

Mediation and Community Disputes



Plano Police Departments Submission for the Herman Goldstein Award 2007

**Plano Police Department
Neighborhood Police Unit**

**Sergeant Frank McElligott
Officer Richard Glenn
Officer Camille Bowie**



city of plano  police department
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June 28, 2007

Rob Guerette
Herman Goldstein Award Coordinator

SUBJECT: Plano Police Department
POP Initiative: Community Mediation

Dear Committee:

Please accept this nomination for the Herman Goldstein Problem Oriented Policing Award, based on POP: "Community Mediation" initiated by the Plano Police Department's Neighborhood Police Officer Unit. Officers from this Unit started working on this project due to numerous complaints regarding loud music in the City of Plano's Historic Downtown neighborhood.

Solving this problem involved members of other City departments, City Council members, and employees of the City Manager's office, in addition to one business owner and a citizen/apartment dweller. Ultimately, it was the Plano Police Department tasked with resolving the issue. The NPO unit utilized the SARA Problem Solving Model during this process, and have eliminated the problem. Officers thoroughly investigated the underlying causes that contributed to the complaints. After normal or routine police methods failed to resolve the problem officers turned to a new police tool, mediation.

The methods used by these officers proved that Police officers can make a positive difference when working with the community and thinking outside the box.

Sincerely,


Ed Drain
Assistant Chief



"Professionalism - Integrity - Progress"



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Problem-Oriented Policing Award
2007

Mediation and Community Disputes

Summary

The City of Plano while trying to rejuvenate the Old Downtown area allowed mixed-use zoning. In anticipation of a "boom", local developers built two apartment buildings in the area. There was also an increase in the number of restaurants. Some of the restaurants were open for lunch and dinner only, while a few who remained open as "nightspots". A resident of a nearby apartment began complaining to anyone who would answer the phone at City Hall, the Mayor's Office, City Council or the Police Department, about the noise from the live bands. Officers responded to numerous "loud music" complaints.

Scanning: Some of the new business that moved in included a couple of restaurants that provided live entertainment (bands). This caused conflict with some of the residents in the area that had originally moved into the downtown area intending to live in a quiet historic area.

Analysis: This project was started in response to a single person's (Mr. Citizen) complaints against Kelly's Eastside. Loud music from the live bands kept disturbing the apartment dwellers nearby. Restaurant managers needed the live band to keep the customers coming.

Response: City Hall sent personnel from the Health Department, on two separate occasions, to measure the decibel level of the music, no violations were found. The Police department took the lead to resolve this issue. On numerous occasions, officers responded to calls for service at the location. The use of officer discretion aggravated the problem and added the Police Department to the list of complaints made by "Mr. Citizen" to City Hall. The Neighborhood Police Officer (NPO) Unit was assigned to resolve the conflict. Officers from the NPO unit met separately with both the complainant and the bar owner. It was made very clear to the bar owner that enforcement action would be taken. The City Ordinance regarding noise was explained in detail, as was the fact that this was now a zero tolerance issue. Mediation was set between owners of Kelly's Eastside and "Mr. Citizen". It needs to be noted the Plano PD has trained its first line supervisors in mediation.

Assessment: There was one call to the police after the Mediation. During this call, "Mr. Citizen" refused to allow the Officer into his apartment, as agreed during the mediation; therefore, he was told there was no basis for his complaint. No further complaints were received from "Mr. Citizen" and he eventually moved out of the apartment complex, three months later.

Introduction

In the early 1990's, The City of Plano, like many other cities across the United States, began the task of revitalizing what had been their "Old Downtown" area. Over the years, businesses had moved out of the area and into the newer strip mall centers. This business exodus resulted in vacant buildings in the area and an increase in minor crimes such as criminal mischief and city ordinance violations.

Remaining merchants formed the Downtown Merchant Association in the hopes that unity would help promote ideas to bring shoppers to the area. Monthly meetings resulted in the merchants soliciting people they knew through networking to consider moving their businesses to the Old Down town area.

The area was attractive to people interested in opening restaurants for a few reasons, such as its close proximity to City Hall, the Police Department and Highway US 75. The new restaurant owners discovered their lunch business was sufficient thanks to the City employees and others working in the area, but their dinner crowd was almost non-existent. In an effort to boost the dinner crowd and develop "nightlife" in the downtown area, a few of the restaurants began providing live bands during the evening hours. The bands either played inside the establishment, or on a patio attached to the establishment. The later, and louder, the bands played the more it irritated a resident in the nearby apartment complex.

