

District Court of Kansas  
29<sup>th</sup> Judicial District

Chambers of  
Hon. Robert P. Burns  
Chief Judge  
Division One



Nancy E. Gilbert  
Administrative Assistant

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TO: WYANDOTTE COUNTY DISTRICT ATTORNEY, ASSISTANT  
DISTRICT ATTORNEYS, AND DEFENSE ATTORNEYS

FROM: ROBERT P. BURNS  
CHIEF JUDGE

A handwritten signature in black ink, appearing to read "R. Burns", written over the printed name "ROBERT P. BURNS".

SUBJECT: CRIMINAL MEDIATION

The Wyandotte County District Court is pleased to announce the immediate implementation of criminal mediation in all felony cases pending in the 29<sup>th</sup> Judicial District. Criminal mediation is a unique process which attempts to resolve a criminal case without the burden, expense and uncertainty of a jury trial while also allowing input from victims, prosecutors, defense attorneys and defendants. The backlog of cases which has occurred during the stay of jury trials by the Kansas Supreme Court resulting from the Coronavirus pandemic has amplified the need to take a creative approach to reaching a resolution to pending jury trials.

What; Why; When; How; Who

Criminal mediation is a confidential discussion about the facts and issues of a case with an experienced judge who is otherwise not involved in the case. This permits all interested parties, defendants, defense attorneys, prosecutors, and victims to receive an unbiased assessment of the case by a neutral party. The importance of a case is often viewed from a different perspective by all of those involved. Criminal mediation encourages an honest discussion about the possible outcome at a jury trial with non-binding recommendations on a possible resolution of the matter.

Criminal mediation can occur at any time even before charges are filed if the parties are so inclined. But the current backlog of jury trials caused by the pandemic means priority for mediation will be given to those cases already bound over for

trial. An order for mediation will be signed by the assigned criminal judge at the request of any party and mediation can also be strongly recommended by the assigned criminal judge. Once the case is ordered to mediation, the parties will find another judge who is available and willing to conduct the mediation.

The following is a list of judges who have been approved to conduct criminal mediations. Please note that neither the assigned judge nor any judge who has previously handled the case in a substantial manner is eligible to be the mediator.

<u>JUDGE</u>	<u>ADMINISTRATIVE ASSISTANT</u>	<u>PHONE#</u>	<u>EMAIL</u>
Robert Burns	Nancy Gilbert	573-2923	<a href="mailto:rburns@wycokck.org">rburns@wycokck.org</a> <a href="mailto:ngilbert@wycokck.org">ngilbert@wycokck.org</a>
Daniel Cahill	Denise St. James	573-2806	<a href="mailto:dcahill@wycokck.org">dcahill@wycokck.org</a> <a href="mailto:dstjames@wycokck.org">dstjames@wycokck.org</a>
Wesley Griffin	Sherri McGill	573-4104	<a href="mailto:wgriffin@wycokck.org">wgriffin@wycokck.org</a> <a href="mailto:smcgill@wycokck.org">smcgill@wycokck.org</a>
Renee Henry	Gayle Fulks	573-2987	<a href="mailto:rhenry@wycokck.org">rhenry@wycokck.org</a> <a href="mailto:gafulks@wycokck.org">gafulks@wycokck.org</a>
Bill Klapper	Karen Coulter	573-2926	<a href="mailto:bklaapper@wycokck.org">bklaapper@wycokck.org</a> <a href="mailto:kcoulter@wycokck.org">kcoulter@wycokck.org</a>
William Mahoney	Joyce Borjas	573-2929	<a href="mailto:bmahoney@wycokck.org">bmahoney@wycokck.org</a> <a href="mailto:jborjas@wycokck.org">jborjas@wycokck.org</a>
Jennifer Myers	Ann Griffin	573-2967	<a href="mailto:jmyers@wycokck.org">jmyers@wycokck.org</a> <a href="mailto:agriffin@wycokck.org">agriffin@wycokck.org</a>
Aaron Roberts	Katlyn Lowe	573-2917	<a href="mailto:aroberts@wycokck.org">aroberts@wycokck.org</a> <a href="mailto:klowe@wycokck.org">klowe@wycokck.org</a>
Michael Russell	Courtney Colson	573-2920	<a href="mailto:mrussell@wycokck.org">mrussell@wycokck.org</a> <a href="mailto:ccolson@wycokck.org">ccolson@wycokck.org</a>

The following is what will be expected of each party and what is necessary for criminal mediation to be successful.

### Judges

- Available to conduct mediation in a timely manner.
- Allow 30-90 minutes for mediation.
- If a plea is reached, find another judge to accept the plea as soon as possible and practical.
- Case remains with the assigned judge for sentencing unless otherwise directed by the Chief Judge.

### Prosecutors

- Have the authority to offer a plea and be ready to proceed immediately to plea hearing.
- Establish with reasonable certainty the defendant's anticipated criminal history score.
- Have contact with victims, especially on person felonies.
- Invite victims to attend mediation or discuss case with mediator, especially on person felonies.
- Coordinate victim input with victim's advocate.
- Respond to emails/phone calls from mediating judge.
- Work with defense attorney to select and schedule a judge to conduct mediation.

### Defense Attorneys

- Thoroughly review case with defendant prior to mediation, including the merits of possible defenses.
- Explain to the defendant the possible range of sentence if convicted at jury trial with defendant prior to mediation.
- Discuss the mediation process with defendant, including the procedure and purpose.
- Be prepared to enter plea if an agreement is reached.
- Invite any person who is a decision maker to the defendant to attend the mediation.
- Respond to emails/phone calls from mediating judge.
- Work with prosecutor to select and schedule a judge to conduct mediation.

## Defendants

- Be prepared to enter plea if agreement is reached.
- Be prepared to speak directly to judge.
- Feel free to ask mediating judge questions about criminal process.
- Know that process is confidential and cannot be used against them at jury trial.
- Consult with anyone who defendant considers to be a decision maker for them.

## Victims

- Express their thoughts about case and defendant to mediator.
- Receive explanation about criminal process and possible outcomes from a judge.
- Have any questions answered by a judge.
- Given an opportunity to freely express opinions and preferences in informal setting.
- Will meet with mediator separately from other parties and can be scheduled at their convenience prior to mediation.

While criminal mediation is new to Wyandotte County it has been used successfully through the country and in Kansas for several years. Like any new process, there may be revisions that are necessary as it evolves but we are optimistic that mediation can resolve many cases in a manner that is acceptable to all interested parties. Your cooperation is appreciated as we work to improve the operations of the judicial system.