



CITY OF CHICAGO  
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# Community-Police Mediation Pilot Program

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## Acronyms

|        |                                                                |
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| BIA    | Bureau of Internal Affairs                                     |
| CCR    | Center for Conflict Resolution                                 |
| CMS    | Case Management System                                         |
| COPA   | Civilian Office of Police Accountability                       |
| CPD    | Chicago Police Department                                      |
| IMR    | Independent Monitoring Report                                  |
| MCC    | Municipal Code of Chicago                                      |
| NACOLE | National Association for Civilian Oversight of Law Enforcement |
| OIG    | Office of Inspector General                                    |
| PATF   | Police Accountability Task Force                               |

# I | Background

Pursuant to the Municipal Code of Chicago (MCC) §§ 2-56-030 and -230 and as required by ¶558(f) of the consent decree entered in *Illinois v. Chicago*, the Public Safety section of the Office of Inspector General (OIG) has conducted an inquiry into the City of Chicago's pilot non-disciplinary, complainant-involved mediation program for misconduct complaints against members of the Chicago Police Department (CPD or "the Department") made by members of the public. The pilot program began in October 2022 in response to a consent decree requirement, which mandates that the City "develop a new mediation policy governing the resolution of disciplinary actions by the agreement of the CPD member and non-CPD member complainant."<sup>1</sup> The non-disciplinary, complainant-involved mediation pilot program, known as the community-police mediation program, as outlined in the consent decree is distinct from a historical process referred to as "mediation," in which a CPD member accused of misconduct and the involved investigating agency might have reached an agreement as to the member's acknowledged violation of rules or policies and the discipline to be imposed. OIG does not examine the previously existing disciplinary mediation process in this report, and instead examines the new community-police mediation program, which exists only in the form of a pilot as of May 2023.

Community-police mediation is a voluntary process where a community member and a member of the police department involved in a dispute meet, along with an impartial third-party mediator, or facilitator, to address the conflict.<sup>2</sup> The City's development of the community-police mediation program follows a national trend toward police-community mediation as seen in cities such as New Orleans, Los Angeles, Denver, and New York City.<sup>3</sup> According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), studies have shown that community-police mediation program participants were "more satisfied with the complaint resolution process than those involved in complaints subject to investigation" and were shown to help build understanding between a police department and its community.<sup>4</sup>

OIG acknowledges the pilot status of the non-disciplinary, community-police mediation program and that the outcomes reported here are preliminary and based on a limited time period and narrow pool of participating community members.

<sup>1</sup> Consent Decree at ¶510-12, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

<sup>2</sup> Center for Conflict Resolution, "What is Mediation?," About Mediation, accessed May 30, 2023, <https://www.ccrchicago.org/about-mediation>.

<sup>3</sup> CST Editorial Board, "Chicago is getting a mediation program for police misconduct complaints," *Chicago Sun-Times*, October 9, 2022, accessed April 21, 2023, <https://chicago.suntimes.com/2022/10/9/23392715/community-chicago-police-mediation-center-conflict-resolution-trust-editorial>.

<sup>4</sup> Cameron McElhiney, "Mediators' Perspectives on Officer-Civilian Mediations," 2020 NACOLE Webinar Series, March 17, 2020, accessed April 21, 2023, [https://www.nacole.org/community\\_police\\_mediation\\_from\\_the\\_mediator\\_s\\_perspective](https://www.nacole.org/community_police_mediation_from_the_mediator_s_perspective).

## A | Consent Decree Obligations for Complainant-Involved Mediation

The consent decree describes mediation as a “valuable tool for expediting the resolution of complaints, building trust between community members and police, and fostering mutual respect.”<sup>5</sup> The City’s obligations for a complainant-involved police mediation program are, primarily, found in two consent decree paragraphs:<sup>6</sup> paragraph 511 directs the City to “solicit public input, through community engagement efforts, regarding the methods by which mediation will most effectively build trust between community members and police and foster mutual respect.”<sup>7</sup> Further, paragraph 512 directs CPD’s Bureau of Internal Affairs (BIA) and the Civilian Office of Police Accountability (COPA) to develop parallel mediation policies related to misconduct complaints made by non-CPD members. It also requires that the CPD and COPA policies be consistent and, at a minimum, specify: (a) the criteria for determining eligible incidents for resolution through mediation; (b) the goals of mediation, including efficiency, transparency, procedural justice, restorative justice, and strengthening public trust; (c) the steps in the mediation process, and (d) the method of communication with complainants regarding the mediation process and opportunity to participate.<sup>8</sup>

Consent decree paragraph 558 directs OIG to regularly conduct data-driven reviews and audits to measure the effectiveness of the City and CPD’s accountability practices, including an “analysis of complainant-involved mediations.”<sup>9</sup>

## B | Evolution of the City’s Mediation Pathways

The City’s Police Accountability Task Force (PATF), established in 2015 to review the system of accountability, oversight, and training for CPD members, examined the City’s historical mediation process used.<sup>10</sup> In its “Recommendations for Reform,” PATF found that “the mediation process was originally intended as an efficient way to address complaints about minor infractions for which multi-year investigations were unwarranted [but]... is now used in cases involving serious misconduct that could warrant lengthy suspensions or even termination.”<sup>11</sup> PATF noted that a “true mediation program can be a valuable part of an effective police accountability system,” reflecting that other cities’ mediation programs involve “face-to-face meetings between citizens who brought complaints

<sup>5</sup> Consent Decree at ¶510, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

<sup>6</sup> Consent decree paragraph 736 defines “City” as “the City of Chicago, an Illinois municipal corporation, and any agent, agency, officer, employee, assignee, or successor thereof.” When a consent decree provision applies to multiple agencies, the provision will use the term “the City.” In this case, COPA and CPD are the directly named agencies. However, both the Department of Law and City Council may have input on development of the policy.

Consent Decree at ¶736, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill. Jan. 31, 2019).

<sup>7</sup> Consent Decree at ¶511, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

<sup>8</sup> Consent Decree at ¶512, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

As of the sixth semi-annual independent reporting period, the City reverted from secondary to preliminary compliance for paragraph 511 and has not reached preliminary compliance with paragraph 512.

Independent Monitoring Report [6], *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Dec. 15, 2022)

<sup>9</sup> Consent Decree at ¶558, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

<sup>10</sup> City of Chicago Mayor’s Press Office, “Mayor Emanuel Announces Task Force on Police Accountability,” December 1, 2015, accessed April 23, 2023,

[https://www.chicago.gov/city/en/depts/mayor/press\\_room/press\\_releases/2015/december/Task-Force-Police.html](https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2015/december/Task-Force-Police.html).

<sup>11</sup> Police Accountability Task Force, “Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities they Serve,” April 2016, 77, accessed April 23, 2023, [https://chicagopatf.org/wp-content/uploads/2016/04/PATF\\_Final\\_Report\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf).

and the police who are subjects of the complaints.”<sup>12</sup> PATF cited a study of Denver’s community-police mediation program which found that “almost 60% of complainants involved in the program were satisfied with the outcome [of the mediation] and 75% were satisfied with the process.”<sup>13</sup> The study also found comparable numbers from Denver Police Department members, with “68% of members satisfied with the outcome [of the mediation] and 79% satisfied with the process.”<sup>14</sup> PATF stated that a community-police mediation program “both meets with best practices and, more importantly, is aligned with the objectives of restorative justice that is an important missing element of community-police relations.”<sup>15</sup> PATF ultimately recommended that the City implement a new mediation process that “should invite citizens and officers to engage with one another to promote dialogue and understanding.”<sup>16</sup>

In September 2021, the office of then-Mayor Lori Lightfoot issued a press release announcing the City’s plan to launch a community-police mediation pilot program to address select police misconduct complaints.<sup>17</sup> In the press release, Lightfoot stated that “creating a community-based mediation program for reporting police misconduct complaints has been at the forefront of our mission to foster an environment that builds trust within the community and instills confidence that every voice is heard.”<sup>18</sup> The release announced that the program would be launched with the Center for Conflict Resolution (CCR) and that it would be developed based on “research and analysis gathered from public forums, surveys, focus groups, social media platforms, and other community engagement efforts.”<sup>19</sup> The announcement concluded by stating that the program was set to launch in the fall of 2021.

Over one year later, in October 2022, the Mayor’s Office issued another press release announcing that a community-police mediation pilot to address police misconduct complaints began on October 1, 2022, and would run for six months, through the end of March 2023.<sup>20</sup> The announcement reiterated that the mediation pilot program would allow selected COPA and BIA complaints to be referred to a community mediation program and reaffirmed that CCR would be working with the City to administer the pilot program. The release noted that the pilot program would be conducted with specific outcomes in mind, including efficiency, transparency, procedural justice, and restorative justice, and that it was the product of “engagement with Chicago residents, community leaders, police officers, and stakeholders.”<sup>21</sup> Per the Mayor’s press release, “the types

<sup>12</sup> Police Accountability Task Force, “Recommendations for Reform,” 78.

<sup>13</sup> Police Accountability Task Force, “Recommendations for Reform,” 78.

<sup>14</sup> Police Accountability Task Force, “Recommendations for Reform,” 78.

<sup>15</sup> Police Accountability Task Force, “Recommendations for Reform,” 78.

<sup>16</sup> Police Accountability Task Force, “Recommendations for Reform,” 83.

<sup>17</sup> City of Chicago Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot to Address Select Police Misconduct Complaints,” September 8, 2021, accessed April 23, 2023, [https://www.chicago.gov/city/en/depts/mayor/press\\_room/press\\_releases/2021/september/MediationPilot.html](https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2021/september/MediationPilot.html).

<sup>18</sup> Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot,” Sept. 2021.

<sup>19</sup> Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot,” Sept. 2021.

<sup>20</sup> City of Chicago Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot to Address Select Police Misconduct Complaints,” October 5, 2022, accessed April 23, 2023, [https://www.chicago.gov/city/en/depts/mayor/press\\_room/press\\_releases/2022/october/CommunityPoliceMediationPilotAddressMisconduct.html](https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2022/october/CommunityPoliceMediationPilotAddressMisconduct.html). The press release actually reads, “this community mediation pilot program, which began on October 1, 2023, will review select categories of complaints.” The reference to October 2023 appears to be in error, with October 1, 2022 being the correct start date for the program.

<sup>21</sup> Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot,” Oct. 2022.

of complaints to be mediated include allegations related to perceived bias in policing, failure to provide appropriate service, unnecessary physical contact, and unprofessionalism.”<sup>22</sup>

Certain types of misconduct complaints are barred from referral to mediation by City ordinance; in February 2022, City Council amended part of COPA’s enabling ordinance, MCC § 2-78-120(i), to prohibit COPA from referring complaints concerning sexual misconduct to mediation “or such other methods of alternative dispute resolution.”<sup>23</sup> The ordinance also requires COPA to establish rules governing mediation and other methods of alternative dispute resolution, and that participation in the mediation process “be voluntary for all parties, and that the complainant, if any, shall be provided an opportunity to participate.”<sup>24</sup>

## C | Community-Police Mediation Pilot Program

For eligible complaints of police misconduct, the City’s community-police mediation pilot program is intended to be a confidential, non-disciplinary process during which the complainant and accused CPD member meet face-to-face and, with the assistance of a neutral mediator, discuss the alleged misconduct with the goal of arriving at a mutually agreeable resolution.<sup>25</sup> The City defines community-police mediation as “a non-disciplinary alternative to the traditional established investigation procedure.”<sup>26</sup> As such, the imposition of discipline is not a possible outcome under the pilot program; the non-disciplinary nature of this program is not a requirement of the consent decree.

According to the City’s interagency policy (IAP), “IAP 11-01 Community-Police Mediation Pilot Program,” the objectives of the pilot are as follows:

The pilot program seeks to increase efficiency, transparency, and public trust by using procedural and restorative justice-framed processes within the City’s complaint resolution process by:<sup>27</sup>

1. Engaging the parties through listening and dialogue facilitated by a neutral mediator so both can gain understanding about the other person’s perspective;
2. Identifying the causes of the parties’ conflict, uncovering what factors led to the complaint, and engaging in collaborative problem-solving to attempt to resolve the dispute;
3. Providing police officers an opportunity to better understand their interactions with complainants, learn from their past behaviors, and understand how their actions may affect future interactions with civilians;
4. Providing complainants an opportunity to better understand the conditions and responsibilities of the law enforcement profession;
5. Demonstrating the desire to provide accountability for police actions; and
6. Providing open communications to all parties involved.

