

# La Mesa Police Department

## Policy Manual

### Community Mediation Program

#### 1022.1 PURPOSE AND SCOPE

This policy provides a process to resolve disputes or concerns between complainants and La Mesa Police Department employees through the mediation process.

#### 1022.2 DEFINITIONS

Mediation is a voluntary process designed to resolve disputes through negotiation and constructive communication with the assistance of a trained neutral party mediator. It is an informal, voluntary, non-disciplinary and non-adversarial process, agreed to by both the complainant(s) and member(s) of the La Mesa Police Department.

The mediation process usually focuses on conflict resolution of externally generated complaints; however, the process may be used to resolve conflicts between members of the LMPD.

#### 1022.3 OBJECTIVES

- (a) To increase the satisfaction of community and Department members in the resolution of the public's complaints;
- (b) To foster understanding and open communication between parties in a neutral setting;
- (c) To promote effective police/community partnerships, and
- (d) To develop problem-solving opportunities.

#### 1022.4 USE OF MEDIATION

- (a) The Administrative Services lieutenant will evaluate complaints to determine if they are eligible for mediation. Complaints eligible for mediation will be given a mediation case number. The Administrative Services lieutenant will evaluate the complaint based upon the case and Department member eligibility, and will confer with the employee's Lieutenant or Section Administrator.
  - 1. Complaints with allegations related to the following are eligible and should be considered for mediation: Procedure, Service, and Courtesy.
  - 2. Complaints with the following allegations are not eligible for mediation: Use of Force, Arrests, Acts of Bias, Criminal Conduct, including any complaint triggering an automatic audit within the subject matter authority of the Independent Police Auditor.
- (b) Post-investigative complaints- Generally, investigated complaints are reviewed by the employee's chain of command for findings and recommendations resulting in formal closure of the investigation. On a case-by-case basis, after an investigation a complaint may be referred for potential resolution through mediation in lieu of a formal finding and recommendation upon closure. In such cases, the chain of command will not make a formal finding, but will complete the recommendation section referring the complaint to mediation. With the concurrence of the employee's Lieutenant or Section Administrator, the file will be

returned to the Administrative Services Lieutenant who will make arrangements for a mediation referral.

- (c) Employee eligibility- All personnel of the La Mesa Police Department are eligible for mediation. In determining eligibility, the Administrative Services Section will consider employees' previous mediations and the nature of the present allegation. Generally, employees may participate in up to three mediations in a calendar year, however, multiple complaints of a similar nature, similar violation, should be considered an "Early Warning" and would be better served by going through the regular formal process.

## **1022.5 MEDIATION PROCESS**

- (a) Once a complaint is determined to be eligible for mediation, the Administrative Services lieutenant or designee will contact the department employee to determine if the employee is willing to participate in mediation. If the employee agrees to mediation, the complainant will be contacted to determine if the complainant is willing to participate. Both parties must then sign the City of La Mesa's agreement to accept mediation, provided by the Administrative Services Lieutenant. -Once the form has been executed, the lieutenant will forward the intake form to the mediation coordinator.
- (b) The mediation coordinator will contact the Department employee and the complainant to facilitate the mediation. The mediation coordinator will ensure that professionally trained and experienced mediators will be used.
- (c) The scheduling of the mediation will take into account the mediators', complainants' and employees' work schedule. Every effort will be made to schedule the mediation during a time convenient for the complainant. If the time does not fall within the employee's normal working hours, employees will be given overtime compensation in accordance with their Memorandum of Understanding. Every effort will be made to schedule and complete the mediation within 30 calendar days from the time a case is deemed suitable.
- (d) To ensure neutrality, the mediation will take place at a location other than a police department facility. Mediations also may be conducted via Zoom.
- (e) Department members will attend mediation in full uniform, appropriate business attire, or an approved police department polo shirt and slacks.
- (f) Once a Department member accepts a date and time for mediation, that member must appear on the scheduled date and time unless he or she received notification of a schedule change from the mediation coordinator, Administrative Services lieutenant or his or her designee.
- (g) Employees who cannot attend mediation due to an illness or other emergency must notify the mediation coordinator and the Administrative Services Section lieutenant or his/her designee as soon as it is evident that they will not be able to appear. If the illness or emergency precludes the employee from making this notification, the employee's supervisor must do so.
- (h) The complainant and the officer will sign the Confidentiality Agreement and Consent to Mediate document before the mediation commences.
- (i) Either party (complainant and employee) may withdraw their consent to mediation at any time, up until the mediation is scheduled. If consent is withdrawn, the complaint shall be processed as if it had never been referred to mediation.
- (j) Mediations are confidential and tape-recording is prohibited.
- (j) Any agreement reached in mediation shall be dated and signed by all parties and the mediator. Authenticated electronic signatures by the parties and mediator are permitted. Each party

shall receive a final copy of the agreement. The original agreement shall be maintained in a confidential mediation file by the Professional Standards Unit.

- (k) Upon concluding a mediation session, the mediator will deliver a Statement of Outcome to the Professional Standards Unit, categorizing the resolution as one of the following:
  - 1. Agreement reached
  - 2. No agreement reached
  - 3. Partial agreement reached
- (l) Mediation agreements are not appealable by any party to the LMPD, CPOB, The City of La Mesa, or in any court of law.

## **1022.6 RESOLUTION**

- (a) If the mediation is successful, the complainant will agree to authorize the Administrative Services Section to "officially" withdraw the complaint. The case will then be logged and tracked by the assigned mediation "M" number. Both parties will receive a letter outlining their successful mediation and declaring the issue(s) fully resolved. A mediation is successful when the mediator determines both parties have participated in good faith, and when both parties feel like they have been heard and understand the other party's point of view, even if they do not agree. A successful mediation does not require any sort of agreement between the mediating parties.
- (b) The mediation file shall contain the following forms: original Complaint Control Form, Confidentiality Agreement, Consent to Mediate Form, the mediated agreement, if any, and the Statement of Outcome. Mediation files are confidential and governed by California Evidence Code Sections 1115-1128.
- (c) Pursuant to P.C. 832.7, the original complaints will be maintained in the Administrative Services Section for five years. The disposition for the original complaint will state that it was resolved and that the complainant withdrew the complaint.
  - 1. All documents will be placed in a sealed envelope within the Internal Affairs file envelope. The envelope will be covered with the disposition memorandum indicating the complaint was withdrawn.
- (d) The confidentiality of mediations shall not preclude the Professional Standards Unit from capturing general statistical information necessary to evaluate the effectiveness of the mediation process.
- (e) If the mediation is successful, the original complaint will not be used against the officer for any disciplinary purposes, transfers, or promotions; the complainant agrees not to pursue a formal complaint for the same matter.
- (f) The Administrative Services Lieutenant will periodically evaluate the effectiveness of the program in a written report to the Chief of Police. The report will be based on data collected from complainants, mediators, and police officers that participated in the mediation process. The report will provide general summary information and will not disclose the identities of individual complainants or police officers.
- (g) If the mediation is unsuccessful, or if the mediator determines that the Department employee is not participating in the mediation process in good faith, the mediator can stop the mediation and the complaint shall be processed as if it had never been referred to mediation. However, if the mediator determines that the mediation was unsuccessful because the complainant did not participate in the mediation in good faith, the complaint will be withdrawn and will not be used against the officer for any disciplinary purposes, transfers, or promotions, unless the Chief of Police or IPA refers the complaint for investigation.

- (h) A party participates in the mediation process in “good faith” when the party (a) actively listens to the perspective of the other party, and (b) fully communicates his/her own position and engages in the discussion. “Good faith” does not require either party to agree to any particular resolution of the complaint.