

# Peacemaking Circles

Evaluating a Native American Restorative Justice Practice  
in a State Criminal Court Setting in Brooklyn

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The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author and do not necessarily represent the positions or policies of the U.S. Department of Justice. For correspondence, please contact Suvi Hynynen Lambson, Center for Court Innovation, 520 8<sup>th</sup> Avenue, New York, NY 10018 ([shynynen@nycourts.gov](mailto:shynynen@nycourts.gov)).

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# Executive Summary

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Peacemaking is a traditional, non-adversarial form of justice practiced by many different Native American tribes. It is designed to heal damaged relationships and restore harmony to the community. Peacemaking brings together the immediate parties to a conflict (such as defendant and victim), along with family, neighbors, community members, and others who wish to support the participants. In a peacemaking session, the participants sit in a circle with one or more peacemakers, who are respected community members trained in peacemaking, to discuss the underlying causes of the conflict. Peacemaking not only seek to resolve the immediate conflict but to foster healing and help the participants avoid future problems.

With funding from the USDOJ's Bureau of Justice Assistance, in January 2013, the Center for Court Innovation launched a pilot project to test whether peacemaking could be effectively applied in a state court setting. The project was implemented at the Red Hook Community Justice Center, a multi-jurisdictional community court located in southwest Brooklyn. Peacemaking was made available as a pretrial diversion option for selected misdemeanor criminal cases or juvenile delinquency cases. Defendants who successfully completed the program—which involved an average of 2.74 peacemaking sessions lasting approximately two to three hours each—generally had their cases dismissed, whereas defendants who did not complete their obligations had to return to court for further dispositional hearings.

This evaluation was conducted over 18 months, from February 2013 through July 2014. Researchers conducted qualitative interviews with program participants, court stakeholders, and community members about their experiences with peacemaking and their perceptions of the program. Researchers also analyzed quantitative data regarding the participation of the first 42 defendants (along with their support people and complaining witnesses). This report describes the program model; examines the extent to which the pilot program adhered to the original implementation plan; and conveys the views and experiences of stakeholders and participants. This is *not* an impact evaluation, as program volume to date was insufficient for a rigorous analysis of program effects.

## Major Findings

### Program Model

The Red Hook Peacemaking Program largely, but not exclusively, adhered to the original implementation plan, which sought to adapt a traditional peacemaking model learned from Native American experts to a state court setting in Red Hook, Brooklyn. Some of the adaptations and changes to the Native American model can be seen as logical steps in applying peacemaking to the practical realities of a state court setting. Core elements of the model were as follows:

- Program Goals: The program had four goals: 1) healing relationships; 2) giving victims a voice; 3) holding participants accountable; and 4) empowering the community.

- Eligibility Criteria: All criminal and juvenile delinquency cases heard at the Red Hook Community Justice Center were technically eligible for peacemaking regardless of charge, except for cases involving intimate partner violence, child abuse, elder abuse, and sexual assault. Defendants with a severe mental illness or need for intensive substance abuse treatment were also ineligible. Generally, participating cases involved a victim or complaining witness, although it was not a requirement.
- Referral Process: The judge, prosecutor, or defense attorney could initiate a referral to peacemaking. To be accepted into the program, all stakeholders would have to agree that the case was suitable, and the victim or complaining witness would have to give consent. In practice, the prosecutor played a critical gatekeeper role and tended to accept only low-level cases that would not have otherwise faced significant legal penalties—although the formal program design did not envision limiting the program in this fashion. (Two prosecutorial agencies referred cases to peacemaking—the Brooklyn District Attorney’s Office in adult criminal cases and the New York City Corporation Counsel in juvenile delinquency cases. In practice, though, nearly all referrals involved adult criminal cases with a defendant 16 years of age or older.)<sup>1</sup>
- Voluntary Participation: Participation in peacemaking is voluntary. Even after a case is approved for enrollment, the defendant (and all other participants) must agree to enter the program before peacemaking can begin. While participants expressed that staff explained the rules and requirements of the peacemaking program well, many of those interviewed did not understand the voluntary nature of the program at the time they enrolled and reported feeling like it was the only option given to them by the judge.
- Accepting Responsibility: One of the goals of peacemaking is for defendants to accept responsibility for their role in the conflict. While most participants in peacemaking accepted responsibility, some maintained through the peacemaking sessions that the victim or cross complainant was to blame, at least in part, for the conflict. Even among those who did not fully accept responsibility, participants in research interviews expressed a perception that peacemaking was beneficial in beginning to heal the relationship and identify steps to avoid future conflicts.
- Peacemakers: During the first year of the program, peacemakers were recruited from within the Red Hook neighborhood, which is consistent with the focus of the original Native American model on having peacemakers who come from, understand, and can represent the community. However, once peacemaking staff realized that the majority of participating defendants lived outside of the community (the Justice Center handles criminal cases originating both in Red Hook and several surrounding neighborhoods), the requirement for the peacemakers to be from Red Hook was dropped and peacemakers were recruited from throughout Brooklyn and even beyond. Instead of peacemakers representing the community in which the participants live, the peacemaking staff and

