

CRIMINAL MISDEMEANOR SCREENING FORM

Introduction

This tool is used for screening all criminal cases referred by a Hamilton County Municipal Court judge. This tool is used as part of an interview process; it is not used as a tool in and of itself, like a written questionnaire.

This screening begins with a review of records (prior to an interview) which may indicate a history of domestic abuse. The interview then proceeds with each party individually, in person or by phone, prior to scheduling mediation. This form is used in conjunction with a computer database form that gathers contact information and other demographic information.

The form is utilized by intake staff who use the written questions as prompts to form inquiries, to ask follow up questions, to open the door for further communication about the situation and to determine what each party may need and how mediation should be structured to go forward safely.

The screening tool is used by court intake staff who are trained and experienced in interviewing techniques as well as in identifying issues of domestic abuse. Although local rule prohibits the mediation of criminal domestic violence cases, it is important to recognize that there can exist criminal cases that may not be charged as or rise to the level of criminal domestic violence, but should still be screened for abuse issues.

Under the section entitled, "Explanation of Mediation", questions 9 and 10 obviously relate to domestic abuse screening, but any information gathered from other questions could inform the interviewer about the possibility of a domestic abuse situation. For example, question 8 of that section addresses how the parties know each other, their past and current relationship; this is often the first indicator of a possible domestic abuse situation. In that same section, question 7 deals with the involvement of attorneys or nonparty participants; a party's stated desire to be accompanied by an attorney/nonparty participant could indicate a possible domestic abuse situation.

Before any scheduled mediation, the intake staff meets with the assigned mediator to review the case, to communicate any concerns or needs of the parties, and to recommend any conditions under which mediation should go forward.

Criminal Case Mediation Screening Form

Court Case # _____ PCMS Number _____ ITW _____

Complainant's Name: _____

Complainant Interviewed: In person, date _____ Over phone, date _____

Defendant's Name: _____

Defendant Interviewed: In person date _____ Over phone, date _____

Mediation Date: _____ Time: _____

Mediation Location: Mediation office Courthouse

Mediation Reminder Calls:

To Complainant on _____ To Defendant on _____

Special Instructions to Mediator: _____

RECORDS REVIEW

1. Affidavit, attached
2. Complaint, attached
3. Referral to Mediation, attached
4. PTS documents (for D): YES, Attached NO
5. Previous Criminal Case History for D: YES, Attached NO
6. Previous Criminal Case History for C: YES, Attached NO
7. Current/Past protection orders between parties (list case numbers and if in effect)

8. Previous PCMS History (list case numbers and whether between same parties)

EXPLANATION OF MEDIATION, ANSWERING QUESTIONS ABOUT MEDIATION

1.) **Purpose of mediation:** Judge _____ has referred this case to mediation in order for parties to see if they are able to reach a voluntary agreement that will resolve the dispute.

2.) **Role of mediator:** Mediator is impartial, not a judge, will not take sides, dictate settlement or evaluate evidence. Mediator will ask each party to give his/her perspective about the dispute, identify what each party's issues are, and ask each party for suggestions about how the issue could be resolved. Working with the parties' suggestions, the mediator will assist parties in reaching an agreement. Mediator does not make decisions for parties; parties decide whether or not to settle.

3.) **Privilege & Confidentiality:** By law (UMA), everyone has a privilege not to reveal mediation communications in court. So, for example, if this is not settled in mediation, the case would resume in court and you could refuse to disclose and keep anyone else from disclosing things said in mediation, with exceptions defined by UMA.

Mediation staff keeps all mediation communications confidential, as law allows. For example, this conversation is confidential and will be shared only with mediator. The mediator also keeps mediation communications confidential, as law allows.

There are some **exceptions to privilege & confidentiality**, for example: Mediator can't keep confidential any crime committed in mediation or allegations of child/elder abuse. Also, documents that can be evidence in court (bills, photos, etc.) can't be kept out of court simply because they are reviewed in mediation.

4.) The **report given to judge** lists just the mediation date/who present/ settlement or not. Also, any statement of voluntary settlement signed by parties is given to judge.

5.) **If agreement not kept** by one party, the other may contact police to see if criminal charge could be filed (if new charge) or re-filed (original charge); or party could contact attorney/file civil lawsuit.

6.) Explain **what happens if there is a settlement**, i.e., parties sign forms requesting judge dismiss case, but explain that judge has final decision-making authority.

Explain **what happens if no settlement**: case goes back to court and regular court process resumes. Stress that defendant must go back to court on next date; complainant only if subpoenaed.

7.) **Attorneys & Nonparty Participants:** Though not required, each party may have an attorney or other nonparty participant accompany him/her to and participate in mediation.