Scanning

The Neighborhood Police Officer Unit had one Officer assigned to work the Business District, which included the "old downtown area". The officer responded to calls from the merchants regarding problems they were experiencing. These problems included cars being

parked in front of their stores while the drivers used the DART train (valuable spaces), and kids skateboarding down the sidewalks, which is a violation of City Ordinance, scattering shoppers and causing damage to the new red brick sidewalks. The NPO officer also responded to calls from the apartment dwellers complaining about juveniles congregating on the roof of their parking garage, and graffiti.

Analysis

There are several stakeholders involved in this issue. The first is “Mr. Citizen”, who complained about the noise level of Kelly’s Eastside. The second is the downtown residents, who are also affected by the increased noise level in the area. The third is the downtown merchants that employ live bands to draw in more customers, mainly Kelly’s Eastside, Dish Neighborhood Cuisine, and The Plano Station. Additionally, the City of Plano is affected because restaurants have been successful in drawing business to the downtown area. Losing customers could affect downtown revitalization efforts.

On several occasions, “Mr. Citizen” and the owner of Kelly’s discussed the fact that “Mr. & Mrs. Citizen” were being disturbed by the loud music coming from Kelly’s. Neither party felt any obligation to try to see the matter through the other’s eyes. Both parties took a hard line and communications failed. “Mr. Citizen” then started a campaign to eliminate the bands altogether. “Mr. Citizen” started his campaign by calling City Council members and complaining, this of course resulted in the trickle down effect and it eventually reached the Chief of Police. The Administrative Lieutenant contacted “Mr. Citizen” and listened to his complaints about Kelly’s. The Lieutenant then emailed the information to the NPO Unit and the Patrol Division to enlist their help in resolving the issue. NPO Officers, as well as Patrol Officers, monitored the situation as an ongoing matter.

Response

Initially, City Hall sent employees of the Health Department to Kelly's to monitor the alleged violation and take decibel readings to determine a course of action. Two visits by the Health department resulted in no violations noted. The problem was then turned over to the Police department for resolution. Patrol Officers responded, and using their discretion issued warnings to the manager of Kelly's on all but one occasion. "Mr. Citizen" continued to call City Hall, Council Members and the Police Department to complain not only about the noise level, but also additionally about the abuse of officer discretion. The Neighborhood Police Officer Unit (NPO) was designated to take the lead on the problem, and using the SARA model resolve it. Sgt. McElligott assigned this project to Officer Camille Bowie. Because this was Officer Bowie's assigned area, she was familiar with the problem and "Mr. Citizen". Officer Bowie met with patrol officers who might respond to calls for service at Kelly's. Officer Bowie briefed the officers to insure they were fully aware of the problem, the issues, the actions that had been taken so far, and the desired uniformed response. Officer Bowie flexed her work hours to coincide with the nights and times the noise complaints were being received. Other members of the NPO Unit were also assigned as support officers to monitor not only Kelly's but also the other restaurants in the area for similar violations. Similar violations were found at two other restaurant locations within the area. The Managers of the two other locations were contacted and advised of the City Ordinance violations, which resulted in voluntary compliance. It was discovered that "Mr. Citizen" was not actually inside his apartment when the violations were heard from Kelly's. Most often, "Mr. Citizen" was standing on the roof of the apartments' multi level parking garage when he called in the complaints. Officer Bowie discovered "Mr. Citizen's" location while conducting surveillance and stationing herself between "Mr. Citizen's" apartment and Kelly's. When asked if he could hear the music from inside his apartment "Mr.

Citizen” became defensive and accused the Officer and the Police Department of siding with Kelly’s. When asked if Officer Bowie could enter his apartment to determine if music could be heard, “Mr. Citizen” refused. Officer Bowie continued surveillance of the location and monitored the problem. On nights “Mr. Citizen” saw Officer Bowie out at the location, no complaints were received. On nights when Officer Bowie took positions where she could not be detected by “Mr. Citizen”, he would call in a noise complaint. Officer Bowie, who was already at the location when the calls came in, would respond and inform “Mr. Citizen” she had been there and observed no violation. Officer Bowie provided daily briefings to Sgt. McElligott regarding the progress of a resolution to this problem.