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<sup>1</sup> Since the Family Court Act passed in 1962, New York State has set the age of adult criminal responsibility at 16 years. Along with North Carolina, New York is one of only two states in the country that treats 16- and 17-year-old defendants as adults rather than juveniles.

peacemakers attempted to create a sense of community within the peacemaking circles themselves, to varying degrees of success.

### **Participant Baseline Characteristics and Outcomes**

Over the course of the 18-month research study, 42 defendants and 24 victims or support persons participated in peacemaking. Some cases involved multiple defendants or cross-complainants; thus, in total, there were 31 separate peacemaking groups.

- Charges: Sixty-two percent of peacemaking participants were arrested for misdemeanor assault. Other charges included petit larceny, graffiti, harassment, menacing, trespass and disorderly conduct.
- Relationship among the Parties: Forty-three percent of participants were arrested due to a conflict with a non-spousal family member. Other relationships included roommates, neighbors, and friends. Only eight of the 42 cases had no victim or cross-complainant.
- Case Outcomes: Seventy-nine percent of peacemaking participants completed peacemaking successfully, of whom 90% received a straight dismissal of their case and 10% received an adjournment in contemplation of dismissal, which typically leads to a dismissal after a period usually lasting six months. Thirteen percent of participants did not complete peacemaking due to noncompliance, and 8% did not complete peacemaking as a result of staff finding them inappropriate after the first session.

### **Participant Attitudes towards the Program**

Peacemaking participants, including defendants, victims, and other complaining witnesses, were generally supportive of the program. Court stakeholders also perceived that the program had a positive impact on the lives of the participants and the community.

- Food: The peacemaking staff provided food for the participants and peacemakers at the beginning of each session. This was described as a highlight by nearly all the participants, and a few commented that it helped to alleviate an otherwise tense situation.
- Duration of the Sessions: Each individual session lasted for two to three hours. The length of time it took to complete all of the sessions varied by case. Some cases were completed with one peacemaking session, while the longest took eight sessions to complete, with the group meeting every other week (or as frequently as schedules allowed). A case could take months to complete. Even for cases that completed in one session, it sometimes took several weeks before the case was then called back to the court for a final hearing. The most common complaint participants made about peacemaking was the length of time it took to complete the sessions.
- Participation: Everyone in attendance received an opportunity to speak and respond without interruption in the peacemaking circle. Both defendants and victims/complaining witnesses reported that they felt comfortable and that they could open up in the peacemaking circle; however, some expressed concerns about potential re-victimization through the process by interacting with someone who previously hurt them. Overall,

when asked in how they felt sharing their story, the most common words participants used to describe the experience were “comfortable” and “supported.”

- Healing Steps: During the peacemaking sessions, the parties in the circle discussed what the defendant could do to heal the relationships damaged in the conflict, provide restitution, or improve their own lives in order to avoid future conflicts. The healing steps were designed to be flexible and individualized; they included obligations like letters of apology, volunteer work, or resume writing. To retain confidentiality these healing steps are not shared in court nor with court actors; however, some stakeholders expressed interest in hearing about the healing steps in court, when appropriate, to help them better understand the peacemaking process.
- Healing Relationships: Peacemaking gave participants the opportunity to talk through a conflict in a safe setting in ways that a conventional adversarial process. Depending on the relationship and willingness of the participants, those interviewed generally perceived that peacemaking had succeeded in starting the process of healing relationships.

