

EXHIBIT 4  
 DATE 2/11/05  
 HB 391



*How I can help you...*

This process is normally done through the Court system. It is a mediated plea bargain in which the defendant is involved. Should you be interested, contact me and I will work with the Court to arrange a meeting with you and the necessary persons.

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*Mediations Offered:*

- Community
- Family
- Parent/Teen
- Peer (School)
- Criminal
- Victim/Offender
- Public Policy
- Conflict Management
- Training
- Contact Nancy

**CRIMINAL MEDIATION**

Conceived by Nueces County Court at Law #4 Judge E. Klager, this concept could be called a mediated plea bargain for misdemeanors. This process brings together the County Prosecutor, the defendant, either with his/her attorney, or *pro se*, and the Mediator to discuss the case and the recommended punishment. The uniqueness of Criminal Mediation is that the defendant is part of the process, and is face to face with the Law (the Prosecutor), therefore, realizing the seriousness of his/her crime. The initial motivation for Criminal Mediation was to take the load off the Courts.

In our Criminal Mediations, we found that the defendant realized that s/he could not manipulate the Law and must pay the consequences for their action. Because of the face-to-face arrangement, we were convinced that this process would help deter them from making the same mistake again, particularly for first time offenders. Sometimes circumstantial evidence would cause the case to be dismissed or would alter the Prosecutor's recommended punishment. At no time did the defendant "get off" from having committed the crime. An agreement was reached in 73% of the cases and was then taken to the Judge, who

approved it 99% of the time. This program provided a significant financial savings to Nueces County. It took cases off the books faster than if they had gone to the Courts and with much less cost. The County Commissioners approved the costs of this program. One of the redeeming aspects of this procedure was that it was a complete process because the defendant was present to tell the "whole story." This usually does not happen when a case goes to trial.

### MY TRAINING IN THIS AREA

- As we were establishing Criminal Mediation, I conducted them myself with then County Attorney Carl Lewis, as Prosecutor.
- I held trainings, giving the Mediators material we had developed just for this process. The Mediators were required to meet certain requirements before they were allowed to mediate alone.
- I spoke to the Sam Houston Criminal Justice Symposiums, along with Judge Klager, on two occasions about this new program.
- Carl Lewis, County Attorney, and I spoke to the Criminal Attorney Conference.
- Carl Lewis and I also spoke to the MADD group and received their endorsement of the program.
- Variations of this program have since been established in other Centers across Texas.

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Western District of Washington U.S.D.C.

## Local Rules

Rule Name:  
**Cr R 17.2 - Settlement  
Conferences**

Chapter:  
**3 - Criminal Rules**

Last Modified:  
**07/97**

 [Click here to see the specific revisions effective January 1, 2002](#)  
CrR 17.2  
Settlement Conferences

**(a) Policy.**

It is the policy of the court to facilitate efforts to settle criminal cases, when requested to do so by the parties. Participation in a settlement conference is entirely voluntary, however. A party's declination to participate in the settlement conference process shall in no way be used against that party at any stage of the proceeding.

**(b) Role of Settlement Judge.**

The role of the settlement judge shall be limited to facilitating a voluntary settlement between parties in criminal cases. The settlement judge shall not preside over any aspect of the case, other than facilitation of a voluntary settlement according to this Rule. The settlement judge shall not take a guilty plea from nor sentence any defendant in the case. He or she shall not communicate anything regarding the status or substance of the settlement discussions to the trial judge, except to notify the judge of a settlement.

**(c) Request for Settlement Conference.**

A request for a settlement conference may be initiated by the parties. The trial judge shall determine whether such conference shall be held. Not all defendants in a multi-defendant case need join in the request or in the conference.

**(d) Assignment of Settlement Judge.**

The trial judge shall select a district or magistrate judge to act as settlement judge after considering recommendations of the parties. Any party may withdraw from a settlement conference unilaterally at any time.

**(e) Conduct of the Conference.**

**(1) Availability of Defendant.** The settlement judge shall determine a course of procedure for settlement discussions as he or she may determine to be best. The participation by the defendant shall be determined by the settlement judge.

**(2) Authority of Government Attorney to Reach Disposition.** The government attorney participating in settlement discussions shall either have authority to agree to a disposition of the case or shall have the ability to obtain such authority from a supervisory or other government attorney upon telephone notice.

**(f) Proceedings Privileged.**

Proceedings of settlement conferences shall in all respects be privileged and not reported or recorded. No statement made by any participant at the settlement conference shall be admissible at the trial of any defendant in the case or be considered for any purpose in the sentencing of any defendant in a case. No statement made by a defendant in the course of a settlement conference shall be reported to the counsel for the government.