<sup>22</sup> Mayor’s Press Office, “Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot,” Oct. 2022.

<sup>23</sup> Journal of the Proceedings of City Council, February 23, 2022, 45085-6.

<sup>24</sup> City of Chicago, Municipal Code, § 2-78-120 (i).

<sup>25</sup> See Appendix A, City of Chicago Department of Law, Interagency Policy 11-01, “Community-Police Mediation Pilot Program,” January 15, 2022, Section III.1.

<sup>26</sup> See Appendix A, Department of Law, “Community-Police Mediation Pilot Program,” Section II.1.

<sup>27</sup> See Appendix A, Department of Law, “Community-Police Mediation Pilot Program,” Section III.2.

Three separate policies govern the implementation of the pilot program. The first is the City's IAP 11-01, effective January 2022, which establishes the pilot program and prescribes cooperative efforts across multiple involved City agencies, including COPA, CPD, and the Department of Law (see Appendix A for the policy in full). Second, COPA's role and responsibilities in the pilot are further defined in its internal "Referral for Mediation" guidance document effective October 2022 (see Appendix B for the guidance in full). COPA additionally published a webpage on the "Mediation Pilot Program" under the frequently asked questions section of its website.<sup>28</sup> Finally, CPD published Department Notice D22-04, "Community-Police Pilot Mediation Program," in October 2022, which introduces the pilot as a non-disciplinary alternative to the traditional investigative procedures for eligible complaints filed with COPA and BIA (see Appendix C for the notice in full). Together, the three policies establish the complaint screening and mediation processes that were followed throughout the pilot program, as shown below in Figure 1.

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<sup>28</sup> Civilian Office of Police Accountability, "Mediation Pilot Program FAQs," accessed April 23, 2023, <https://www.chicagocopa.org/faqs/>.

Figure 1: Mediation Process Overview



Source: OIG Analysis

## 1. Complaint Screening and Eligibility

Pursuant to MCC § 2-78-120(a) and the City's IAP, COPA will continue to accept and record all complaints alleging misconduct against CPD members, including complaints possibly eligible for community-police mediation.<sup>29</sup> Further, COPA's internal guidance states that "while processing and conducting preliminary investigations into all complaints, COPA's investigative staff will also consider if the complaint is potentially eligible for community-police mediation" based on the criteria listed in Figure 2 below.<sup>30</sup> Complaints that are identified as potentially eligible for community-police mediation then undergo an additional screening process by either COPA or BIA.

**Figure 2: Eligible and Ineligible Allegations for Community-Police Mediation per COPA's Guidance**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Eligible Complaints</b>                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• Perceived Bias and/or Harassment</li> <li>• Failure to Provide Service/Neglect of Duty</li> <li>• Discourteous Treatment/Unprofessionalism</li> <li>• Perceived Threatening Behavior (e.g., threatening stance or gesturing to a weapon)</li> <li>• Unnecessary Physical Contact (i.e., no injury/contact not a reportable use of force)</li> <li>• Any conduct not otherwise detailed above that, in the view of the COPA Chief Administrator, is likely to have a minimal negative impact on the operations or professional image of the Department or the complainant has conveyed that mediation is the preferred method of resolution</li> </ul>                                                                                                          |
| <b>Ineligible Complaints</b>                                                                                                                                                                                                                                                                                                                                                                                                                                            | <ul style="list-style-type: none"> <li>• A Reportable Use of Force by a Department Member</li> <li>• An Arrest of the Complainant</li> <li>• An Allegation of Verbal Abuse, as defined in MCC § 2-78-100<sup>31</sup></li> <li>• A lawsuit filed regarding the allegations in the complaint</li> <li>• An intimate partner relationship between the complainant and the Department member (i.e., instances of domestic violence or sexual misconduct)</li> <li>• Injury to the complainant or Department member</li> <li>• Property damage caused by the complainant or Department member</li> <li>• Complaints that include an express or apparent alleged violation of Illinois state law, the criminal code of another state, or a criminal federal statute against the Department member</li> </ul> |
| <p>Generally, a complaint is not eligible for mediation if the accused Department member has had two or more prior complaints with similar allegations within the past 12 months. However, the Chief Administrator of COPA may approve an exception to this guideline for good cause. The Chief Administrator (or designee) may consult with the Chief of BIA (or designee) before making an exception for good cause. COPA will document the basis for good cause.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Source: See Appendix B, Civilian Office of Police Accountability "Referral for Mediation," Section I.

<sup>29</sup> See Appendix B, Civilian Office of Police Accountability, Guidance, "Referral for Mediation," October 1, 2022, Section I.A.

<sup>30</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section I.B.

<sup>31</sup> Defined verbal abuse in MCC § 2-78-100 means the use of oral or written remarks that are overly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, natural origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person. Verbal abuse shall also include any unwelcome sexual advances or requests for sexual favors. City of Chicago, Municipal Code, § 2-78-100.

If a complaint that appears eligible for mediation is within COPA's investigative jurisdiction, COPA intake staff will review the complaint to confirm its eligibility, note the mediation recommendation in COPA's electronic Case Management System (CMS), and change the complaint's status to Intake Coordinator Review.<sup>32</sup> If a complaint falls within BIA's jurisdiction, COPA intake staff will follow standard intake procedures and assign the complaint to BIA.<sup>33</sup> COPA intake staff may note the complaint appears eligible for community-police mediation in the complaint's investigative file prior to assignment to BIA. If upon further review and investigation, BIA determines that a complaint within its jurisdiction is eligible for community-police mediation, BIA will assign the complaint back to COPA and note in the investigative file that the complaint be referred for community-police mediation.<sup>34</sup>

Per COPA's guidance, the Intake Coordinator will make the final determination for referral to community-police mediation based on the following:<sup>35</sup>

1. the sufficiency of preliminary investigative efforts;
2. the application of eligibility/ineligibility criteria listed in the City's interagency policy; and
3. the consideration of any stated desires by the complainant regarding outcomes.

If a complaint within COPA's jurisdiction is determined ineligible for community-police mediation referral, the Intake Coordinator will document the decision in a note in CMS and notify the assigned investigative team that the complaint will not proceed with mediation and instead follow standard intake procedures.<sup>36</sup>

For complaints within BIA's jurisdiction, if the Intake Coordinator disagrees with BIA's recommendation to refer a complaint for community-police mediation, they will notify COPA's Chief Administrator (or designee) and request the Chief Administrator review the administrative investigative file.<sup>37</sup> If the Chief Administrator also disagrees with BIA's recommendation, the Chief Administrator will notify the Chief of BIA to request a meeting to resolve the disagreement.<sup>38</sup> If the disagreement is not resolved, the Intake Coordinator will assign the complaint back to BIA for investigation or resolution and document all correspondence regarding the disagreement in the investigative file.<sup>39</sup>

<sup>32</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section II.A. COPA's investigative jurisdiction includes complaints of bias-based verbal abuse, coercion, death or serious bodily injury in custody, domestic violence, excessive force, and improper search and seizure. BIA is responsible for investigating criminal misconduct, medical roll abuse, operational violations, planting of drugs, residency violations, substance abuse, and theft of money or property. See City of Chicago Office of Inspector General, "A Guide to the Disciplinary Process for Chicago Police Department Members," September 2022, accessed May 31, 2023, [https://igchicago.org/wp-content/uploads/2022/04/4102-Final\\_Long-form-discipline-flowcharts.pdf](https://igchicago.org/wp-content/uploads/2022/04/4102-Final_Long-form-discipline-flowcharts.pdf); see also Civilian Office of Police Accountability website, accessed May 31, 2023, <https://www.chicagocopa.org/investigations/jurisdiction/>.

<sup>33</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section II.B.

<sup>34</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section II.B.2.

<sup>35</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section III.A.

<sup>36</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section III.C.

<sup>37</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section III.D.

<sup>38</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section III.D.1.

<sup>39</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section III.D.2-3.

## 2. Referral Process and Mediation Efforts

Once a complaint is determined eligible for mediation, COPA's Intake Coordinator will complete a Referral for Mediation form to initiate the complaint's referral to CCR.<sup>40</sup> The Intake Coordinator will include a copy of the completed form in CMS and include a note in the electronic case file documenting the referral.<sup>41</sup> The Intake Coordinator will update the complaint's status in CMS to reflect that it has been referred and is pending mediation.<sup>42</sup>

The Intake Coordinator will also provide a notice to the complainant(s) and accused Department member(s) informing them:<sup>43</sup>

- that the complaint has been identified as eligible for community-police mediation;
- that the complaint has been referred to CCR; and
- to expect contact from CCR, who will provide more information regarding the community-police mediation process, its purpose and goals, and how to proceed, should the complainant prefer mediation as a manner of resolving the complaint.

The notice to Department members will also include a brief description of the allegation(s) and an explanation that community-police mediation is a voluntary, non-disciplinary outcome.<sup>44</sup>

After CCR receives a referral, first, it will reach out to the complainant to determine whether they are interested in pursuing mediation. If the complainant wants to move forward with mediation, CCR will then reach out to the Department member to determine whether they also want to participate in community-police mediation. Per CPD's Department Notice, once an eligible complaint is referred, a mediation session should be scheduled to occur within 21 days.<sup>45</sup>

If either the complainant or the Department member declines mediation, CCR will notify COPA that mediation has been declined by either party, and COPA and BIA will determine whether the complaint should be investigated further in accordance with their investigative standards or closed.

If both parties agree to proceed with community-police mediation, the complaint will not advance in the process for disciplinary investigation and CCR will schedule one 2-hour meeting with the complainant and the Department member.<sup>46</sup> The mediation session will follow the following schedule:<sup>47</sup>

- Mediator(s) and/or CCR staff will meet with each party separately to discuss any concerns, review and sign a confidentiality agreement, and hold cell phones.
- Both parties and the mediator(s) will move into a shared space, either a physical room if in-person or the same Zoom room in a virtual mediation.
- Mediator(s) will give an opening statement, which addresses the role of mediators, and establishes ground rules and confidentiality.

<sup>40</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section IV.B.

<sup>41</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section IV.C.

<sup>42</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section IV.D.

<sup>43</sup> See Appendix A, Department of Law, "Community-Police Mediation Pilot Program," Section VI.1.

<sup>44</sup> See Appendix A, Department of Law, "Community-Police Mediation Pilot Program," Section VI.1.

<sup>45</sup> See Appendix C, Chicago Police Department, "Department Notice D22-04: Community-Police Mediation Pilot Program," October 1, 2022, Section V.A., accessed April 23, 2023, <http://directives.chicagopolice.org/#directive/public/6900>.

<sup>46</sup> Civilian Office of Police Accountability, "Mediation Pilot Program FAQs."

<sup>47</sup> Civilian Office of Police Accountability, "Mediation Pilot Program FAQs."

- Each party will give a brief statement addressing what they hope to accomplish during the session.
- Mediator(s) set an agenda for the mediation session.
- Mediator(s) will facilitate an open conversation between parties with the goal of having an open dialogue that seeks to understand the other party's experience.
- After the conversation, the mediator(s) may determine whether it would be beneficial to meet with each party separately in an additional brief session.
- Mediator(s) will bring the session to a close and, if in-person, dismiss the parties separately from the room.

### 3. Mediation Outcomes

COPA's guidance states that CCR will notify COPA's Intake Coordinator of "all concluded referral reviews and mediation efforts" by completing and submitting a Mediation Outcome form that documents, at a minimum:<sup>48</sup>

1. the mediation status of the complaint (mediated, mediation attempted, or mediation declined by CCR);
2. the mediation date(s); and
3. the "good faith participation" by the complainant and/or accused Department member.