# Chapter 1

## Introduction

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In early 2008, the Center for Court Innovation created the Tribal Justice Exchange to provide technical assistance to Native American communities interested in enhancing their tribal justice systems and to identify tribal courts practices that could potentially be used in a state court setting. Tribal Justice Exchange staff conducted site visits and spent time learning about traditional Native approaches to justice, including peacemaking. First-hand accounts suggested that this traditional, non-adversarial approach was capable of reaching offenders and healing conflicts.

With a grant from the federal Bureau of Justice Assistance, in 2010, the Center launched a multi-stage planning process to research the history and use of peacemaking in tribal communities. This included convening a roundtable to discuss the use of peacemaking in non-tribal communities and conducting a feasibility study assessing whether peacemaking could work in the New York State court system (see Sasson 2012). The feasibility study found that a peacemaking program could be implemented in a non-tribal setting in New York State. The Center for Court Innovation chose the Red Hook Community Justice Center in Brooklyn, New York, as the site for this pilot.

### What is Peacemaking?

Peacemaking is a traditional Native American form of justice that focuses on healing and reparation. Peacemaking, or some form of it, is found among many different tribes and reflects each tribe's unique culture, religion, and collective experiences. Peacemaking varies in format and name; the most widely-recognized model comes from the Navajo Nation and is called "peacemaking." Other tribes, like the Confederated Tribes of the Coos, Lower Umpqua, and Suislaw, call this process "peacegiving," while the Muscogee have "law menders." But what they all have in common is a focus on problem solving and an emphasis on future relations rather than assigning guilt and imposing punishment for past actions (Wolf 2012, Costello 1999). While the justice system typically relies on a hierarchical model of authority and sanctions to maintain order, peacemaking focuses on restoring positive relationships with others through shared norms, values, and respect for tradition (Yazzie 1996).

Generally speaking, peacemaking brings together those impacted by a conflict, including the offender and victim, as well as family members, neighbors, and community members. Peacemaking allows each participant to talk about the conflict and their feelings without limiting what they say. The purpose of peacemaking is to reach a resolution and to heal the relationships among the participants so that future conflicts can be avoided. According to the former Chief Justice of the Navajo Nation, Robert Yazzie, peacemaking is effective because it "gets below the surface of a problem and leads people to the heart of the matter" (Yazzie 1996).

The number of peacemaking sessions is determined by how long it takes for a resolution to be achieved (Costello 1999). The Navajo Nation's Peacemaking guide explains: "Peacemaking encourages people to solve their own problems by opening communication through respect, responsibility and good relationships... Rather than judge people, peacemaking addresses bad

actions, the consequences of such actions and substitutes healing in place of coercion (Sasson 2012).” Peacemaking sessions are led by “peacemakers,” who are respected members of the community, often elders, whose role is to help the disputants talk through the conflict and offer guidance, using their own experiences to help the other participants find a resolution (Zion 1998).

## **Peacemaking in a State Court Setting**

In 2010, justice system officials from the Navajo Nation came to visit the Red Hook Community Justice Center as part of an initiative to develop a community court in the Navajo Nation. During their visit, the Navajo officials were asked to share their history and personal experiences with traditional peacemaking. After this meeting, Center for Court Innovation staff began to research how peacemaking was used in tribal communities and whether it could be adapted to an urban, state court setting. The Center summarized this research in a briefing paper for a roundtable that was held in December 2011 at the Fort McDowell Yavapai Nation in Fountain Hills, AZ (see Wolf 2012). The roundtable included 12 participants who were invited to discuss the challenges associated with planning and operating a peacemaking program and whether peacemaking could be used in a state court system. The invited guests included seven Native American peacemaking experts, three practitioners who operate restorative justice programs in non-tribal jurisdictions, and a judge and administrator from the New York State Unified Court System. The participants came to a unanimous conclusion: that peacemaking could work in a diverse, urban community and that shared values would emerge through the peacemaking process. The participants felt that the greatest challenge would be securing buy-in from other justice system stakeholders, who might feel uncomfortable with the use of a non-adversarial approach to crime (see roundtable summary in Wolf 2012b).

