A Message from ACR President Donzell Robinson

The Ferguson Missouri Consent Decree

Following the August 9, 2014 shooting of Michael Brown, the city of Ferguson, MO has steadily been trying to recover. (If you are unfamiliar with the events of Ferguson here is a timeline from USA Today.) For the past seven months, the City has been working with the United States Department of Justice (DOJ) to create a Consent Decree that details a plan to help the city heal and evolve by addressing the underlying issues between citizens and police head-on.

The proposed solutions from the 131-page document are many but include a focus on community outreach, re-worked trainings for police officers and school resource officers as well as the application of a new community mediation program for the citizens of Ferguson. As outlined in the Consent Decree “[Ferguson] will affiliate with the Community Mediation Services of St. Louis to conduct neighborhood mediations that promote lasting resolutions of appropriately selected disputes among community members, while reducing the need for involvement in the criminal justice system…” as well as a method to provide mediation in neighborhoods of Ferguson (8).

Community Mediation Services of St. Louis (CMS) been partnered with the St. Louis Metropolitan Police Department to conduct Police-Citizen Mediations to address issues citizens may have had with the police through face-to-face mediation. They have also held events in the past to discuss the impact of community mediation centers, most recently in October of 2015 as part of a partnership with ONE Ferguson.

The plan set out in the Consent Decree is similar in tone to what many community mediation centers already do nationwide. The ideal is to:

“Support mediation at all stages of the dispute… as a diversion from the criminal justice system… [with administration] by an individual with experience in neighborhood mediation or the administration of mediation programs, including the selection and training of mediators… Use mediators that reflect the diversity of, and come from the communities served by, the program; Ensure that mediators are trained consistently with best practices; Have a screening tool to ensure that mediation participants can speak for themselves in the mediation without fear of retaliation; and [have] quality assurance mechanisms to ensure that all components of the program, including volunteer participants, are operating effectively and consistently with best practices” (9).
As a good contrast to these outlines, here is the Ten-Point Mediation Model set forth by Community Mediation Maryland (CMM) for all Maryland centers that offer community mediation.

Research shows that Alternate Dispute Resolution programs like community mediation can benefit the community on various levels. As part of their Police-Citizen mediation program, CMS has also seen an increase in trust between citizens and police officers that leads to a less adversarial relationship. But CMS is not alone in addressing the benefits of mediation between citizens and officers as many community mediation centers report similar findings: after going through mediation, issues that would not otherwise be addressed can be resolved.

The Maryland Judiciary Mediation and Conflict Resolution Office (MACRO) highlights how mediation may benefit the participants: “people may achieve more satisfactory outcomes in a less time consuming and less expensive manner by using mediation”. Furthermore, in the 2010 study “Community Mediation and Use of Police and Court Resources” the tangible impact of mediation for courts and police is highlighted: less wasted time and money. They found evidence that “the repeated use of court and police resources is costly to communities as well as to the individuals involved” and that “[law] enforcement agencies and court personnel should increase the number of cases referred to mediation to realize the potential resource savings” (12-13).

There is still a week until the vote (to be held February 9, 2016) that will establish whether or not the City Council will accept the DOJ’s proposed Consent Decree. Citizens of Ferguson are urged to make their voices heard on the issue.
OTHER RESOURCES

Community Mediation Services of St. Louis http://mediationstl.org/

Police Citizen Mediation http://mediationstl.org/services/police-community/

St. Louis Metropolitan Police Department http://www.slmpd.org/

MACRO Maryland Standards of Conduct for ADR Practitioners and Standards of Conduct for Mediators

A 2005 article by Lorig Charkoudian “A Quantitative Analysis of the Effectiveness of Community Mediation in Decreasing Repeat Police Calls for Service”
I. Introduction

“The United States of America and the City of Ferguson (collectively, “the Parties”) enter into this Consent Decree (“Agreement”) with the shared recognition that the ability of a police department to protect the community it serves is only as strong as the relationship it has with that community” (1)

III. Community Policing and Engagement

“A. Strong community partnerships and frequent positive interactions between police and members of the public make policing more effective, increase public confidence in law enforcement, and can reduce bias” (4)

“E. Community Mediation Program

32. Within two years of the Effective Date, the City will affiliate with the Community Mediation Services of St. Louis to conduct neighborhood mediations that promote lasting resolutions of appropriately selected disputes among community members, while reducing the need for involvement in the criminal justice system. DOJ will approve that affiliation to ensure it comports with best practices in community mediation and the requirements below.

33. Within 180 days of the Effective Date, the City will, in consultation with members of the Ferguson community and the Monitor, develop a plan for providing neighborhood mediations in Ferguson. The plan will include an implementation timeline for interim steps, as appropriate, such as the retention of an administrator and volunteers; training; and initiation of mediations.

34. This neighborhood mediation program will:

   a. Support mediation at all stages of the dispute, from early-intervention to intervention after charges have been filed, as a diversion from the criminal justice system;
   b. Be administered by an individual with experience in neighborhood mediation or the administration of mediation programs, including the selection and training of mediators (this individual may also administer the misconduct mediation program required by Section XIX);
   c. Use mediators that reflect the diversity of, and come from the communities served by, the program;
   d. Ensure that mediators are trained consistently with best practices;
   e. Have a screening tool to ensure that mediation participants can speak for themselves in the mediation without fear of retaliation; and
   f. Have quality assurance mechanisms to ensure that all components of the program, including volunteer participants, are operating effectively and consistently with best practices.

F. Ongoing Assessment and Improvement

35. Within one year of the Effective Date, the City will develop protocols for regularly, and at least annually, conducting cost-feasible data-driven and qualitative assessments to measure the level and impact of its community
engagement and community policing initiatives. These assessments will be designed to ensure community-based initiatives are being implemented effectively and appropriately. As part of the assessment process, the City and FPD will identify deficiencies and opportunities for improvement, implement appropriate corrective action and improvement measures, and document measures taken” (8-9)

XIX. Accountability

“D. Community-Centered Mediation of Misconduct Complaints

399. Within one year of the Effective Date the City agrees to affiliate with the Community Mediation Services of St. Louis to provide a community-centered mediation program to act as an alternative to the misconduct investigation process described above for certain civilian allegations of officer misconduct. The misconduct complaint mediation program will be designed to increase understanding and trust between community members and FPD officers, and to prevent future misconduct and complaints of misconduct. The program will be developed and administered consistent with best practices and will specifically provide that:

a. Misconduct complaints will only be resolved through mediation where both the complainant (or his or her designee) and the subject employee agree to participation in the mediation process;

b. Only certain misconduct complaints will be eligible for mediation, as set out in FPD policy;

c. Officers who have participated in two or more mediation sessions within the previous 12-month period will not be eligible to have misconduct complaints made against them resolved through mediation; and

d. Where the mediator determines that the officer is not participating in the mediation program in good faith, the mediation shall end and the complaint investigation shall resume.

400. The City will provide appropriate resources to ensure that the misconduct mediation program is effective and operating in a way that is consistent with best practices. The program will be administered by an individual with experience in police mediation or the administration of mediation programs, including the selection and training of mediators. This individual may also be used to develop and administer the community mediation program required in paragraphs 32-34. Mediators conducting misconduct mediations will reflect the diversity of and come from the communities served by the program and will be trained consistently with best practices” (97-98)