The City's policy defines a "successful mediation" as "a process in which the parties have heard, clarified, and understood the issues and each other's point of view."<sup>49</sup> Both the City's policy and stakeholders involved in the pilot program state that a mediation does not need to result in a formal agreement or resolution between the two parties in order to be considered successful. COPA describes "good faith participation" as "a party [using] the mediation process for its intended purpose – to meaningfully engage with the other party to the conflict."<sup>50</sup> COPA states that the mediators and CCR determine whether a party participated in good faith. Examples of either party not participating in good faith include a party attempting to use mediation as an interrogation or as discovery for litigation purposes, or a party appearing for mediation but not talking during the session.

COPA's Mediation Outcome form states that the Intake Coordinator will note the receipt of the report in CMS and store a copy of the form in the complaint's electronic file for reference.<sup>51</sup> Additionally, the Intake Coordinator will update the complaint's electronic status in CMS to reflect the mediation status provided by CCR.<sup>52</sup>

If a case is successfully mediated, the status will change to "Mediated" and the complaint will be closed in CMS; no additional investigation will be conducted.<sup>53</sup> As this community-police mediation process is non-disciplinary, the mediated complaint will not appear in a member's "sustained disciplinary history."<sup>54</sup> However, the complaint will appear on the member's "complaint history."<sup>55</sup>

<sup>48</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section V.A.1-3.

<sup>49</sup> See Appendix A, Department of Law, "Community-Police Mediation Pilot Program," Section III.1.

<sup>50</sup> See Appendix B, Civilian Office of Police Accountability, "Mediation Pilot Program FAQs."

<sup>51</sup> See Appendix D, Civilian Office of Police Accountability, Form, "Mediation Outcome," January 15, 2022.

<sup>52</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section V.B.

<sup>53</sup> See Appendix C, Chicago Police Department, "Department Notice D22-04," Section V.E.4-5.

<sup>54</sup> See Appendix C, Chicago Police Department, "Department Notice D22-04," Section V.E.6.

<sup>55</sup> See Appendix C, Chicago Police Department, "Department Notice D22-04," Section V.E.6.

If a case is not successfully mediated, one of the following will occur:

1. If CCR determines the Department member participated in the mediation in good faith, but the complainant did not, COPA will close the complaint, update its status as “Mediated,” and note the accused member’s good faith participation as reason for the closure.<sup>56</sup>
2. If the complaint is within CPD’s jurisdiction, COPA will return the complaint to BIA for further investigation.<sup>57</sup>
3. If the complaint is within COPA’s jurisdiction, the Intake Coordinator will review the investigative file and determine whether the complaint should be closed with no finding or assigned to a COPA Investigative Squad for further investigation. COPA may also close the complaint with no finding but recommend non-disciplinary action for the accused member to CPD, such as training or support services.<sup>58</sup>

Complaints that are not successfully mediated and assigned to either COPA or BIA for further investigation will proceed in accordance with their ordinary investigative procedures.

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<sup>56</sup> See Appendix B, Civilian Office of Police Accountability, “Referral for Mediation,” Section V.B.2.b.i.

<sup>57</sup> See Appendix B, Civilian Office of Police Accountability, “Referral for Mediation,” Section V.B.2.a.

<sup>58</sup> See Appendix B, Civilian Office of Police Accountability, “Referral for Mediation,” Section V.B.2.b.

## II | Objectives, Scope, and Methodology

### A | Objectives

The objectives of this inquiry were to review and analyze the City's policies and practices, outcomes and data, and areas of improvement for the mediation of misconduct complaints involving non-CPD member complainants.

### B | Scope

This inquiry is responsive to OIG's obligation under paragraph 558(f) of the consent decree entered in *Illinois v. Chicago* to complete an "analysis of complainant-involved mediations." The scope of analysis for this inquiry includes two components of the community-police mediation pilot program:

1. The policies and processes that the Department of Law, COPA, CPD, and other City agencies have put into place to govern community-police mediation; and
2. Available data on referrals and outcomes of community-police mediations for the duration of the pilot program through May 5, 2023.

This inquiry does not reach an assessment of the City's compliance with its obligations under consent decree paragraph 512, as such assessments are the purview of the IMT.<sup>59</sup>

### C | Methodology

To assess the policies and practices of the community-police mediation pilot program, OIG reviewed the following City policies:

- Department of Law Interagency Policy 11-01, "Community-Police Mediation Pilot Program;"
- Center for Conflict Resolution and City of Chicago Memorandum of Understanding, "Community Police Mediation Pilot Program MOU;"
- COPA Guidance, "Referral for Mediation;"
- COPA Forms, "Referral for Mediation" and "Mediation Outcome;" and
- CPD Department Notice D22-04, "Community-Police Mediation Pilot Program."

To evaluate the performance of the pilot program and identify areas of improvement, OIG conducted interviews with City, CPD, and COPA personnel and individuals from CCR, including the following:

- The First Deputy for Public Safety and additional personnel in the Mayor's Office;
- Personnel in CPD's Bureau of Internal Affairs;
- Personnel in COPA's Intake Unit; and
- CCR's Executive Director and additional individuals with CCR.

To examine the data and outcomes from the community-police pilot program, OIG analyzed the following:

- 111 Mediation Outcome forms provided by CCR;
- 212 reports provided by BIA for complaints referred to the community-police mediation program; and

<sup>59</sup> Consent Decree at ¶667, *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill., Jan. 31, 2019).

- 122 investigative files and 91 emails provided by COPA for complaints referred to the community-police mediation program.

## D | Standards

OIG conducted this review in accordance with the Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General found in the Association of Inspectors General's *Principles and Standards for Offices of Inspector General* (i.e., "The Green Book").

## E | Authority and Role

The authority to perform this inquiry is established in the City of Chicago Municipal Code §§ 2-56-030 and -230, which confer on OIG the power and duty to review the programs of City government in order to identify any inefficiencies, waste, and potential for misconduct, and to promote economy, efficiency, effectiveness, and integrity in the administration of City programs and operations, and, specifically, to review the operations of CPD and Chicago's police accountability agencies. The role of OIG is to review City operations and make recommendations for improvement. City management is responsible for establishing and maintaining processes to ensure that City programs operate economically, efficiently, effectively, and with integrity.

This report is responsive to paragraph 558(f) of the consent decree entered in *Illinois v. Chicago*.

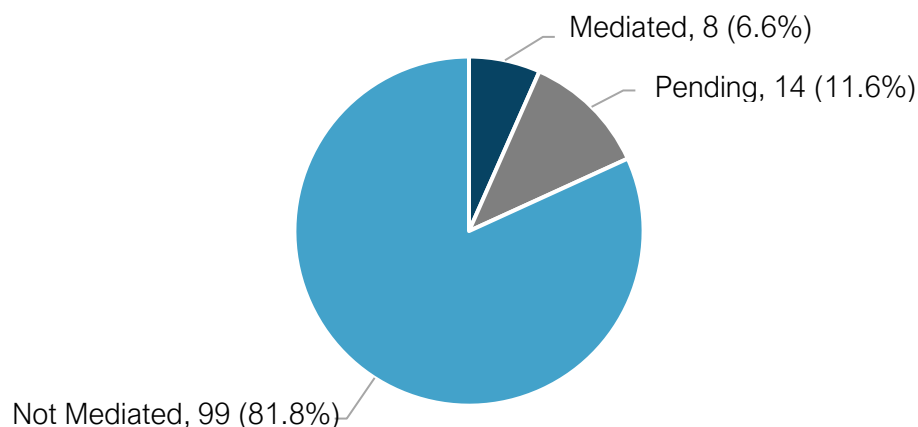
## III | Analysis

In its inquiry on the pilot community-police mediation program, OIG interviewed representatives from CCR, the City's contracted mediation agency, in addition to City personnel from the Mayor's Office of Public Safety, COPA, and BIA. Additionally, OIG data provided by CCR on program outcomes from October 1, 2022, through May 5, 2023.<sup>60</sup> OIG offers the results of this inquiry for consideration as the City, COPA, CPD, and CCR evaluate the pilot program's results and look toward fully implementing a community-police mediation program as part of the City's police accountability system.<sup>61</sup>

### A | Community-Police Mediation Pilot Program Data and Outcomes

Based on documentation provided to OIG by CCR, OIG determined that COPA referred 121 complaints for mediation during the pilot program from October 1, 2022, to March 31, 2023. Of those referrals, eight (6.6%) had proceeded to a scheduled mediation session as of May 5, 2023. In all eight mediation sessions, the mediators determined that both parties — the CPD member and the complainant — participated in good faith. While agreement between the parties is not a required outcome of the mediation session, six mediation sessions resulted in an agreement or resolution between the parties and two mediation sessions did not result in an agreement or resolution. CCR also reported to OIG that 14 additional complaints (11.6%) remained pending as of May 5, 2023. Of these, one mediation session was scheduled and had not yet occurred and, in 13, one or both parties had expressed interest in mediation.

Figure 3: Mediation Pilot Program Referral Outcomes



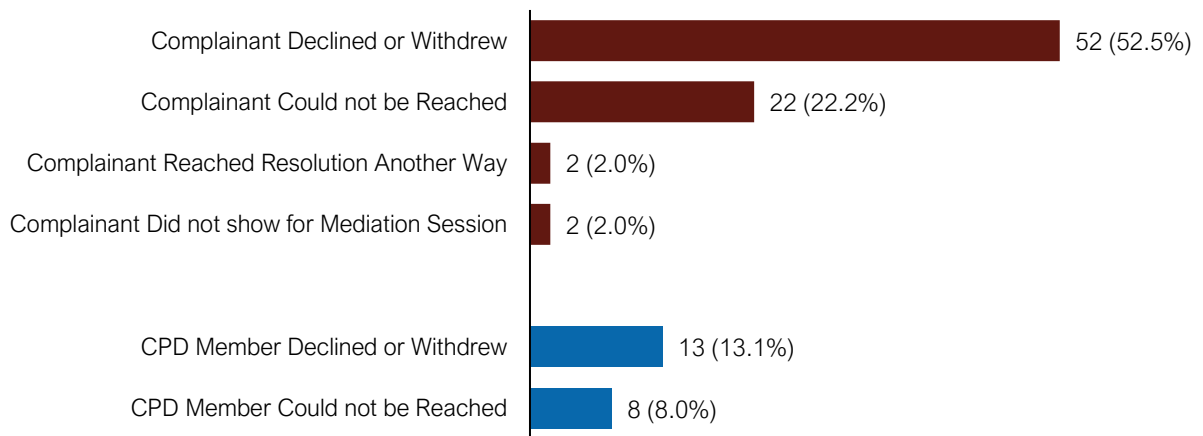
Source: OIG Analysis

<sup>60</sup> While the pilot program was originally set to run for six months through March 31, 2023, CCR reported to OIG that mediation sessions were scheduled through May 5, 2023, due to challenges in scheduling. CCR additionally told OIG they had several pending cases, with one mediation session still scheduled for after May 5, 2023. See Subsection B3 below.

<sup>61</sup> The consent decree requires the City, CPD, and COPA to create policies governing "the mediation of misconduct complaints involving non-CPD members." The consent decree does not speak to the development and deployment of only a pilot program. Both COPA and the Mayor's Office reported to OIG that a version of the pilot program will continue to exist through the end of 2023.

OIG analyzed the Mediation Outcome forms provided by CCR for referred complaints that had reached a final outcome in the pilot program.<sup>62</sup> Of the 121 referrals, 107 referrals (88.4%) had reached a final outcome as of May 5, 2023. OIG determined that a mediation session did not occur for 99 instances (81.8%). In two instances, the complainant expressed that they had reached a resolution prior to referral to mediation and declined to participate. In 22 instances, the complainant did not respond to CCR's outreach. For 52 referrals, the complainant either elected not to mediate their complaint, withdrew, or canceled the mediation session. In two instances, a mediation session was scheduled, but the complainant did not appear for the scheduled sessions, and, in one case, the session was not rescheduled. In 21 instances, the complainant was willing to mediate, but the Department Member did not participate. Of those, the Department Member either elected not to mediate their complaint, withdrew, or canceled the mediation session in 13 instances, and the Department Member did not respond to CCR's outreach in eight instances.