Center staff continued to consult Native American authorities about peacemaking and also invited an expert in the field of restorative justice, Kay Pranis, to visit. She emphasized that a community selected for peacemaking should be ready and willing to embrace this kind of project. She thought that a close-knit community like Red Hook, Brooklyn would be a good fit. Also, since peacemaking is such an intense and possibly lengthy process, she suggested that it be reserved for more serious cases.

Center staff then conducted a site visit to the Confederated Tribes of the Colville Reservation, located in Nespalem, Washington, to observe their peacemaking program in action and receive training on peacemaking, including talking to actual peacemaking clients and receiving advice on how to bridge the divide between court officials and peacemakers. Another site visit was made to the Navajo Nation to meet with peacemakers. Center staff also attended the Midwest Peacemaking Conference in June 2012, hosted by the Little River Band of Ottawa Indians in Manistee, Michigan. Finally, planners traveled to Yellow Medicine County, Minnesota to observe the first circle sentencing program to be established in a state court system. Center staff ultimately decided that the Red Hook Community Justice Center in Brooklyn would be an appropriate location for the pilot program.

## **Why the Red Hook Community Justice Center?**

The Red Hook Community Justice Center was established in 2000 in a refurbished Catholic schoolhouse in the Red Hook neighborhood of southwest Brooklyn. The Justice Center serves

not only the Red Hook community but also two other adjacent police precincts (see Figure 1.1, catchment area indicated by bold outline).

**Figure 1.1. Map of Red Hook Community Justice Center Catchment Area**



Within the walls of the Justice Center one judge presides over misdemeanor criminal cases, juvenile delinquency cases, and housing cases.

One of the core goals of the Justice Center is to reduce the use of jail as a response to minor offending. In pursuit of this goal, the judge, prosecution, and defense work with case managers in an on-site clinic to find appropriate services for individuals who come through the courthouse (see Lee et al. 2013). (For a general overview of the community court model and major research findings, see Swaner 2014.)

Red Hook offered several advantages as a location for a peacemaking pilot. By locating the peacemaking program at an established community court, the Center for Court Innovation could take advantage of preexisting relationships with the surrounding communities.<sup>2</sup> The Brooklyn District Attorney's Office, as well as the judge and other court staff in Red Hook, expressed support for the project. Moreover, the diverse caseload in Brooklyn (misdemeanors for youth and adults) would allow peacemakers to test the program in different scenarios.

In January 2013, after extensive planning, the peacemaking pilot program launched at the Red Hook Community Justice Center with twelve trained peacemakers from the neighborhood.

## **Purpose of this Report**

The purpose of this report is to serve as a formative process evaluation. Researchers studied the peacemaking program from its inception in Red Hook in January 2013 until July 2014, conducting interviews with participants and focus groups with peacemakers and court system

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<sup>2</sup> The Center for Court Innovation also considered five other demonstration project sites throughout New York City and in Newark, New Jersey, but decided to launch the pilot program in Red Hook due to the overwhelming support the idea had there as well as the close-knit nature of the community.

stakeholders. This report documents the model; discusses the extent to which the peacemaking pilot program adhered to the original implementation plan; assesses whether or not the model is suitable for a state court setting; and conveys the views of stakeholders and participants. This is *not* an impact evaluation, as program volume to date is insufficient for a rigorous analysis of program effects, and a comparison group is not included.

## Chapter 2 Methodology

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Research methods included qualitative interviews with program participants; focus groups and interviews with key peacemaking staff; and a review of documents related to the program. Data was collected over the course of 18 months, from January of 2013 to July of 2014. During that time, a total of 42 defendants participated in the peacemaking program. Program staff initially estimated that 15 participants would enroll during its first year. While the program serves a low volume overall, the actual volume somewhat exceeded expectations at the planning stage.

The research study was approved by the Center for Court Innovation's Institutional Review Board and consent was obtained from all research subjects who participated in interviews. Only participants 18 years and older and English- or Spanish-speaking were interviewed.

