face-to-face encounters with aggrieved citizens, mediation has the potential for enhancing the accountability of the police to the public.

60. WALKER, *supra* note 2, at 1.

61. SAMUEL WALKER, *CRITICAL HISTORY OF POLICE REFORM* 37-40 (1977).

Table 1. Mediation Programs

<i>City</i>	<i>Agency</i>	<i>Referred cases (Year)</i>	<i>Successful cases</i>	<i>% of referred cases successfully mediated</i>	<i>% of all complaints successfully mediated</i>
Albuquerque (NM)	Police Oversight Commission/ Indep. Review Office	3 (1999)	3	100% (3/3)	
Berkeley (CA)	Police Review Commission	1 (1998)	1	100% (1/1)	2.2% (1/45)
Boise (ID)	Office of the Ombudsman	N/A* (1999)	N/A	N/A	N/A
Boulder (CO)	Boulder P.D./Professional Standards Unit	3 (1998)	2	66.66% (2/3)	2.94% (2/68)
Dover (DE)	Center for Community Justice	3 (1998)	0	0% (0/3)	
Kansas City (MO)	Office of Citizen Complaints	3 (1998)	3	100% (3/3)	
Milwaukee (WI)	Fire & Police Commission	17 (1998)	5	34% (5/17)	5.8% (5/85)
Minneapolis (MN)	Minneapolis Civilian Police Review Authority	39 (1998)	13	33.33% (13/39)	11.5% (13/113)
New Haven (CT)	Community Mediation Inc.	1 (1998)	0	0% (0/1)	
New York City (NY)	Citizen Complaint Review Board	14 (1998)	14	100% (14/14)	.0028% (14/4962)
Portland (OR)	Neighborhood Mediation Center	24 (1998)	7	28% (7/24)	.0206% (7/339)
Rochester (NY)	Center for Dispute Settlement	5 (1998)	2	40% (2/5)	2.1% (2/95)
San Francisco (CA)	Police Commission/ Office of Citizen Complaints	30 (1998)	4	13% (4/30)	.0037% (4/1057)
Santa Cruz (CA)	Citizen's Police Review Board	0 (1997)	0	0% (0/0)	0% (0/36)
Syracuse (NY)	Citizen Review Board	13 (1997)	0	0% (0/13)	
Washington (DC)	Office of Citizen Complaints	N/A* (1999)	N/A	N/A	N/A

*The Washington, D.C. Office of Citizen Complaints and the Boise, ID Office of the Ombudsman are not yet operational, but will offer mediation and conciliation once they begin operation.

Table 2. Portland Oregon Office of Neighborhood Involvement

Year	Cases sent to mediation*	Mediation completed*	% cases completed	Total # signed complaints**	% successfully mediated
1993	1	0	0%	435	0.0000
1994	5	3	60%	705	0.0042
1995	4	0	0%	634	0.0000
1996	31	7	22%	506	0.0138
1997	33	14	42%	359	0.0389
1998	24	7	29%	339	0.0206

*Information provided by the Portland Office of Neighborhood Involvement.

**Information provided by the Portland Police Department-Internal Affairs.

Table 3. Minneapolis Civilian Police Review Authority

Year	Cases sent to mediation*	Successful mediation	% successful cases	# complaints successfully mediated
1991	14	1	0.07%	N/A
1992	27	6	22.22%	N/A
1993	11	2	18.18%	N/A
1994	17	8	47.06%	5.30% (8/150)
1995	14	4	28.57%	2.70% (4/146)
1996	39	8	20.51%	6.20% (8/129)
1997	30	14	46.67%	8.80% (14/159)
1998	39	13	33.33%	11.50% (13/113)