



Informal Resolution of Complaints and Alternative Dispute Resolution

Canadian Association for Civilian
Oversight of Law Enforcement
Conference



Mediation: An Alternative Dispute Resolution Process

- My office is in the process of establishing a mediation services program to provide an alternative means of resolution for the Local Resolution and Informal Resolution processes
- We are consulting with community-based mediation experts to set up a program centred on a model of facilitative and transformative mediation
- During the pilot phase, mediation will be offered as an option in Local Resolution where both parties would have to agree to the option of Local Resolution and to engaging a mediator
- The mediation service program will make the local and informal resolution processes more effect and efficient and allow for relationship-building between the public and the police



Why Community-Based Mediation?

- Community mediation, with its facilitative and transformative style of mediation, answers the requirements for the dual structure that the OIPRD has envisioned
- Relationship-building, creativity and education are the main characteristics of this model, and they can be applied to either Local Resolution or Informal Resolution



Facilitative Mediation

- During facilitative mediation, the mediator gives no opinion about what the parties should or should not think about each other, nor does s/he play the role of an arbitrator and state an opinion on what the parties should or should not do about the situation
- Instead, it is a confidential, voluntary process that encourages individuals in conflict to share their recognition of each other's perspectives
- Through this process, the individuals in the conflict empower themselves to make their own decisions regarding all aspects of the process including the outcomes