### **Referral Interviews (Pre-Program)**

Since peacemaking was set up as a voluntary program, researchers were interested in finding out why defendants agreed or did not agree to participate, and what they understood about program rules and requirements. Accordingly, interviews with defendants consisted of three questions that could be answered very briefly: 1) What is your understanding of the peacemaking process? 2) Was the process explained clearly to you? Do you have any unanswered questions? 3) Why did you agree (or not agree) to participate in the program? (See Appendix A.) In total, researchers conducted six pre-program interviews with defendants who agreed to participate in the peacemaking program and four interviews with individuals who opted out of peacemaking.<sup>3</sup>

### **Post-Peacemaking Participant Interviews**

Defendants participating in the peacemaking program were invited to take part in the research study through a longer interview at the conclusion of their involvement in the program. All but one of the participants who were interviewed successfully completed peacemaking. The interview consisted of questions relating to the defendant's feelings about the peacemaking process; initial expectations; feelings about the peacemakers; and skills learned during the sessions to help avoid future conflicts (see Appendix B). The interview took between 30 and 45 minutes and was done one-on-one with a researcher at the Justice Center. The time between completion of the case and the interview varied due to scheduling conflicts and ability to reach the participant for the interview. In total, eleven defendants who participated in the peacemaking process were interviewed—some immediately after the completion of the case and some weeks later (up to six months).

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<sup>3</sup> A number of obstacles made it difficult for researchers to speak with referred defendants, including that peacemaking staff never knew when they would have a potential peacemaking participant coming in; researchers were not always on site to conduct the interviews; peacemaking staff were unable to let researchers know in many cases when a participant was done with the intake process; defendants had to go meet with their attorney or someone else before an interview could be conducted; and of course, participant refusal to participate in the research.

## **Community Participant Interviews**

Community participant interviews included both complaining witnesses (victims) and support people (family or friends of either the victim or defendant) who attended at least one peacemaking session. The interview questions were similar to the questions asked of the program participants (see Appendix C). Because community participants were not obligated to attend the sessions or to appear in court, researchers had to contact them by phone in order to complete an interview, which would always be scheduled after the conclusion of the peacemaking sessions. Seven interviews were completed with community participants; all but one of the interviews was with the complaining witness.

## **Focus Groups**

A stakeholder focus group was conducted in February 2014 with representatives from the court, including the judge and chief clerk, as well as representatives from the District Attorney's Office and one defense attorney. This focus group took place approximately one year after the peacemaking program started in Red Hook. The focus group participants were asked about their experience with the peacemaking program. The 1.5-hour conversation with the researcher was recorded and transcribed. (See Appendix D for the focus group protocol.)

In addition, all 25 of the active peacemakers were invited to a 1.5-hour focus group with a researcher to discuss their experience. Seven peacemakers attended and discussed their experiences with the program.

## **Staff Interviews**

The researcher conducted informal staff interviews with the peacemaking program director and program coordinator for clarification and further explanation of what has happened with the peacemaking program since its inception. They provided details about why certain choices were made and discussed some inconsistencies in the implementation of the program.

## **Document Review**

This report also includes data gathered from a review of a feasibility study conducted prior to launch (Sasson 2012) and a program guide that describes the model (Center for Court Innovation 2012). This report also includes a review of the case outcomes for all peacemaking cases and the offer that the prosecutor would have made had peacemaking not been an option.

## Chapter 3

### Goals of the Red Hook Peacemaking Model

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According to Native American tradition, peacemaking programs seek to resolve disputes through an inclusive, non-adversarial process that empowers all of the affected parties. There are a number of different peacemaking models and methods used by different communities. The Red Hook peacemaking pilot program combined elements of two distinct peacemaking models—the “Navajo model” and the “circle model.”

The Navajo and circle models both incorporate sessions composed of defendants, victims, and community participants who are allowed a chance to express themselves as much as necessary. Both models begin and end with ceremonies, use storytelling as a tool to establish norms, and conclude with a consensus decision. The main difference between the Navajo and circle model is that, in the Navajo model, one peacemaker leads the peacemaking sessions, while in the circle model, there is a “circle keeper” who serves as the lead facilitator but is assisted by a panel of peacemakers. The models also differ in length of time, with the Navajo model concluding as soon as there is a consensus decision (consensus could be reached in one session, but often takes more) while the circle model extends for a longer period of time, meeting every two weeks for a number of months in order for the defendant to establish a relationship with all the circle participants. The Red Hook model adopted elements of both methods, allowing for flexibility in the peacemaking process depending on the specific needs of individual participants (Sasson 2012). In addition to these two models, the Red Hook peacemaking program was influenced by ideas from many other Native traditions.