Figure 4: Non-Mediated Referrals by Reason



Source: OIG Analysis

Among the referrals where the complainant did not proceed with mediating their complaint, comments on the outcome forms revealed instances where:

- One complainant was willing to mediate if the mediation session could be held at their local precinct.
- One complainant was willing to mediate if the mediation session did not require traveling downtown.
- Two complainants refused to mediate because they wanted COPA to investigate their complaints. In one instance, the CPD Member reached out to CCR to express a willingness to participate in mediation.
- Two complainants refused to mediate because they felt their concern had been addressed or handled by BIA.
- One complainant refused to mediate and instead requested their complaint be withdrawn as “[The] officers did not do anything wrong, it was a difficult situation.” One of the CPD members involved contacted CCR indicating they were willing to mediate.
- Three complainants completed the initial intake with CCR but did not respond to follow-up communications to move forward with a mediation session.

<sup>62</sup> See Appendix D, Civilian Office of Police Accountability, “Mediation Outcome.”

In the comments section of the outcome forms where either the complainant or CPD member chose not to proceed with mediation, OIG observed several instances where the complainant and CPD member were willing to participate in mediation, but a mediation session did not occur. Of those attempted mediation sessions, they were primarily unable to be conducted due to scheduling challenges where:

- Both parties were interested in mediation, but the Department members were scheduled to work overnight and therefore the complainant did not schedule a mediation session.
- Both parties were interested in mediation, but the complainant could not travel for health reasons.
- Two mediation sessions were scheduled, but the complainant canceled before the session was held. In both cases, the Department member indicated they were willing to mediate.
- Two mediation sessions were scheduled where the Department member appeared for the mediation session, but the complainant did not show up for the scheduled mediation session.
- One complainant withdrew from the mediation process before a mediation session was scheduled. The complainant indicated they were initially willing to mediate. One of the two CPD members involved was willing to mediate, but the other CPD member did not respond to CCR's attempts to contact them. CCR offered mediation with only one of the CPD members and the complainant declined to move forward.
- Scheduling was attempted for one mediation session. The complainant indicated they were initially willing to mediate but did not respond to CCR's attempts to schedule the mediation session. Both Department members indicated they were willing to mediate.
- One mediation session was canceled by the Department member due to a training scheduled on short notice. The Department Member was willing to mediate and the complainant was offered the option to reschedule but chose to hold the mediation session with only one of the two Department members present.

## B | Challenges Identified in the Community-Police Mediation Pilot Program

### 1. In general, more community members and CPD members did not proceed with mediation than did, where only 8 mediation sessions were held during the pilot.

As mentioned, studies cited by PATF in its 2016 "Recommendations for Reform" report found that many community members who participate in community-police mediation sessions do not want to see the officer punished, but instead either "want to report the incident, desire an apology or explanation from the officer, or would like to meet in person and express themselves to the officer."<sup>63</sup> Additionally, in Lightfoot's 2022 press release announcing the pilot program, the Deputy Mayor for Public Safety noted that "mediation serves to foster compassion and empathy between parties as they work together to create equitable solutions."<sup>64</sup> In the same release, COPA's Chief Administrator spoke about how the mediation program would "not only bring quick resolution but also [build] bridges in community and police relations, which contributes to public safety."<sup>65</sup> However, when OIG asked stakeholders about community outreach regarding the pilot program,

<sup>63</sup> Police Accountability Task Force, "Recommendations for Reform," 78.

<sup>64</sup> Mayor's Press Office, "Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot," Oct. 2022.

<sup>65</sup> Mayor's Press Office, "Mayor Lightfoot Announces Plan to Launch Community-Police Mediation Pilot," Oct. 2022.

the Mayor's Office and CCR stated that community engagement was completed by a private consultant in the developmental stages of the pilot program and ongoing community input was from surveys sent to community members and CPD members who had participated in a scheduled mediation session.

OIG also spoke with representatives from CCR, the Mayor's Office of Public Safety, COPA, and BIA on the measurable success of the pilot program. CCR and the Mayor's Office viewed the pilot program as a general success. The Deputy Mayor for Public Safety reflected that a significant achievement of the pilot program was any complaint being accepted for mediation and the session being scheduled. Representatives from CCR told OIG that their primary concern for the pilot program was receiving referrals. The Mayor's Office told OIG that there was not a target number for complaints referred or mediation sessions held, and that a major initial accomplishment was aligning understandings of the involved parties and getting the pilot program started.

As described above, OIG analyzed outcome forms provided by CCR for all the referrals that had reached a final outcome by May 2023. OIG found, in total, eight mediation sessions were scheduled and held during the pilot program. In general, OIG observed the majority of referrals (74.7%) of those not mediated were returned to COPA due to either the complainant electing not to proceed with mediation or CCR being unable to contact them. Of the remaining referrals where a mediation session was not held, most (21.1%) were returned to COPA due to the CPD member electing not to proceed with mediation or CCR was unable to reach them. CCR explained to OIG that they do not contact CPD members until after the complainant has stated they were willing to proceed with mediation. However, as COPA notifies CPD members that their complaint is eligible for mediation, CCR documented several officers who independently reached out to CCR to express interest in participating in a mediation session even if the complainant had elected not to move forward.

## 2. CPD members' work shifts and community members' availability were an obstacle to scheduling timely community-police mediation sessions.

OIG heard unanimously from BIA, COPA, CCR, and the Mayor's Office that, in the pilot, the City and CCR were unable to meet the committed timeframes for either referral to the mediation program or for holding the mediation session. The City's interagency policy states that "the City and its agencies will make reasonable efforts to make any mediation referrals within three weeks of complaint filing" and places a target goal for completed mediations within 90 days after the complaint is initiated.<sup>66</sup> One factor is that screening for eligibility within COPA and BIA is done by a single personnel member. See Subsection B3 below for more detail on staffing and resources. Further, the Mayor's Office reported to OIG that in some cases, Department members being misidentified in the initial complaint led to delays as the investigating agency attempted to identify and contact the correct CPD member.

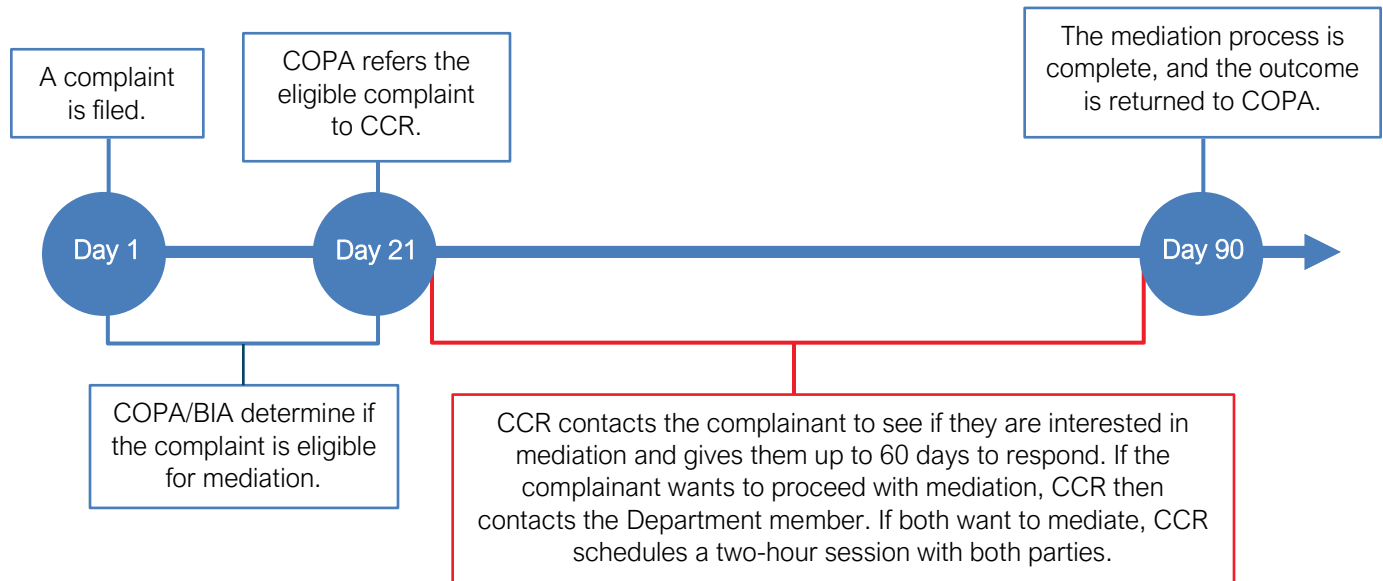
Additionally, CPD's Department Notice states that, once a complaint is determined as eligible for community-police mediation, the mediation session will be scheduled to occur within 21 days.<sup>67</sup> OIG found that the scheduling component contributed most to the prolonged timeline, as it includes repeated attempts to contact, first, the complainant and, second, the Department member, in

<sup>66</sup> See Appendix A, Department of Law, "Community-Police Mediation Pilot Program," Section III.3.i.

<sup>67</sup> See Appendix C, Chicago Police Department, "Department Notice D22-04," Section V.A.

addition to the challenge of coordinating with both parties to schedule a mediation session during the CPD members working hours which can be complicated by the CPD members' assigned details and shifts, as well as scheduled furlough.

**Figure 5: 90-Day Timeline for a Complaint Referred for Mediation**



Source: OIG Analysis

Based on interviews conducted with COPA, CCR, BIA, and the Mayor's Office, OIG found that major barriers to scheduling timely mediation sessions included making contact with the complainant and the fact that the mediation session must occur during a Department member's working hours. CCR representatives reported that scheduling mediation based on the member's working hours is especially a challenge, for instance, if the officer works an overnight shift and is available for mediation at 3:00 a.m. CCR's Program Director further reported to OIG that other mediations facilitated by CCR take about six weeks to mediate from the initial referral, but that referrals for the community-police pilot program have taken upwards of three months to mediate. For its other mediation programs, CCR typically attempts to contact the complainant three times and will cease contact after 30 days, however, for the pilot community-police mediation program, CCR has allowed complainants 60 days to respond to outreach before closing the referral and returning the case to COPA. Additionally, the Mayor's Office reported that because the pilot began in the fall, the holiday season presented further complications for scheduling.

When OIG inquired about the timeframe laid out in the interagency policy, which states mediation must occur within 90 days of the initial complaint, all four stakeholders reported that throughout the pilot, it took much more time in practice to schedule and complete a community-police mediation session. A project manager with the Mayor's Office acknowledged that initial timeline discussions for the pilot focused on how quickly referrals could be turned over, involved parties could be contacted, and mediation sessions could be scheduled and completed. They stated that moving forward, the timeframe in the policy would need to be more generous.

Additionally, OIG identified conflicting information in the City's policy and CPD's Department Notice on the timeframe for scheduling a mediation session. In the interagency policy, the 90-day

timeframe is defined as, “the target goal...to complete mediation within 90 days of the date the complaint was initiated.”<sup>68</sup> CPD’s Department Notice states, “The mediation process will be completed within 90 days after determining a complaint was eligible for mediation.”<sup>69</sup> OIG also observed conflicting information based on where a mediation session could occur. The interagency policy states that “all mediations will be conducted virtually for the durations of the Pilot Program at times agreed to by the mediator and parties.”<sup>70</sup> However, comments on the outcome forms provided to OIG from CCR indicate that, in one instance, a complainant expressed a desire to participate in mediation if they did not have to travel downtown, but there was no indication on the form that a mediation session was offered virtually.

### 3. Future resources for the community-police mediation program, including staffing and funding, have not been identified.

COPA and CCR raised concerns to OIG regarding both budget and staffing limitations, to be considered in planning for expansion of the program after conclusion of the pilot. The memorandum of understanding between CCR and the City tasked CCR with securing funding for the pilot program and required that CCR conduct the pilot program for at least six months without City funding or staff.<sup>71</sup>

In an interview with OIG, CCR’s Executive Director reported that an obstacle was that CCR had to fundraise to administer the pilot program, noting that CCR is a small non-profit organization and that for the program to continue, the funding for mediation services in the future should come from the City. Currently, CCR retains around 180 active, certified, volunteer mediators and employs five full-time case management staff. According to CCR’s Program Director, 18 volunteer mediators underwent an additional two-day training to facilitate the mediations for the pilot program. The Program Director noted that if the community-police mediation is to continue, CCR will have to devote more staff to the program. Both the Mayor’s Office and COPA informed OIG that the pilot program is expected to have sufficient resources to operate through the end of 2023. Echoing the remarks of CCR’s Executive Directors, the Mayor’s Office First Deputy for Public Safety reported that moving forward, the money should come from CPD’s budget.