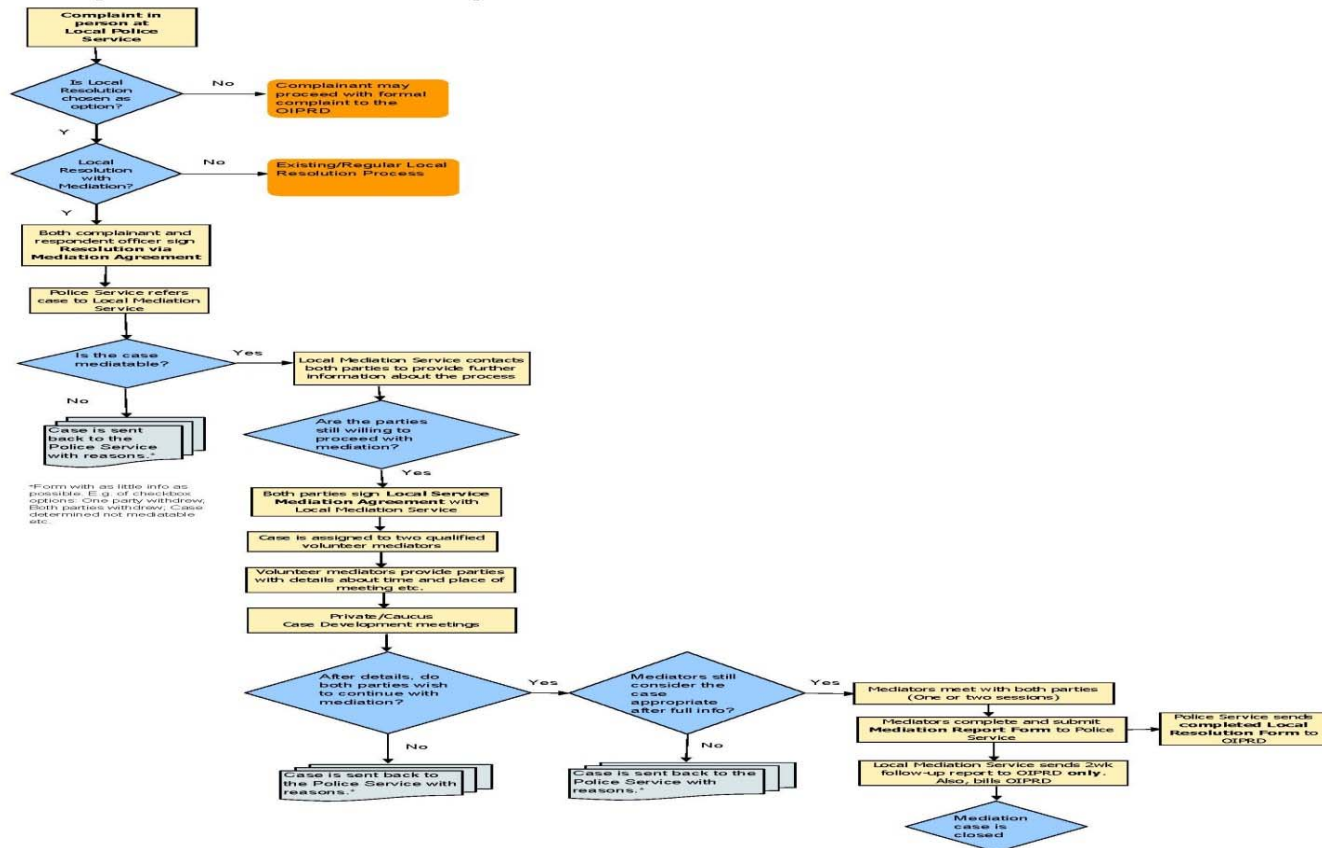
Transformative Mediation

- Transformative mediation is based on the values of 'empowerment' of each of the parties and 'recognition' by each of the parties of the others' needs, interests, values and points of view, to allow the individuals involved in the conflict to gain the skills and knowledge to better deal with conflict in the future
- Once the parties reach that level of understanding about each other and about the matter at hand it is more likely that a resolution – whether it is as a part of Local Resolution or Informal Resolution – will be carried out
- The result is not just a solved dispute, but a repaired relationship. We encourage this transformative aspect between complainants and respondent officers within the Local Resolution and Informal Resolution processes



Local Resolution with Mediation

OIPRD Mediation Program (within Local Resolution)





The Mediation Process

- Bear in mind that either party or both parties, still have the option to use Local Resolution **WITHOUT** mediation
- If both parties agree to mediation – within the resolution process – they are both required to sign the **Resolution via Mediation Agreement**
- The police service then refers the case to the respective local mediation service after receiving OIPRD approval
- The local mediation service determines whether the case qualifies for mediation. If it does not, it is sent back to the police service – with reasons
- If the case qualifies for mediation, the local mediation service will contact both parties to provide further information about the process
- If both parties are still willing to proceed, they then sign the **Local Service Mediation Agreement**



The Mediation Process

- Mediators meet with both parties for no more than two sessions
- After the sessions, mediators provide the police service with a completed Mediation Report Form*
- The police service sends a completed Local Resolution form to the OIPRD.
- The mediation case is closed

* the local mediation service sends a two-week follow-up report to the OIPRD only



Project Status

- The OIPRD is in the final stages of preparing the Request for Proposal
- Anticipate issuing the Request for Proposal by July 2012
- The competition and selection processes likely to take a few months
- Considering two to three local mediation services per region in Ontario



Dealing With Minor Complaints

- Proposal for handling minor complaints prior to engaging Part V of the *Police Services Act*—that means prior to the OIPRD screening the complaint
- Sixty per cent of complaints filed are done by e-filing and this does not allow for any type of early resolution to occur
- Once the matter is reviewed by the OIPRD and it is determined to fall within the category of a minor complaint, the OIPRD would contact the police service in question to determine if the service would like to deal with the matter as a customer service issue
- Facilitates communication between officers and complainants in order to clear up the minor matter and provide enhanced customer service. It also provides an opportunity to reduce the workload of both the police and the OIPRD and avoid having matters investigated, while allowing for matters to be resolved at the local level



Dealing With Minor Complaints

- Justice LeSage recognized that the police and the public requested that an option be continued that allows the public to take grievances and complaints directly to the police to be dealt with
- The Ontario government created regulation 263/09 Public Complaints – Local Complaints, which provides a mechanism that allows the public to make a complaint locally to the police service in question
- Minor complaints identified as suitable for local resolution or informal resolution under Part V of the *Police Services Act* may be more appropriately dealt with as a customer service issue
- We are proposing that this measure that would allow police services to deal with minor complaints locally without fully engaging Part V of the PSA be called Customer Service Resolution



Customer Service Resolution Process

- Customer Service Resolution would function as follows:
 - Only matters submitted directly to the OIPRD would be considered. If a matter was forwarded through the police service the OIPRD would assume that the service has declined to deal with the matter at the local level under Regulation 263/09
 - Once the matter is reviewed by the OIPRD and it is determined to be a conduct, policy or service complaint that falls within the category of a potentially minor matter, the OIPRD would contact the police service in question to determine if the service would like to deal with the matter as a Customer Service Resolution. This review and determination is done before and without consideration to the screening process
 - Once notified by the service that it will engage in this process, the OIPRD will notify the complainant and the involved officer regarding the attempt at resolution



Customer Service Resolution Process

- The police service would then have 30 days to complete the Customer Service Resolution
- Within the 30 day period, the police service will advise the OIPRD of the results of the process, including the manner in which the matter was resolved. The police service would also contact the complainant to thank them for their participation in the process and to confirm their understanding of the resolution of the matter
- If the matter cannot be resolved within 30 days the police service will advise the OIPRD and provide details about efforts made as well as information that may assist the OIPRD to screen the matter as a formal complaint
- If the customer Service Resolution is successful, the OIPRD will close the file