The Red Hook Peacemaking Program established four key goals: healing relationships; giving victims a voice; holding participants accountable, and empowering the community. These goals are discussed in further detail below.

### Healing Relationships

From the *Program Guide*:

*Peacemaking is concerned with healing the relationships that were harmed by a dispute or crime. Instead of merely punishing the past act, peacemaking looks to the future, focusing on healing the relationships involved and correcting harmful behavior to ensure that it is not repeated. Peacemaking emphasizes the development of participants’ sense of identity and commonality with members of his or her community (Center for Court Innovation 2012).*

This goal of peacemaking is especially important in close-knit communities or among people with existing and ongoing relationships. One article about peacemaking notes, “In a closed Indian community where tribal members live side by side, parties to a legal action cannot go to court, severely criticize each other and leave court, dissolving into a larger society where chances of meeting again are minimal” (Costello 1999). In an adversarial setting, little is done to address the underlying issues in the dispute and the parties to the conflict often leave court harboring ill-will towards one another. Peacemaking attempts to help the parties to move past the conflict and improve the relationship in the future.

The Red Hook Peacemaking Program sought to heal relationships by involving a range of affected parties and by monitoring participants' compliance with consensus decisions. The peacemaking sessions give the participants an opportunity to hear about the impact of his or her actions on the victim (if there is one) and on the community (through the peacemakers). The peacemakers' role is also to help defendants discover for themselves what steps to take to avoid the behavior that led them to be arrested in the first place and to heal any damage that their actions caused to the community.

## **Giving Victims a Voice**

*Peacemaking provides victims with an opportunity to express how the crime has affected them, their families, and their communities. In a peacemaking session, the victim can actively participate in the discussion that leads to a resolution (Center for Court Innovation 2012).*

In conventional justice system proceedings, there is usually little formal role for victims. While they may sometimes offer testimony, they tend to have little say in the outcome of the case or the sanction imposed and have few opportunities to describe how the actions of the defendant affected them (Costello 1999). In the peacemaking circle the victim is a central participant (Wolf 2012). Victims are represented either by themselves or, if they choose not to participate, by peacemakers or other community members.

In the Red Hook model, the victim must give consent to allow the defendant to participate in peacemaking. The sessions give the victim an opportunity to confront the defendant and talk through the situation. It can be therapeutic for victims to express their perspective, and the peacemakers are trained to make sure that the sessions are a safe place for conversation between the parties. Ideally, the victim would participate in the process, but peacemaking can take place without the victim present.

## **Holding Participants Accountable**

*Peacemaking requires participants to accept responsibility for their actions and fosters a sense of accountability. Participants face other members of their community, recognize the effects of their actions, and participate in determining how to repair the harm they have caused (Center for Court Innovation 2012).*

Peacemaking is also designed to hold the participants accountable. One of the main requirements for participation in the program is that defendants must accept responsibility for the actions that led to their arrest and the harm caused to the victim and the community. According to experts on peacemaking, "The focus on problem solving rather than guilt makes peacemaking an effective method to penetrate the denial of a wrongdoer. The absence of coercion or punishment allows all parties to discuss a problem" (Costello 1999). By accepting responsibility, the defendant allows the discussion to move past blaming and on to underlying issues that led to the offense.

The victim and the other participants in the circle are given the opportunity to talk about what happened in depth; each participant must listen respectfully to the others. Peacemaking circles give the defendant "healing steps" to complete. These often include making amends for any harm caused by their actions. The peacemaking sessions conclude with a consensus decision and statement to which all the participants must agree. Copies of the consensus decision are given to

the judge, defense attorney, and prosecutor at the defendant's next court date. It is not read on the record, but on at least one occasion the defendant also wrote a letter as part of the consensus decision and the judge did read that in court. Peacemaking program staff follow up to determine defendant compliance with the agreed-upon consensus decision.