In an effort to provide the best Police Service possible to the Citizens of Plano, the Plano Police Department in 2002 sent all of its Sergeants, Lieutenants and Captains to mediation training. Sergeant McElligott, supervisor of the NPO Unit, not only took the training offered by the City of Plano he added to it by taking additional training at local colleges regarding mediation and arbitration. Sgt. McElligott regularly volunteers his time and training at two local mediation centers. Sgt. McElligott believed mediation was the only solution to this problem.

Sgt. McElligott contacted the owner of Kelly’s and asked if he would consider mediation to try to resolve the issue between Kelly’s and “Mr. Citizen”. The owner of Kelly’s agreed at first to the mediation, but then advised he would have to talk to his Attorney/ Partner first. Later, the owner of Kelly’s contacted Sgt. McElligott and stated he and his partner would meet for the mediation. Sgt. McElligott then contacted “Mr. Citizen” and made the same offer, he agreed. Sgt. McElligott reserved a meeting room at the police station, a neutral but convenient location, and the parties agreed to meet there. Sgt. McElligott enlisted NPO Officer Richard Glenn to attend the meditation. Officer Glenn has extensive training in problem solving and had taken the basic mediation course. Sgt. McElligott intended to use this mediation as a tool to resolve the current problem while demonstrating to Glenn the value of learning mediation for his future use.

The parties all met at the police station and the mediation process was followed. Each side was given the opportunity to voice their complaints and concerns regarding the music and its effect on home life for “Mr. Citizen” and the business impact for Kelly’s. All parties heard first hand the wants and wishes of the other side. After lengthy discussions and a few unreasonable requests, Sgt. McElligott decided to caucus with the parties. Sgt. McElligott requested to meet first with “Mr. Citizen”. During this first meeting, “Mr. Citizen” tried to exert control over the operation of Kelly’s by dictating when and where the band was allowed to play. Sgt. McElligott recognized this as a common tactic in mediation and spent time with “Mr. Citizen” explaining why that was not going to happen. After much discussion, “Mr. Citizen” did have a reasonable list of demands. Sgt. McElligott knew the entire list would not be accepted by Kelly’s; however, it was a starting point and lines of honest communication were opening. Sgt. McElligott and Kelly’s met, and as anticipated a few requests made by “Mr. Citizen” were deemed unreasonable and rejected. Sgt. McElligott worked with Kelly’s to respond in a positive manner to “Mr. Citizen’s” requests, with some minor changes. This process (caucus) between “Mr. Citizen” and Kelly’s continued until a plan of action was compiled which was satisfactory to both parties. This plan of action would not only resolve the issue, but would start the “mending of fences” between Kelly’s and “Mr. Citizen”. Sgt. McElligott, as a neutral but involved party, knew where the discussions needed to go and what they needed to cover in order to resolve this. Using negotiation skills and the mediation process, he was able to bring the two parties to an agreement both could live with and felt they had to some degree “won”. When Sgt. McElligott had the final list of demands from “Mr. Citizen”, Sgt. McElligott already knew Kelly’s would agree to them. This information had come out in earlier caucus meetings during the evening. As with most mediations, when told that Kelly’s had agreed to his latest list of demands, “Mr. Citizen” stated “That was too easy” and tried to add to the list. Sgt. McElligott had seen this before and took a hard stance on the issue reminding “Mr. Citizen” that Kelly’s was

not required to agree to anything. “Mr. Citizen” relented and a written list was compiled and agreed to. In keeping the list as short and simple as possible, while addressing all the issues, the following was documented:

1. Kelly's will lower the volume of the music at 10:00 pm so that it cannot be heard inside the apartment of “Mr. Citizen”. In the event “Mr. Citizen” believes it is too loud he will call the police. The responding Officer will be allowed INTO “Mr. Citizen’s” apartment to determine if the music can in fact be heard. If the Officer can hear the music, and it is after 10:00 p.m., enforcement action should be taken.
2. Kelly's will not dump bottles into the trash after 10:00 p.m.
3. A representative from Kelly's will draft a letter concerning this incident to “Mr. Citizen”.

Assessment

The agreement stated “Mr. Citizen” would call the police if there were further problems and allow the officer inside his apartment. It was believed that many of the complaints were unsubstantiated because the complainant was standing on the roof of a parking garage, complaining about something that could not be heard inside his apartment.