Complainant Attorney Info: Do you have attorney? YES NO

If yes, list name _____

Will attorney be with party in mediation? YES NO

Defendant Attorney Info: Do you have attorney? YES NO

If yes, list name _____

Will attorney be with party in mediation? YES NO

Complainant NP Info: If no attorney, will there be another nonparty participant with party?

YES list name and relationship to party _____ NO

Defendant NP Info: If no attorney, will there be another nonparty participant with party?

YES list name and relationship to party _____ NO

Discuss with each party any issues regarding nonparty participant: a.) NP must be age 18 or older, b.) NP must not be a witness, c.) whether the NP's presence will interfere with effective discussion, d.) whether party needs NP present in order for party to participate in mediation.

8.) **Relationship between Parties** Ask questions to ascertain the current and past relationship between the parties; e.g., How do you know the other person? Do you know each other through a third party? For how long have you known the other person? What is/was the nature of your relationship (intimate partner, friend, family member)? Have you lived/do you live with the other party? What is current relationship?

Depending on the information received, ask follow-up questions, e.g., if party says the other is an ex-boyfriend, ask when break-up occurred, if they still have contact, etc. Gather sufficient information to categorize the relationship as one listed below (categories are defined in Section M of the Intake Manual):

- | | | |
|--|---|--|
| <input type="checkbox"/> Spouse | <input type="checkbox"/> Friend | <input type="checkbox"/> Landlord/Tenant |
| <input type="checkbox"/> Ex-Spouse | <input type="checkbox"/> Ex-Friend | <input type="checkbox"/> Employer/Employee |
| <input type="checkbox"/> Live-as-Spouse | <input type="checkbox"/> Acquaintance | <input type="checkbox"/> Teacher/Student |
| <input type="checkbox"/> Ex-Live-as-Spouse | <input type="checkbox"/> Not Acquainted | <input type="checkbox"/> Agency/Client |
| <input type="checkbox"/> Parent/Child | <input type="checkbox"/> Roommates - Platonic | <input type="checkbox"/> Teacher/Parent or Student |
| <input type="checkbox"/> Natural Parent | <input type="checkbox"/> Neighborhood | <input type="checkbox"/> Unknown |
| <input type="checkbox"/> Other Relative | <input type="checkbox"/> Business Customer | |
| <input type="checkbox"/> Ex- Boy/Girl Friend | <input type="checkbox"/> Co-Workers | |

Note below additional information which describes the relationship; in particular, note if parties have differing views of the relationship:

9.) **Safety:** Mediation typically occurs with parties face-to-face.....any concerns? Do you feel comfortable/safe mediating with other party?

Complainant concerns:

Does the defendant have access to weapons? _____ Do you? _____

Defendant concerns:

Does the complainant have access to weapons? _____ Do you? _____

10.) **Domestic Violence/Abuse, Child or Elder Abuse/Neglect** Throughout the interview, ask questions to assess the possibility of or presence of Domestic Violence/Abuse or Child or Elder Abuse/Neglect. Regardless of current criminal charge, always assess this when parties are family/household members or intimate partners. Always screen for these issues without other side present. Always give referrals to parties who do not have information about support/counseling.

Are there domestic violence/abuse issues present? YES NO

If yes, list party who is possible victim and give history/summary of abuse issues:

List any past/current court cases or current protection orders:

Are there child or elder abuse/neglect issues present? YES NO

If yes, list party who is possible victim and give history/summary of abuse issues:

List any past/current court cases or current protection orders:

Does party have information about resources? YES NO

If no, what referral information did you provide?

11.) **Interpreter needs?**

Complainant: YES, language _____ NO

Defendant: YES, language _____ NO

12.) **Other Needs?** (e.g., wheelchair access, need for frequent breaks)

Complainant: YES, explain: _____ NO

Defendant: YES, explain: _____ NO

13.) Are you **willing to mediate?**

Complainant: YES NO

Defendant: YES NO

If no, tell parties that a date will be set, regardless. Explain that if a party chooses not to appear, then the report to court will indicate who was present and who was not present.

SUMMARY OF ISSUES

Complainant:

1.) Can you give me a brief description of what happened/what you think the issues are in this dispute?

2.) What would resolution look like to you?

(Note: if party interested in monetary resolution, advise party to bring to mediation any bill, estimate, receipt, etc., that could serve as basis for negotiation.)

Defendant:

1.) Can you give me a brief description of what happened/what you think the issues are in this dispute?

2.) What would resolution look like to you?

(Note: if party interested in monetary resolution, advise party to bring to mediation any bill, estimate, receipt, etc., that could serve as basis for negotiation.)

SCHEDULING

Complainant:

1.) What days/times are better for you?

2.) Scheduling Date/Time Options Given:

Defendant:

1.) What days/times are better for you?

2.) Scheduling Date/Time Options Given:

Confirmed Date/Time: _____

Notice Sent on _____