OIG also identified concerns regarding COPA’s role and responsibilities as related to screening all complaints for mediation eligibility. COPA’s Director of Investigations is the primary individual responsible for COPA’s work in the pilot program besides COPA’s intake staff who initially flag potential complaints for mediation. The Director reported to OIG that COPA did not hire additional staff for the pilot program, but acknowledged that the work has taken up a significant amount of time. Similarly, a single Sergeant within BIA is responsible for the screening of all complaints potentially eligible for community-police mediation flagged by COPA’s Director of Investigations. A senior COPA official told OIG that additional resources would be needed for COPA to ensure the community-police mediation is sustainable. In an interview with OIG, the Mayor’s Office acknowledged COPA’s additional workload and stated that one of the considerations moving forward is ensuring COPA is staffed properly so one individual is not solely responsible for screening complaints for eligibility.

<sup>68</sup> See Appendix A, Department of Law, “Community-Police Mediation Pilot Program,” Section III.3.i.

<sup>69</sup> See Appendix C, Chicago Police Department, “Department Notice D22-04,” Section G.

<sup>70</sup> See Appendix A, Department of Law, “Community-Police Mediation Pilot Program,” Section III.3.ii.

<sup>71</sup> See Appendix A, Department of Law, “Community-Police Mediation Pilot Program,” Appendix A, Section III.

#### 4. Tracking and documentation of mediation referrals and outcomes in the Case Management System (CMS) is inconsistent.

OIG found inconsistencies in how COPA is maintaining investigative files on complaints referred for mediation. COPA's guidance states that the Intake Coordinator will "incorporate a copy of the completed Referral for Mediation form in CMS, as well as include a note memorializing the referral in CMS."<sup>72</sup> OIG requested the investigative case files and any related materials, including those maintained internally, from COPA for all cases related to complaints referred for community-police mediation. In its review of the provided case files, OIG found no mediation referral forms included in any of the case files provided by COPA. However, through OIG's direct access to electronic case files for closed disciplinary investigations in CMS, OIG found and verified that for seven complaints where a referral had occurred and the investigation was closed through community-police mediation, the mediation referral form was not included in the investigative file, but was sometimes included as an email in the "Notes" section of CMS. In addition, OIG found inconsistencies in the file location in which COPA saved the Mediation Outcome form to a complaint's investigative file.<sup>73</sup>

Additionally, a BIA supervisor informed OIG that BIA and the Department at large do not have contact with the mediating agency; currently, the only information regarding the pilot program outcomes accessible to CPD is what COPA uploads into the case files in CMS in the Mediation Outcome Forms. The BIA supervisor stated that the Department did not know the outcomes for all cases referred for mediation because COPA had not yet uploaded the Mediation Outcome Form for some cases in CMS.

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<sup>72</sup> See Appendix B, Civilian Office of Police Accountability, "Referral for Mediation," Section IV.C.

<sup>73</sup> In response to a draft of this report, COPA reported to OIG that for its own investigations, the Mediation Outcome form is saved in folder called "Final" of the investigative file in CMS. For BIA investigations, COPA is unable to access the Final folder for the investigative file, and therefore the Mediation Outcome form is saved in an internal folder, referred to as the Working folder.

## IV | Conclusion

OIG acknowledges that the pilot program was designed to run for a limited amount of time and its progress would be assessed by the City and its agencies and CCR prior to the implementation of a full-time program. While assessing the pilot program, OIG identified challenges faced by CCR, COPA, and BIA, including scheduling difficulties for both community members and Department members for the two-hour mediation session, tracking and documentation inconsistencies within the City's CMS for complaints referred to mediation, and future staffing and budgetary needs for both CCR and City agencies moving forward. OIG's analysis of the community-police mediation pilot program raises questions for further consideration as the program is modified and implemented after the conclusion of the pilot. Those are:

- How the City plans to ensure long-term solutions for budgetary concerns, including both funding for the mediation provider(s) and funding to support COPA's increase in workload and staffing;
- In its development of City policies, how the City will ensure clear guidelines for which City entity has ownership over the community-police mediation program, including the roles and responsibilities of all entities involved;
- How COPA and CPD will ensure that the information on the execution of the community-police mediation program in their internal guidance and/or policy aligns with the City's interagency policy and each other;
- How the City will ensure that the mediation provider(s) consider the location and time limitations of community members when scheduling mediations, for example by offering alternatives such as virtual mediation sessions;
- How COPA, CPD, and CCR will coordinate to ensure that cases referred to community-police mediation are tracked and that the complaints are being addressed, either through mediation or through standard investigative practices; and
- How COPA and CPD will engage community members to inform them that non-disciplinary, complainant-involved mediation is an available option to resolve conflicts with CPD members through the community-police mediation program.

# Appendix A | Interagency Policy



## PUBLIC SAFETY REFORM DIVISION

## Interagency Policy

|                                                                                                |                                          |                                  |
|------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------|
| <b>Title:</b><br><b>Community-Police<br/>Mediation Pilot Program</b>                           | <b>Procedure No:</b><br><b>IAP 11-01</b> | <b>Total No. of Pages:</b><br>17 |
| <b>Subject:</b> 11-Consent Decree<br>Implementation (Accountability &<br>Transparency Section) | <b>Effective Date:</b><br>15JAN2022      | <b>Version Number:</b><br>1      |
| <b>Approved By/Date:</b> /s/ Tyecsha<br>Dixon 12/23/21                                         |                                          |                                  |

### I. PREAMBLE

1. **WHEREAS**, the City of Chicago ("City") has entered into a policing Consent Decree in *State of Illinois v. City of Chicago*, N.D. Ill. 17-cv-06260; and
2. **WHEREAS**, to further compliance with the Consent Decree, including Paragraph 512, the City will launch a six-month pilot program to facilitate referrals of select complaints of police misconduct to neutral mediation ("Community-Police Mediation Referral Pilot Program" or "Pilot Program"); and
3. **WHEREAS**, the Community-Police Mediation Pilot Program requires the cooperative efforts of multiple City agencies;
4. **NOW, THEREFORE**, the City, acting through the below authorized signatories, adopts this Policy.

### II. PURPOSE

1. Pursuant to the Center for Conflict Resolution and City of Chicago Community Police Mediation Pilot Program Memorandum of Understanding, attached hereto as Appendix A, the City of Chicago ("City") will implement a six-month pilot program to refer to mediation eligible complaints filed with the Civilian Office of Police Accountability ("COPA") and the Chicago Police Department ("CPD") Bureau of Internal Affairs ("BIA") as a non-disciplinary alternative to the traditional established investigation procedure.
2. With the assistance of an impartial community mediator, the complainant(s) and CPD member(s) will meet and discuss the alleged misconduct and seek to address the complaint in a mutually agreeable way. This may result in an agreement or no agreement. The participants are not required to reach a formal resolution. Participation is voluntary and may be withdrawn by any of the involved parties at



any point.

3. This Policy allocates responsibilities to the City agencies responsible for implementing the Pilot Program. Each City agency identified herein will issue internal guidance (e.g., policies, procedures, and/or training) as needed to implement their responsibilities under this Policy.

### **III. PILOT PROGRAM OVERVIEW**

1. **Objective.** To implement a 6-month pilot program to mediate selected complaints meeting eligibility criteria listed in V below. Mediation is a confidential process in which the complainant(s) and accused CPD member(s) meet face-to-face and, with the assistance of a neutral mediator, discuss the alleged misconduct with the goal of arriving at a mutually agreeable resolution. Successful mediation is defined as a process in which the parties have heard, clarified, and understood the issues and each other's point of view. This may result in an agreement or no agreement. The participants are not required to reach a formal resolution. A misconduct case resolved through mediation will result in closure of the complaint without additional investigation or CPD member discipline. There is no monetary resolution.
2. **Desired Outcomes.** This program seeks to increase efficiency, transparency, and public trust in the support of procedural- and restorative-justice framed processes within the City's complaint resolution process by:
  - i. engaging the parties through listening and dialogue facilitated by a neutral mediator so they can gain understanding about the other person's perspective;
  - ii. identifying the causes of the parties' conflict, uncovering what factors led to the complaint, and engaging in collaborative problem-solving to attempt to resolve the dispute;
  - iii. providing police officers an opportunity to better understand their interactions with complainants, learn from their past behaviors, and understand how their actions may affect future interactions with civilians;
  - iv. providing complainants an opportunity to better understand the conditions and responsibilities of the law enforcement profession;
  - v. demonstrating the desire to provide accountability for police actions; and
  - vi. providing open communications to all parties involved.
3. **Commitments.** The City will adhere to the following tenets to promote prompt and professional case resolution:



- i. Timeliness. Because the ultimate success of mediation may be partly dependent on the timeliness with which mediation sessions are carried out, all City agencies will make reasonable efforts to ensure mediation referrals occur in a timely manner. The City and its agencies will make reasonable efforts to make any mediation referrals within three weeks of complaint filing. The target goal is to complete mediation within 90 days of the date the complaint was initiated.
- ii. Neutral Locations. The City will endeavor to ensure that mediations be held at neutral locations. All mediations will be conducted virtually for the duration of the Pilot Program at times agreed to by the mediator and parties.
- iii. Confidentiality. Confidentiality is an essential element of the mediation process. The City will endeavor to ensure that all communication and documents prepared in the course of the mediation proceedings are confidential in accordance with the provisions related to the confidentiality of law enforcement personnel records and the *Illinois Uniform Mediation Act*, 710 ILCS 35.
- iv. Qualified Providers: The City will endeavor to ensure that mediators chosen for the Pilot Program must be certified mediators who have been trained in Community-Police Mediation.

4. ***Effective Date***. This Policy shall be effective as of January 15, 2022.

#### **IV. STAFFING REQUIREMENTS**

- 1. **The City's Department of Law ("Law Department") and Office of the Mayor ("Mayor's Office")** will jointly identify a qualified mediation provider to provide the mediation services. The Law Department will take necessary steps to engage the mediation provider on the City's behalf and facilitate coordination with the mediation provider.
- 2. **COPA** will designate a qualified Intake Coordinator who will assume the responsibilities outlined herein.
- 3. **The Mayor's Office, CPD, and COPA** will designate appropriate resources as needed to properly promote the program and provide education about the program to CPD members and the community.



