

Recommendation 29.4

TK

Tanya Koshy
Tue 9/8/2020 7:41 PM

- McGuire, Catherine (POL);
- Scott, William (POL);
- Debra Kirby

+7 others

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Dear Acting Captain Altorfer,

Our office has completed its review of the materials related to Recommendation 29.4 that have been submitted to us as part of the collaborative reform process. After reviewing the package and information provided by SFPD, the California Department of Justice finds as follows:

Recommendation 29.4:

SFPD leadership should explore the options for alternate dispute resolution regarding bias complaints, including mediation.

Response to 29.4:

Chief Bill Scott, Commander Teresa Ewins, Police Commission Vice President Damali Taylor, and Department of Police Accountability (DPA) Chief of Staff Sarah Hawkins formed a working group to evaluate whether any form of alternate dispute resolution (ADR) would be an appropriate way to resolve complaints of bias. The working group evaluated research materials on ADR options and discussed each one. Based on that discussion, DPA Chief of Staff Hawkins circulated a proposal to the working group, identifying the specific types of bias complaints that may be appropriate to resolve through ADR. Commission Vice President Taylor and Chief Scott held a meeting to discuss DPA's proposal because, ultimately, the decision as to whether to permit ADR resolution of any type of bias complaint rests with the Police Commission.

After the meeting, Vice President Taylor concluded that SFPD would not mediate any complaints of bias at this time. Once SFPD has made further progress in its CRI efforts the working group may revisit the issue, but SFPD cannot mandate any ADR without the Police Commission's approval. The recommendation at issue requires that the SFPD explore alternative dispute resolution options, but it does not require them to implement any of those options. As SFPD did

explore options and met with the stakeholders in good faith, it appears that SFPD has satisfied the requirements of this recommendation.

Based on the all of the above, the California Department of Justice finds SFPD in substantial compliance with this recommendation.

Please let us know if you have any questions or would like to discuss these further. Thank you.

Tanya

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Finding # 29	Allegations of biased policing by community members have not been sustained against an officer in more than three years.
Recommendation # 29.4	SFPD leadership should explore the options for alternate dispute resolutions regarding bias complaints, including mediation.

Recommendation Status	Complete	Partially Complete	In Progress
	Not Started	No Assessment	

Summary

Compliance Measures 1 and 2 have been met.

The San Francisco Police Department and the Department of Police Accountability established a working group to explore and consider options for alternate dispute resolution of bias complaints. The working group, which included representatives from the executive leadership team of both departments, developed and presented a proposal that identified the types of bias complaints appropriate for mediation to the Police Commission of the City and County of San Francisco. Based on feedback from individual commissioners, the proposals have yet to be adopted due to their concern that bias complaints should not be mediated. Although a final decision on this matter rests within the purview of the Police Commission, the SFPD has complied with the terms of this recommendation by considering the impact alternative dispute resolution, including mediation, has in assisting in resolving complaints against police officers in a manner satisfactory the complainants and police officers. The department’s work in completing this recommendation is sufficient to be designated as Complete, however, the team will continue to monitor this area to ensure these practices are institutionalized.

Compliance Measures		Status/Measure Met
1	Evidence of review of alternate dispute resolutions for bias complaints.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2	Evidence of the decision and any actions that resulted.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Administrative Issues

Compliance Issues



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Finding # 29: Allegations of biased policing by community members have not been sustained against an officer in more than three years.

Recommendation # 29.4 SFPD leadership should explore the options for alternate dispute resolutions regarding bias complaints, including mediation.

Response Date: June 14, 2020

Executive Summary:

Often times members of the public who file misconduct complaints against police officers, either with an Internal Affairs Division or with a Civilian Review Board, do not believe any meaningful resolution will occur. This is especially true for complaints of biased policing which may be difficult to sustain given that bias incidents are often reported as one-on-one occurrences. Some research indicates that resolving minor complaints of police misconduct by using non-traditional methods of investigation, otherwise known as Alternate Dispute Resolution ("ADR"), may lead to increased rates of satisfaction for both the complainant and the officer. ADR methods include any process or technique that attempts to settle a dispute or complaint in a less formal setting, including early evaluation, negotiation, conciliation, arbitration, adjudication and mediation. Research shows in some cases mediation can be an appropriate tool for resolving complaints of biased policing.

