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CRIMINAL COURT MEDIATION

WHAT IS MEDIATION?

Mediation is a private meeting between the complaining witness and the defendant, facilitated by an independent and highly trained mediator(s). The mediator does not take sides or make decisions, but rather assists the parties to reach their own agreeable solution. Mediation is a voluntary process that is free (i.e. no cost to either party).

WHY HAVE I BEEN REFERRED TO MEDIATION?

If your case has been referred to mediation, it is because the D.A.'s office and the Defense Attorney feel that mediation is a more effective way of handling your matter at this time. In mediation, most people are able to work out agreements and resolutions on their own, instead of having the matter solely decided by the court. If a resolution is not reached in mediation, the case can still continue in court.

WHAT ISSUES CAN BE DISCUSSED IN MEDIATION?

Issues that can be discussed in mediation include, but are not limited to, harassment, criminal trespassing/mischief, menacing, noise, assaults, property damage, and debts. In addition, participants can address the impact the dispute has had and form plans for their future interaction, including decisions about an order of protection.

WHEN WILL MY MEDIATION OCCUR?

Your mediation will be scheduled within 4-6 weeks and will be held before the next adjournment date. The defendant will still be required to return to court on the adjourned date. All orders of the court remain in effect until the adjourn date.

WHAT HAPPENS BEFORE MY SCHEDULED MEDIATION?

Brooklyn Mediation Center staff will contact the complaining witness and the defendant beforehand to talk about the incident, explain the mediation process, answer questions, and prepare them for the session. These conversations take place in person or over the phone. The content of these discussions is confidential.

WHO WILL BE PRESENT AT MY MEDIATION?

The defendant, complainant, and the mediator(s) will be present at the mediation. Attorneys or witnesses are usually not present. Support people are allowed provided that the NYPI Mediation staff is informed of their participation ahead of time, and their presence is approved by all original parties.

WHAT HAPPENS DURING MY MEDIATION?

In mediation, participants talk about the issues from each other's point of view. Each party has the opportunity for their concerns and feelings to be heard and acknowledged. Participants will then move on to suggest ways that might solve the problems. The conversations won't be shared with the D.A.'s office, Defense Attorney or judge. *Nothing that is said in mediation can be used as testimony or evidence.* The exceptions to confidentiality are allegations of child abuse and neglect as well as threats of harm to self or others. Mediation is not about proving who is right or wrong, but how to repair the damage caused by the dispute and how to formulate plans to move on.

WHAT ARE THE BENEFITS OF MEDIATION?

- Mediation provides an opportunity for the people involved in a dispute to speak directly to one another and make decisions, rather than have a decision imposed by the judge.
- The chance to repair harm/relationship, if appropriate.
- In some cases, mediation is an opportunity for the parties to express remorse and give an apology to one another.
- Mediation can give a sense of closure.
- Mediation can help participants feel more powerful and in control.
- Mediation provides a chance for parties to regain a sense of safety.

AGREEMENTS

Agreements will be written and will become part of the case record. Agreements will be sent to both the D.A.'s office and the Defense Attorney for review. On adjourn date, the judge will receive a copy.

WHAT CAN BE IN THE AGREEMENT?

- Restitution (so ordered by the judge at disposition)
- Order of protection decision (can be ordered by the judge at disposition but is ultimately up to the judge.)
- Plan for future interaction
- How to move forward
- Community service or other program (so ordered by the judge at disposition)

NEW YORK PEACE INSTITUTE

The New York Peace Institute (formerly the Safe Horizon Mediation Program) is a non-profit agency supported by the Unified Court System and the CJC (NYC). The center handles over 4,500 cases a year, and trains more than 3,000 people a year in conflict resolution and restorative justice, making it one of the largest community mediation centers in the country. Mediators are community volunteers and staff - professionals from all walks of life, such as attorneys or social workers. All mediators receive extensive training.

WHAT'S NEXT?

You will be contacted by the NYPI Brooklyn Mediation Center to prepare you for mediation and to schedule an appointment. If you have any further questions and/or concerns about mediation, please call (718) 834-6671 and ask for either:

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