## V. COMPLAINT SCREENING

1. ***Accepting and Recording Complaints.*** COPA and CPD will continue to accept and record complaints by the same methods as any other complaint of police misconduct. Cases not referred for mediation will be processed for investigation by the same methods as any other complaint of police misconduct.
2. ***Authority to Refer for Mediation.*** Consistent with its authority to intake and process all complaints of CPD member misconduct, COPA will make final determinations as to which complaints are referred to the mediation provider, regardless of whether the complaint is within COPA or CPD's jurisdiction.
3. ***Making the Screening Decision.*** Upon COPA's receipt of a complaint, COPA investigative staff will follow applicable COPA policies and guidance addressing complaint registration, jurisdictional decisions, triage, and preliminary investigations.
  - i. For complaints determined to be within COPA's jurisdiction, COPA investigative staff will review the complaint and use their discretion to determine whether the complaint is appropriate for mediation, applying, at a minimum, the following criteria to determine whether the complaint is eligible for mediation, and notify the Intake Coordinator:
    1. Eligible complaint types include:
      - a. perceived bias/harassment;
      - b. failure to provide service/neglect of duty;
      - c. discourteous treatment/ unprofessionalism;
      - d. unnecessary physical contact (i.e., no-injury/contact not a reportable use of force); and
      - e. any conduct not otherwise detailed in (a) – (d) that, in the view of the COPA Chief Administrator, is likely to have a minimal negative impact on the operations or professional image of CPD or the complainant has conveyed that mediation is the preferred method of resolution.
    2. Ineligible complaint types include incidents involving:
      - a. a reportable use of force by a CPD member;
      - b. an arrest of the complainant;
      - c. an allegation of verbal abuse, as defined in 2-78-100 of the Municipal Code of Chicago;



- d. a lawsuit filed regarding the allegations in the complaint;
  - e. an intimate partner relationship between the complainant and the CPD member (i.e., instances of domestic violence or sexual misconduct);
  - f. injury to the complainant or CPD member;
  - g. property damage caused by the complainant or CPD member; and
  - h. complaints that include an express or apparent alleged violation of Illinois state law, the criminal code of another state, or a criminal federal statute against the CPD member.
- ii. For complaints determined to be within CPD's jurisdiction, COPA investigative staff will assign the complaint to CPD and, if upon review and further investigation, CPD determines the complaint to be appropriate for mediation through application of, at a minimum, the above criteria, the complaint will be returned to COPA with a written request to refer the complaint to mediation.
  - 1. The COPA Intake Coordinator will review CPD's request for referral to mediation. If the COPA Intake Coordinator disagrees with CPD's determination that the complaint is appropriate for mediation, the Chief of BIA and the Chief Administrator of COPA, or their designees, will confer to resolve the disagreement. If the disagreement is not resolved, the complaint will not be referred to mediation. COPA will document the outcome of efforts to resolve the disagreement.
- iii. Member History. Generally, a complaint is not eligible for mediation if the accused CPD member has had two or more prior complaints with similar allegations within the past 12 months.
  - 1. The Chief Administrator of COPA may approve an exception to this guideline for good cause. The Chief Administrator, or designee, may consult with the Chief of BIA, or designee, before making an exception for good cause. COPA will document the basis for good cause.
- 4. **Recording the Screening Decision**. COPA will document the screening decision, which will include the reasons the Intake Coordinator or, if in an exceptional circumstance listed above, the COPA Chief Administrator, determined the complaint was or was not appropriate for mediation.



## VI. NOTICE, REFERRAL, & PARTICIPANT ELECTION

1. **Participant Notice.** Upon determination that the case is appropriate for mediation, the Intake Coordinator or designee will provide notice informing the complainant(s) and CPD member(s) of the following:

- that the complaint has been identified as eligible for mediation;
- that the complaint has been referred to the mediation provider; and
- to expect contact from the mediation provider, who will provide more information regarding the mediation process, its purpose and goals, and how to proceed, should the complainant prefer mediation as a manner of resolving the complaint.

Notice to CPD member(s) will additionally include a description of allegation(s) and information regarding mediation as a voluntary, non-disciplinary outcome.

2. **Referral to Mediation.** The Intake Coordinator will ensure any case referred to the mediation provider is done so using the *Mediation Referral Form* attached herein as Appendix B. No other information about the case will be provided to the mediation provider. COPA will retain a copy of the *Mediation Referral Form*.
3. **Authorization to Proceed.** If the complainant and CPD member(s) desire to pursue mediation, the mediation provider will obtain their authorization to proceed.
4. **Withdrawal from Mediation.** The Law Department will make reasonable efforts to ensure the mediation provider establishes standards for determining whether a party to the mediation has withdrawn from the mediation process.
  - i. If the mediation provider determines a complainant or CPD member participated in the mediation process in good faith but one has nonetheless withdrawn from mediation, the mediation process will terminate, and COPA or BIA will proceed with an investigation according to the standard investigation procedures or otherwise close the complaint reflecting the attempted mediation.
  - ii. If the mediation provider determines the complainant is not participating in good faith, the complainant will be considered to have withdrawn from the mediation process. The complaint will be closed and reflected as mediation services completed.
  - iii. If the mediation provider determines the CPD Member is not participating in good faith, the CPD member will be considered to have withdrawn from the mediation process, the mediation process will terminate, COPA or BIA will proceed with an investigation according to the standard



investigation procedures.

5. **Other Termination.** If the mediation provider terminates the mediation process, including by declining to intake or conduct a referred mediation, COPA or BIA will proceed with an investigation according to the standard investigation procedures or otherwise close the complaint reflecting the mediator declination.
  - i. If the mediation provider declines to intake or conduct referred mediation, the mediation provider will promptly inform the complainant(s) and CPD member(s) that the case will not proceed to mediation.
6. **Mediation Report.** The Law Department will make reasonable efforts to ensure that once the mediation process is completed, the mediation provider completes and provides to the Intake Coordinator or designee written mediation report. COPA will retain the report.

#### **VII. REVIEW AND ASSESSMENT**

1. The City will review this policy at the end of the six-month period to determine whether the policy is effectively accomplishing the requirements outlined herein and the requirements of the Consent Decree.
2. Within 60 days of the completion of the six-month period, the City will provide a written assessment of the pilot program.
3. In the event that the City determines the requirements are better accomplished by other means, this policy is subject to revision or replacement.

Cassie Lively (on behalf of the Center for Conflict Resolution)

Andrea Kersten (on behalf of the Civilian Office of Police Accountability)

David Brown (on behalf of the Chicago Police Department)

Tyesha Dixon (on behalf of the City of Chicago Law Department)



\*\*\*\*\*

**REFERENCES/RELATED/FORMS:**

Center for Conflict Resolution and City of Chicago Community Police Mediation Pilot Program Memorandum of Understanding.

**CHANGE HISTORY:**

| Revision No. |  | Date | Change Summary | Approved By |
|--------------|--|------|----------------|-------------|
|              |  |      |                |             |
|              |  |      |                |             |

# Appendix B | COPA Guidance

|                                                                                   |                             |
|-----------------------------------------------------------------------------------|-----------------------------|
|  | <b>GUIDANCE</b>             |
|                                                                                   | <b>Unit:</b> Investigations |
| <b>Effective Date:</b> 10/1/22                                                    | <b>Supersedes:</b> 1/15/22  |

## Referral for Mediation

### PURPOSE

To provide guidance to members of COPA's investigative staff on certain procedures and expectations for identification and referral of misconduct complaints involving Chicago Police Department members to the Center for Conflict Resolution for mediation in compliance with the City of Chicago's Interagency Policy on Police Community-Employee Mediation Program.

### DEFINITIONS

| Term                           | Meaning                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Accused Department Member      | A Department member against whom allegations of misconduct have been made.                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Center for Conflict Resolution | A neutral mediation services provider engaged by the City of Chicago to facilitate a voluntary, non-disciplinary process of mediation between complainants and Department members.                                                                                                                                                                                                                                                                                                                                                                       |
| COPA Intake Coordinator        | An internal title assigned to the ranking COPA member assigned as manager of COPA's Intake Unit (typically, a Deputy Chief Administrator or Director of Investigations). The Intake Coordinator is responsible for reviewing and referring complaints identified as eligible for mediation by COPA investigative staff and the Chicago Police Department's Bureau of Internal Affairs (BIA), as well as acting as a liaison to the City of Chicago's mediation provider, in accordance with the City's Interagency Policy on Community-Police Mediation. |
| COPA Intake Unit               | COPA staff assigned to act as the agency's first point of contact to facilitate the initial intake of complaints and Notifications via COPA's various methods of information receipt, as well as make initial jurisdictional determinations, triage decisions, and conduct preliminary investigations.                                                                                                                                                                                                                                                   |
| COPA Investigative Squads      | COPA staff assigned to carry forward investigative efforts after the initial intake of complaints and Notifications by COPA's Intake Unit.                                                                                                                                                                                                                                                                                                                                                                                                               |

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**GUIDANCE**


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**I. INITIAL SCREENING**

- A. Consistent with the City's Interagency Policy on Community-Police Mediation Program (Policy), Municipal Code of Chicago 2-78-120(a), and COPA Policy (Intake), COPA's Intake Unit will continue to accept and record all complaints alleging misconduct against Chicago Police Department members.
- B. While processing and conducting preliminary investigative activity, COPA investigative staff will consider whether the complaint is eligible for mediation applying, at a minimum, the criteria listed in the City's Policy (*see* V(3)(i-iii)):

| <b><u>Eligible</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b><u>Ineligible</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>perceived bias/harassment;</li> <li>failure to provide service/neglect of duty;</li> <li>discourteous treatment/unprofessionalism;</li> <li>unnecessary physical contact (i.e., no-injury/contact not a reportable use of force); and</li> <li>any conduct not otherwise detailed above that, in the view of the COPA Chief Administrator, is likely to have a minimal negative impact on the operations or professional image of Department or the complainant has conveyed that mediation is the preferred method of resolution.</li> </ul> | <ul style="list-style-type: none"> <li>a reportable use of force by a Department member;</li> <li>an arrest of the complainant;</li> <li>an allegation of verbal abuse, as defined in 2-78-100 of the Municipal Code of Chicago;</li> <li>a lawsuit filed regarding the allegations in the complaint;</li> <li>an intimate partner relationship between the complainant and the Department member (i.e., instances of domestic violence or sexual misconduct);</li> <li>injury to the complainant or Department member;</li> <li>property damage caused by the complainant or Department member; and</li> <li>complaints that include an express or apparent alleged violation of Illinois state law, the criminal code of another state, or a criminal federal statute against the Department member.</li> </ul> |
| <p><b><u>Member History.</u></b> Generally, a complaint is not eligible for mediation if the accused Department member has had two or more prior complaints with similar allegations within the past 12 months.</p> <p>The Chief Administrator of COPA may approve an exception to this guideline for good cause. The Chief Administrator (or designee) may consult with the Chief of BIA (or designee) before making an exception for good cause. COPA will document the basis for good cause.</p>                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

**II. JURISDICTIONAL DETERMINATIONS AND NOTICE TO INTAKE COORDINATOR**

- A. For complaints within COPA's jurisdiction that appear eligible for mediation, COPA Intake staff will request review of the complaint to confirm eligibility by adjusting the investigative file in COPA's electronic Case Management System (CMS) to reflect the appropriate status for Intake Coordinator review, as well as include a note in CMS supporting the eligibility recommendation.

1. Because the City's Policy allows for certain exceptions to eligibility/ineligibility criteria, COPA Intake staff should err in favor of bringing complaints to the attention of the Intake Coordinator for review.
  - a. For example, if an injury claimed by the complainant appears to be superficial and/or, based on preliminary investigative efforts, was likely not the result of a Department member's use of force, COPA Intake staff may bring the complaint to the attention of the Intake Coordinator.
- B. For complaints determined to be within the BIA's jurisdiction, COPA Intake staff will follow standard intake procedures and submit the complaint to a supervisor for review and assignment to BIA.
  1. If the complaint appears to be clearly eligible for mediation under criteria listed in the City's Policy, a COPA Intake supervisor may note the potential for mediation in a note in CMS prior to assignment to BIA.
    - a. No notice to the Intake Coordinator is required prior to assignment of the complaint to BIA.
  2. If upon review and further investigation BIA determines a complaint within its jurisdiction to be eligible for mediation, BIA will assign the complaint back to COPA with a note in CMS recommending that COPA refer the complaint for mediation.

### III. INTAKE COORDINATOR REVIEW

- A. In determining eligibility for mediation, the Intake Coordinator will:
  1. evaluate the sufficiency of preliminary investigative efforts;
  2. apply eligibility/ineligibility criteria listed in the City's Policy; and
  3. consider any stated desires regarding outcome provided by the complainant.
- B. If determined eligible, the Intake Coordinator will:
  1. Ensure that correspondence notifying the complainant of COPA's determination is generated and sent utilizing COPA Template (Notice to Complainant of Referral for Mediation).
    - a. COPA will issue notice to the complainant's email address if one has been provided. In the absence of an email address, COPA will issue physical correspondence to the complainant's home address. If COPA is unable to contact the complainant through issuance of correspondence, the Intake Coordinator (or designee) may contact the complainant by phone and memorialize such efforts in a note in CMS.
  2. Ensure that correspondence notifying the Accused Department member(s) of COPA's determination is generated and sent utilizing COPA Template (Notice to Department Member of Referral for Mediation).