The very first, and last, time “Mr. Citizen” called after the mediation, he was again complaining of noise he heard while on the roof of the garage. When asked for admittance to his apartment to determine if the music could be heard from inside, permission was refused. No further complainants were received from “Mr. Citizen” by City Hall, City Council or the Police Department.

The high point of this instance was the resolution using the Mediation process. This was a case which had started with a letter to a City Council person, and had filtered it’s way through the Mayor to the City Manager to the Chief of Police to Patrol and finally to the NPO Unit. While other City Departments had no luck resolving the issue, the use of mediation to open lines

of communication in a non – enforcement manner proved successful. The City will continue to have this type of problem due to the mixed-use zoning of the downtown area. Furthermore, it is clear the Police Departments benefits from requiring all supervisors to attend mediation training.

Agency and Officer Information

1. Officer Bowie and Sgt. McElligott initiated the Problem-Oriented Policing Project; however, there were many instances before and after its inception, that different departments assisted them in their task. Members of the Health Department, Patrol Division and NPO Unit assisted. It was only through the support of the entire Chain of Command that this kind of cooperation and enforcement could take place.
2. Patrol Officers have not received POP training. All members of the NPO Unit do receive POP training. Officer Glenn has taken a one-week Mediation Course offered by the Plano Police Department. Sgt. McElligott has over 600 hours of Mediation training and has conducted over 100 mediations.
3. No additional incentives were given to Officer Bowie, Officer Glenn or Sgt. McElligott for engaging in problem solving. The officer's motivation for this initiative was guided solely by their ability to identify a problem, have the time and resources to work the problem and the discretion to resolve ancillary issues in the manner they deemed appropriate.
4. As previously stated, the combination of training present in the NPO Unit as well as the current Chain of Command helped formulate the plan. Sgt. McElligott's extensive mediation experience was a valuable resource.
5. NPO members noticed that many of the restaurants with live bands were violating the noise ordinance. Once that was identified, it was necessary to educate all restaurant owners to the City Ordinance.
6. Personnel resources were the primary resources committed to address the issue.

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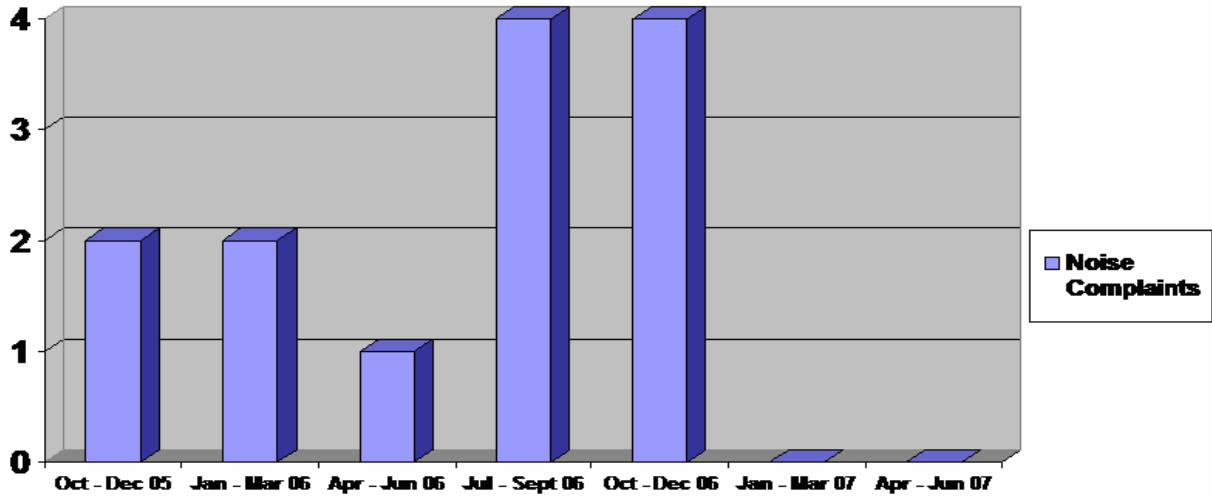
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Noise Complaints on Kelly's East Side Oct 05 – Jun 07



Officer Time Spent at Kelly's East Side Oct 05 – Jun 07