To determine whether mediation is an appropriate tool to resolve biased complaints against San Francisco Police Department

Police Commission, and the Department of Police Accountability ("DPA") Chief of Staff formed a working group to review the current rules governing the DPA's mediation program (see Attachment #1 – Police Commission approved rules for DPA Mediation Program) and discuss the benefits and disadvantages of allowing mediation of bias complaints from members of the public. The Police Commission as a whole would have to vote to adopt any revisions to the DPA's rules governing its mediation policy.

The group met via telephone conference call on Friday, May 8, 2020 (see Attachment #2 – meeting invite for telephone conference, and see Attachment #3 – Agenda for telephone conference). In preparation for the meeting, members of the working group received materials to aid in their discussion regarding the use of ADR for bias complaints. (see Attachment #4 – research conducted regarding types of ADR, benefits of mediation, the use of mediation in police misconduct complaints, and the use of mediation in complaints specific to biased policing). These materials include:

- ["What is ADR and how does it work"](#)
- ["Alternative Dispute Resolution"](#) (website 1)



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- ["Dispute Resolution Processes"](#)
- ["ADR Types and Benefits"](#)
- ["8 Benefits of Mediation"](#)
- ["Advantages of Mediation"](#)
- ["What are the Advantages of Mediation"](#)
- ["The Basics: Arbitration vs. Mediation"](#)
- ["Alternative Dispute Resolution"](#) (website 2)
- ["Pre-Suit Mediation of Civilian Complaints Against Police"](#)
- ["Bringing Sides Together: Community-Based Complaint Mediation"](#)
- ["Mediating Citizen Complaints Against the Police: An Exploratory Study"](#)
- ["Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders"](#)
- ["Coming Together to Resolve Police Misconduct: The Emergence of Mediation as a New Solution"](#)
- ["Community Member – Police Complaint Mediation Program"](#) (pages 22-35)

the meeting,

discussed the following (see Attachment #5 – meeting minutes):

1. Types of Alternative Dispute Resolutions (ADR)
2. Discussion of each type of ADR, including advantages and disadvantages of each
3. Mediation as a possible form of ADR for bias complaints from the public
4. Decision on whether to use any form of ADR as a means of resolving bias complaints
5. Follow-up



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Compliance Measures:

1) Evidence of review of alternate dispute resolutions for bias complaints.

The working group reviewed and discussed the following documents (see again Attachment #4 – research conducted regarding types of ADR, benefits of mediation, the use of mediation in police misconduct complaints, and the use of mediation in complaints specific to biased policing) to aid in its discussion on whether to implement ADR methods for biased policing complaints:

- ["What is ADR and how does it work"](#) (pages 1-3)
- ["Alternative Dispute Resolution"](#) (website 1) (pages 1-6)
- ["Dispute Resolution Processes"](#)
- ["ADR Types and Benefits"](#)
- ["8 Benefits of Mediation"](#) (pages 1 & 2)
- ["Advantages of Mediation"](#) (page one only)
- ["What are the Advantages of Mediation"](#) (Pages 1 & 2)
- ["The Basics: Arbitration vs. Mediation"](#) (pages 1-4)
- ["Alternative Dispute Resolution"](#) (website 2) (pages 1 & 2)
- ["Pre-Suit Mediation of Civilian Complaints Against Police"](#)
- ["Bringing Sides Together: Community-Based Complaint Mediation"](#) (pages 1-15)
- ["Mediating Citizen Complaints Against the Police: An Exploratory Study"](#)
- ["Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders"](#)
- ["Coming Together to Resolve Police Misconduct: The Emergence of Mediation as a New Solution"](#)
- ["Community Member – Police Complaint Mediation Program"](#) (pages 22-35)



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2) Evidence of the decision and any actions that resulted.



. The working group may reconvene to discuss using mediation as a tool for addressing biased policing complaints once the SFPD is further along in its reform efforts and has achieved substantial compliance in a significant number of the 272 U.S. DOJ recommendations.