- a. COPA will issue notice to an Accused Department member's work email address.
  - b. Notice to Accused Department members will not include the complainant's name.
- C. If a complaint within COPA's jurisdiction is determined ineligible after referral to the Intake Coordinator for review, the Intake Coordinator will memorialize their decision in a note in CMS and notify the assigned investigative team by email that the complaint will not be referred for mediation and should proceed by following standard intake procedures.
  1. The Intake Coordinator will also adjust the status of the investigative file in CMS to reflect the appropriate status indicating that the complaint is no longer pending the Intake Coordinator's review.
- D. If the Intake Coordinator disagrees with a BIA recommendation to refer a complaint for mediation, the Intake Coordinator will notify the Chief Administrator (or designee) by email of the disagreement and request that the Chief Administrator (or designee) review the administrative investigative file.
  1. If the Chief Administrator (or designee) also disagrees with BIA's recommendation, the Chief Administrator (or designee) will notify the Chief of BIA (or designee) by email (cc'ing, at a minimum, the Intake Coordinator) and request a meeting to resolve the disagreement.
  2. If the disagreement is not resolved after meeting, the Intake Coordinator will assign the complaint back to BIA for investigation or resolution.
  3. The Intake Coordinator will ensure that all correspondence regarding the disagreement and efforts to resolve it are included or otherwise memorialized in CMS prior to assigning the complaint back to BIA.

#### IV. REFERRAL TO THE CENTER FOR CONFLICT RESOLUTION

- A. The Intake Coordinator is the liaison for all referrals for mediation to CCR.
- B. The Intake Coordinator will complete COPA Form (Referral for Mediation) to initiate referral of the complaint to CCR regardless of whether the complaint is determined to be within COPA or the Department's jurisdiction.
- C. The Intake Coordinator will incorporate a copy of the completed Referral for Mediation form in CMS, as well as include a note memorializing the referral in CMS.
- D. The Intake Coordinator will adjust the status of the complaint in CMS to reflect that it has been referred and is pending mediation.
- E. On an as needed basis, CCR may contact the Intake Coordinator (or designee) for assistance in communicating with the complainant. For example, to provide contextual information regarding COPA's intake and referral processes, COPA and BIA jurisdiction and

investigative responsibilities, application of mediation eligibility criteria, and disciplinary and non-disciplinary case outcomes.

## V. MEDIATION OUTCOMES

- A. CCR will notify the Intake Coordinator of all concluded referral reviews and mediation efforts through submission of COPA Form (Mediation Report), which will reflect, at a minimum:
  1. Mediation status (i.e., mediated, mediation attempted, and mediation declined by CCR)
  2. Mediation dates, if applicable; and
  3. good faith participation by the complainant and/or Accused Department member.
- B. The Intake Coordinator will adjust the investigative file in CMS to reflect the appropriate status based on the information provided by CCR and memorialize any supplemental information, as necessary, in a note in CMS.
  1. If a case is successfully mediated, the status of the investigative file will be updated to reflect “Mediated” and will be closed.
  2. If a case is not successfully mediated, the Intake Coordinator will:
    - a. If within the Department’s jurisdiction, return the complaint to BIA.
    - b. If within COPA’s jurisdiction, review the investigative file and determine whether the matter should be closed with no finding (though may include a recommendation to the Department for non-disciplinary action, such as training or support services) or assigned to a COPA Investigative Squad for further investigation.
      - i. COPA will consider an Accused Department member’s good faith participation in the mediation effort when determining whether to resume an investigation. For example, if CCR determines that the Department member participated in good faith, and the complainant did not participate in good faith, COPA will close the investigation with no finding and note the Accused Department member’s good faith participation as the reason for closure.

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## EXCEPTIONS

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After assignment of an investigation from the Intake Unit to an Investigative Squad, the assigned COPA investigative team may identify a subsequent complaint or complaints that may be eligible for mediation. This may occur, for example, as witnesses to the original complaint are identified and, through interviews of those witnesses, additional complaints involving Department members are raised.

The assigned investigative team will follow the procedures listed in II(A) above to notify the Intake Coordinator of the new complaint(s). The Intake Coordinator will review the new complaint(s) for eligibility

and collaborate with the assigned investigative team to ensure that the new complaint(s) are appropriately documented in CMS.

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#### RELATED INFORMATION

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| <u>Title</u>                                                                        | <u>Link</u>                            |
|-------------------------------------------------------------------------------------|----------------------------------------|
| Intake                                                                              | <a href="#">COPA Policy</a>            |
| Notice to Complainant of Referral for Mediation                                     | <a href="#">COPA Template</a>          |
| Notice to Department Member of Referral for Mediation                               | <a href="#">COPA Template</a>          |
| Mediation Report                                                                    | <a href="#">COPA Form</a>              |
| Referral for Mediation                                                              | <a href="#">COPA Form</a>              |
| City of Chicago's Interagency Policy on Police Community-Employee Mediation Program | <a href="#">City of Chicago Policy</a> |

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#### ADDITIONAL SEARCH OPTIONS

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| <u>Title</u>                          | <u>Link</u>            |
|---------------------------------------|------------------------|
| Return to [Section Description]       | <a href="#">[LINK]</a> |
| Proceed to [Next Section Description] | <a href="#">[LINK]</a> |
| Return to Keyword Search              | <a href="#">[LINK]</a> |
| Return to Table of Contents           | <a href="#">[LINK]</a> |

# Appendix C | CPD Department Notice



Chicago Police Department

COMMUNITY -- POLICE MEDIATION PILOT PROGRAM

Department Notice D22-04

|                 |                   |                 |                 |
|-----------------|-------------------|-----------------|-----------------|
| ISSUE DATE:     | 30 September 2022 | EFFECTIVE DATE: | 01 October 2022 |
| RESCINDS:       |                   |                 |                 |
| INDEX CATEGORY: | Department Notice |                 |                 |
| CALEA:          |                   |                 |                 |

## I. PURPOSE

This directive:

- A. introduces the Community -- Police Mediation Pilot Program.
- B. outlines the implementation of a mediation program that provides a non-disciplinary alternative to the traditionally established investigative procedures for eligible complaints filed with the Civilian Office of Police Accountability (COPA) and/ or the Bureau of Internal Affairs (BIA).
- C. introduces the Center for Conflict Resolution (CCR) as the entity that will provide impartial community mediator(s) to seek to address the eligible complaint in a mutually agreeable way between the complainant(s) and the sworn Department member.

## II. SCOPE

The Community -- Police Mediation Pilot Program will:

- A. be available to all sworn Department members.
- B. assess the complaint(s) during COPA intake review to determine eligibility for the mediation process.
- C. be based upon voluntary participation where any involved party may withdraw at any time during the mediation process.

## III. OVERVIEW

- A. Mediation is a confidential process in which the complainant(s) and the accused sworn Department member meet face-to-face and, with the assistance of the neutral mediator, discuss the alleged misconduct with the goal of arriving at a mutually agreeable resolution.
- B. Because the ultimate success of mediation session may be partly dependent on the timeliness with which the mediation process is carried out, the mediation process will be completed within 90 days from the date the complaint was initiated.
- C. Mediation sessions will be held at neutral locations. If a mediation session is conducted virtually, the session times will be agreed to by the mediator and involved parties.
- D. Confidentiality is an essential component to the mediation process. All communications and documents prepared in the course of the mediation proceedings are confidential in accordance with the provisions related to the confidentiality of law enforcement personnel records and the Illinois Uniform Mediation Act, [710 ILCS 35](#).
- E. The complaint resolved through mediation process will result in closure of the complaint without additional investigation of the complaint or imposing other sworn Department member discipline.

## IV. COMPLAINT SCREENING AND ELIGIBILITY

- A. COPA and BIA will continue to accept and document complaints in the Case Management System (CMS) by the same established methods as any other misconduct allegation by a sworn Department member.
- B. Consistent with their authority to intake and preliminarily process all complaint(s) of sworn Department member misconduct, COPA will make the preliminary determinations as to which complaints are referred to the mediation provider.

**NOTE:** As with any other complaint COPA receives, they have the discretion to add additional charges or allegations. Upon amendment of the complaint, COPA will determine if the revised complaint still falls within parameters for mediation eligibility.

- C. Eligible complaint types that can be referred to the mediation provider include:
  - 1. perceived bias and/ or harassment;
  - 2. failure to provide service and/ or neglect of duty;
  - 3. discourteous treatment and/ or unprofessionalism;
  - 4. unnecessary physical contact where there is no injury and the contact is **NOT** a reportable use of force;
  - 5. any conduct not otherwise detailed in Item IV-C-1 through Item IV-C-4 that, in the view of the COPA Chief Administrator, is likely to have a minimal negative impact on the operations or professional image of the Department or the complainant has conveyed that mediation is the preferred method of resolution.
- D. Ineligible complaint types include incidents involving:
  - 1. a reportable use of force by a sworn Department member;
  - 2. an arrest of the complainant;
  - 3. an allegation of verbal abuse, as defined in [2-78-100 of the Municipal Code of Chicago \(MCC\)](#);

**NOTE:** Defined verbal abuse in this MCC section means the use of oral or written remarks that are overly insulting, mocking or belittling, directed at a person based upon the actual or, perceived race, immigration status, color, gender, age, religion, ancestry, natural origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person. Verbal abuse shall also include any unwelcome sexual advances or requests for sexual favors.

- 4. a lawsuit filed regarding the allegations in the complaint;
  - 5. an intimate partner relationship between the complainant and the sworn Department member, specifically instances of domestic violence or sexual misconduct;
  - 6. injury to the complainant or sworn Department member;
  - 7. property damage caused by the complainant or a sworn Department member; and
  - 8. complaints that include an express or apparent alleged violation of Illinois state law, the criminal code of another state, or a criminal federal statute against the sworn Department member.
- E. A member's complaint history will be considered in determining eligibility for participation in the Community -- Police Mediation Pilot Program:

1. Generally, a complaint is not eligible for mediation if the accused sworn Department member has had two or more prior complaints with similar allegations within the past 12 months.
  2. The Chief Administrator of COPA may approve an exception to this guideline for good cause. The Chief Administrator (or designee) may consult with the Chief of CPD BIA (or designee) before making an exception for good cause. COPA will document the basis for good cause.
- F. Once the complaint is determined to be eligible for mediation, the case will be referred to the Center for Conflict Resolution (CCR) from COPA using a CCR referral form.
- NOTE:** If COPA received a complaint within BIA's jurisdiction, COPA will send the complaint to BIA with an annotation that identifies it for mediation consideration. If BIA determined the complaint is suitable for mediation, BIA will send the complaint back to COPA for mediation eligibility confirmation and referral to CCR.
- G. Upon referral, the Center for Conflict Resolution case management will provide intake with the involved participants which includes:
1. an explanation of the mediation process.
  2. a determination if all parties are willing to engage in mediation.
  3. the scheduling of the mediation.
  4. the assignment of mediator(s).

#### V. COMMUNITY – POLICE PILOT PROGRAM MEDIATION PROCESS

- A. Upon determining a complaint is eligible for mediation, scheduling of the mediation session will occur within 21 days.
- B. A scheduled mediation will be held at a neutral location.
- NOTE:** For mediations that are required to be conducted virtually, the mediator and participants must mutually agree to the desired time and date.
- C. Each mediation session will be conducted uniformly and will proceed in the following manner:
1. Early caucus — mediator(s) will meet with both sides ahead of the session to review protocols and discuss concerns prior to the beginning of the mediation session.
  2. Introductions — all participants will provide individual introductions.
  3. Mediator opening statement — the mediator will provide a statement explaining their role, articulate the rules of the session and reinforce confidentiality assurances.
  4. Participants opening statement — each side will give a brief statement of accomplishment goals.
  5. Open conversation — the mediator will begin an open dialogue with the purpose of facilitating the understanding of each side's experience.
  6. Conclusion — the mediator will bring the discussion session to a close.
- D. All participants will be required to sign a confidentiality waiver form at the beginning of the mediation session. The agreement form requires, in part, the following:
1. all matters discussed during the mediation are privileged and confidential unless otherwise agreed to by all the participating parties;
  2. neither COPA nor BIA will proceed with an investigation or open a new investigation for a complaint closed as a result of the mediation services completed or as a result of any new information learned during the mediation; and

3. mediation sessions will not be recorded in any fashion and all notes or other documents created during the mediation, except by agreement of all the participating parties, will be destroyed after the session.

**NOTE:** Information discussed in a mediation is privileged, not subject to the legal discovery process nor admissible in any court proceeding. Confidentiality of law enforcement personnel records are regulated by the Illinois Uniform Mediation Act, [710 ILCS 35](#).

E. Procedures for complaints that are successfully mediated via the Community -- Police Mediation Pilot Program.

1. Successful mediation is defined as a process in which the parties have presented, clarified and understood each side's point of view and the issues surrounding the complaint.
2. The outcome of a mediation may result in an agreement or no agreement between the participants.
3. The participants are not required to reach a formal resolution for a successful mediation.
4. The resolution of a successful mediation will close the complaint without additional investigation or sworn Department member discipline.
5. As with all complaints received against sworn Department members, a log number documenting the complaint will be opened in the CMS. A mediated complaint will be placed in a "Mediated" closure status by COPA and will not be converted to a complaint register number.

**NOTE:** If the mediation provider determines the complainant is not participating in good faith, the complainant will be considered to have withdrawn from the mediation process. Consistent with Item V-E-5 of this directive, the complaint will be reflected as mediation services completed, placed in a "Mediated" closure status, and will not be converted to a complaint register number.

6. Since the mediation process is a non-disciplinary resolution, the mediated complaint will not appear on the member's "sustained disciplinary history." It will, however, appear on the member's "complaint history."

F. Procedures for complaints that are not successfully mediated via the Community -- Police Mediation Pilot Program.

1. If the mediation provider determines a complainant or the Department member participated in the mediation process in good faith but one of the participating parties decides to withdraw, the mediation process will be terminated. COPA or BIA will then proceed with the investigation in accordance with their investigation standards.
2. If the mediation provider determines the Department member is not participating in good faith, the Department member will be considered to have withdrawn from the mediation process. The mediation process will be terminated and COPA or BIA will proceed with the investigation in accordance with their investigation standards.

G. The mediation process will be completed within 90 days after determining a complaint was eligible for mediation.

Authenticated by MWK

David O. Brown  
Superintendent of Police

22-065 GJD

# Appendix D | Mediation Outcome Form

|                                                                                   |                                   |
|-----------------------------------------------------------------------------------|-----------------------------------|
|  | <b>FORM</b>                       |
|                                                                                   | <b>Unit:</b> Investigations       |
| <b>Effective Date:</b> 1/15/22                                                    | <b>Supersedes:</b> N/A (Original) |

## Mediation Outcome

### BACKGROUND INFORMATION

At the conclusion of efforts to mediate a complaint referred by COPA's Intake Coordinator (or designee), the Center for Conflict Resolution (CCR) will complete and return this form to the Intake Coordinator, who will note receipt in COPA's electronic case management system, as well as store a copy in the electronic file and take appropriate action commensurate with the outcome of the mediation.

### CONTACT INFORMATION

|                                   |                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Log #:                            |                                                                                                                                                                                                                                                                                                                                |
| Complainant Name:                 |                                                                                                                                                                                                                                                                                                                                |
| Department Member Name:           |                                                                                                                                                                                                                                                                                                                                |
| Mediation Status:                 | <input type="checkbox"/> Mediated<br><input type="checkbox"/> Mediation Attempted (Withdrawal by Complainant)<br><input type="checkbox"/> Mediation Attempted (Withdrawal by Department Member)<br><input type="checkbox"/> Mediation Attempted (Terminated by Mediator)<br><input type="checkbox"/> Declined by CCR at Intake |
| Mediation Date(s), if applicable: |                                                                                                                                                                                                                                                                                                                                |
| CCR Outcome Code:                 | <input type="checkbox"/> A – Agreement<br><input type="checkbox"/> CC – Case Conciliated (parties reached an agreement before mediation)<br><input type="checkbox"/> IC – Initiator Canceled and case was not rescheduled<br><input type="checkbox"/> INS – Initiator No Showed to scheduled mediation                         |

Mediation Outcome

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                           | <input type="checkbox"/> INS/OPS – Initiator No Showed, One-Party Session held for Respondent<br><input type="checkbox"/> INS/RNS – Initiator No Showed and Respondent No Showed to scheduled mediation<br><input type="checkbox"/> IR – Initiator Refused to mediate<br><input type="checkbox"/> NA – No Agreement<br><input type="checkbox"/> NIC – No Initiator Contact<br><input type="checkbox"/> NRC – No Respondent Contact<br><input type="checkbox"/> PA – Partial Agreement<br><input type="checkbox"/> RC – Respondent Canceled and case was not rescheduled<br><input type="checkbox"/> RNS – Respondent No Showed to scheduled mediation<br><input type="checkbox"/> RNS/OPS – Respondent No Showed, One-Party Session held for Initiator<br><input type="checkbox"/> RR – Respondent Refused to mediate<br><input type="checkbox"/> UHM – Unable to Hold Mediation – determination made by CCR staff based on intake with both parties that mediation is not appropriate |
| Good Faith Participation: | Complainant: Yes <input type="checkbox"/> No <input type="checkbox"/><br>Department Member: Yes <input type="checkbox"/> No <input type="checkbox"/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| Notes, if applicable:     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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**SENDER**


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|      |       |
|------|-------|
| CCR: | Date: |
|------|-------|

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Mediation Outcome

# Appendix E | Department Responses



July 7, 2023

Tobara Richardson  
Deputy Inspector General for Public Safety  
Office of Inspector General  
740 North Sedgwick Street, Suite 200  
Chicago, Illinois 60654

*Via Electronic Mail*

**RE: COPA Response: 2023 OIG Community-Police Mediation Pilot Program Report**

Dear Public Safety Inspector General Richardson:

Thank you for your report of your office's inquiry into the City of Chicago's pilot community-police mediation program. Required by Paragraph 511 and 512 of the Consent Decree,<sup>1</sup> this pilot program was created to allow a voluntary and confidential process in which an eligible complainant and involved Chicago Police Department member could meet and, with the assistance of a neutral mediator, discuss the alleged misconduct with the goal of arriving at a mutually agreeable resolution.

First, it is important to note the extensive collaboration and planning that took place before the program's launch between by COPA, the Bureau of Internal Affairs, the Department of Law, the Mayor's Office, community stakeholders, and outside subject matter experts. This collective effort over the past four years included studying best practices of other cities' mediation programs, engaging with the police unions, building an operational model, and partnering with a mediation provider.

I agree with the conclusions in your report, most notably the need for the City to sufficiently fund and staff itself to fulfill the significant bandwidth required of the program. COPA looks forward to working with the Mayor's Office and the Department of Law to ensure that COPA has sufficient staffing for its program staffing needs. My understanding is that record-keeping irregularities highlighted in the draft report were due to enhancements made within the Case Management System (CMS) as the pilot program evolved. These CMS enhancements were developed to improve efficiency when referring cases to the mediation provider.

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<sup>1</sup> *State of Illinois v. City of Chicago*, No. 17-cv-6260 (N.D. Ill. Jan 31, 2019)

While the number of mediation sessions were not as much as we would have liked, we are proud to play a key role in this critical initiative to build trust between the Department and community. We look forward to contributing to its future sustainability and growth.

Thank you for your continued efforts in the City's critical Consent Decree reform process.

Respectfully,



Andrea Kersten  
Chief Administrator

cc: Deborah Witzburg, Inspector General (OIG)  
Megan Carlson, Associate General Counsel (PSIG)  
Garien Gatewood, Deputy Mayor of Community Safety  
Yolanda Talley, Chief (BIA)  
Dana O'Malley, General Counsel (CPD)  
Robin Murphy, General Counsel (COPA)



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July 7, 2023

Office of the Inspector General  
c/o Deborah Witzburg, Inspector General, Tobar Richardson, Deputy Inspector General  
for Public Safety  
740 N. Sedgwick Ave., Suite 200  
Chicago, Illinois 60654  
Email address

**Re: Community-Police Mediation Pilot Program Draft Report**

The Mayor's Office for Community Safety would like to thank the Office of the Inspector General (OIG) for the opportunity to meet during the exit interview to discuss the draft Community-Police Mediation Pilot Program report and to provide this statement in response to the items raised during the course of the interview. That said, the following will detail a few places in the draft that we would like to highlight in consideration for adjustment as you are finalizing your report.

In section "C. Community-Police Mediation Pilot Program," the report notes, three separate policies govern the **implementation** of the pilot and establish the complaint screening and mediation process that were followed throughout the pilot program. (p. 7):

- City's IAP 11-01
- COPA's – Referral for Mediation guidance document
- CPD's – Department Notice D22-04

The report goes on to note under "C. Methodology", to assess the policies and practices of the community-police mediation pilot program, the OIG reviewed the Department of law's Interagency Policy 11-01; the Center for Conflict Resolution's (CCR) and the City of Chicago Memorandum Of Understanding (MOU); the Civilian Office for Public Accountability (COPA) Guidance Referral for Mediation form; COPA forms; and the Chicago Police Department's (CPD) Department notice D22-04. (p.14)

However, while the "Methodology" mentioned the Memorandum of Understanding (MOU), the details contained in the MOU were omitted in the analysis and in doing so, the report appears to exclude key pieces of information as to the implementation of the pilot and how the service provider would deliver services to the participants during the pilot phase. Additionally, by omitting information contained in the MOU, the report appears to raise questions about the pilot that were answered by information in the MOU.

The terms laid out in the MOU stipulated the framework for the development of the pilot, the program details, community engagement responsibilities and funding source for the six-month pilot. Whereas the processes for implementation are characterized in the aforementioned City,

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COPA and BIA policies, the MOU defined the development role the service provider would assume in creating the foundation for the mediation pilot in partnership with the City entities.

The MOU more specifically addressed the program details which distinguishes the service provider's role in 3 key elements:

- Hiring appropriate staffing to conduct intake.
- Schedule parties
- Liaise with the Bureau of Internal Affairs (BIA) and COPA to ensure smooth processing.

The MOU also spells out the cadence for the parties to meet, *"...two and four months after the pilot start date to evaluate progress."* The document later notes, *"...the service provider will identify Pilot Program steering committee members and begin holding regular steering committee meetings."* The City assisted with this measure by convening routine check-in meetings with the parties to discuss the progress of the pilot on a monthly cadence, as opposed to intermittent check-ins with loosely formed collaborations and a narrowed ability to quickly identify issues which were disclosed throughout the duration of the pilot.

As to the location where the mediation session would be held, the MOU notes the service provider will maintain appropriate space within the community and/or affiliates to assure accessibility to the community at large and specifically, the City's most impacted communities. The service provider maintained the location for the sessions and options were discussed for transportation issues involved in commuting to CCR's office location.

Lastly, in the *"2. Referral Process and Mediation Efforts"* section, the report notes, the process once both parties agree to proceed, *"...Both parties and the mediator(s) will move into a shared space, either a physical room if in-person or the same Zoom room in a virtual mediation"* (p.11) CCR elected to conduct all mediation sessions at their office. The complainant is given the option to mediate face-to-face in a shared space or individual spaces but communicating in a virtual meeting.

This was an option as to how the mediation took place, not the location of the mediation. The option to hold the session virtually was proposed as a method of fostering a safe space for the community member to come to the mediation session to meet with an officer who would be in uniform. Recognizing the power dynamics of the firearm and the uniform and the potential of triggering trauma responses, the parties agreed to an alternative which would allow the individuals to attend the mediation session in a separate room but appear for the face-to-face portion virtually. This was not a policy term yet a workaround to create a safe space to hold the meeting.

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To close, we appreciate the OIG's analysis of the pilot and the remarks made in the Conclusion section of the report, which provided good questions and items to consider as the City takes the steps to build out the framework of a permanent program which addresses and improves scheduling, ensures there is adequate staffing to administer the program, and has the budgetary support to fund the program as it transitions out of the pilot phase in January, 2024.

Best regards,

Garien Gatewood  
Deputy Mayor for Community Safety

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For further information about this report, please contact the City of Chicago Office of Inspector General, 740 N. Sedgwick Ave., Suite 200, Chicago, IL 60654, or visit our website at [igchicago.org](http://igchicago.org).

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