## **Empowering the Community**

*The peacemaking program trains Red Hook community members to serve as peacemakers, giving the community a direct and active role in addressing the conflicts and crimes that affect their community. In addition, the peacemaking program invites other community members to participate in peacemaking sessions, offering them an opportunity to talk through and resolve disputes and demonstrating that the community shares responsibility (Center for Court Innovation 2012).*

Peacemaking would be impossible without community involvement. Peacemakers are recruited from within the community, and family and friends provide essential support and reinforcement to participants. The peacemakers, working alongside the program staff in Red Hook, have an integral role in setting the tone for the sessions, helping to guide the participants toward a consensus resolution. By participating in peacemaking, Red Hook residents take an active role in resolving in their own community.

Both defendants and victims are encouraged to bring support people (family, friends, neighbors, others) to the circle. These support people can reassure the defendants and victims that they are not alone. In addition, they can speak on behalf of the person they are there to support; if, for instance, a victim is afraid to speak, a support person can describe the victim's pain and protect the victim's interests (Costello 1999). The support people can also help the defendant stay accountable to the peacemaking process or comply with the healing steps.

## Chapter 4

### The Peacemaking Model and Results of the Evaluation

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This chapter will discuss the essential elements of peacemaking in Red Hook and the results of the evaluation.

#### Peacemakers

Peacemakers are essential to the peacemaking program. In Native American traditions, peacemakers are selected by the tribes and are often well-respected elders in the community. During the 2011 roundtable discussion about peacemaking, Alaska District Court Magistrate and Circle Keeper Michael Jackson explained that elders are selected to be peacemakers because they can “talk about our culture” (Wolf 2012b). They are expected to share their life experience and actively participate in the conversation. In the Navajo Nation, the community chooses peacemakers who represent a variety of backgrounds and religious denominations. Different descriptions of the peacemakers include:

- “Peacemakers are usually elders, respected members of the community well versed in tribal culture, tradition, religion, and community norms. They use lectures and storytelling to help participants reach an outcome that benefits not only the disputants but the whole community.” (Wolf 2012b)
- Navajo Peacemakers are *naat’aanii*, which ... [are described] as “a community leader whose leadership depends on respect and persuasion and not a position of power and authority” (Zion 1998).
- The most important skill of any peacemaker is “the ability to induce people to talk about their problems with one another” (Costello 1999).
- “To be a peacemaker, that person must... show an ability to work with people and a reputation for integrity, honesty, humanity, and an ability to solve problems” (Yazzie et al. 2014).
- “A peacemaker is not a judge or a decision maker, they are instead esteemed community leaders who have been trained to help participants talk through their issues and reach their own conclusions” (Wolf 2012b).

The Red Hook Peacemaking Program attempted to incorporate these elements and ideas into the selection of peacemakers. The first class of peacemakers was recruited from within the Red Hook neighborhood. In the *Program Guide* it states that “Peacemakers will be recruited from the larger Red Hook community. All peacemakers must have a substantial connection to Red Hook, either because they have lived or worked in the community for a number of years.”

However, the requirement to have a connection to Red Hook was dropped for the second class of peacemakers. This was done, according to program staff, because they found that many of the peacemaking participants were actually coming from outside of the Red Hook neighborhood after being arrested in the other precincts in the Justice Center catchment area, such as Park Slope (78<sup>th</sup> Precinct) or Sunset Park (72<sup>nd</sup> Precinct). With defendants coming from outside Red Hook, having a member of the Red Hook community as a peacemaker became less important. The first class of peacemakers consisted of 11 Red Hook residents. The second class

consisted of 14 people, including two from the Red Hook neighborhood, two from the rest of the Justice Center catchment area, and ten from other areas.<sup>4</sup>

As noted above, traditional peacemaking programs emphasize elders as peacemakers because of their connection to the community and knowledge of community norms. However, in the Red Hook Peacemaking Program the peacemakers represented a diversity of ages, races, and backgrounds. There are peacemakers who are parents or grandparents and others who are in their mid-twenties. They vary in profession and life experience, and the Red Hook Peacemaking Program used this to its advantage. The program coordinator, knowing the background of each of the peacemakers and the details of the individual cases, has chosen peacemakers who she thinks could connect with the defendant or offer a useful perspective in the circle.

To summarize, the peacemaking program intentionally deviated from the recommendations received via traditional programs to use immediate community members and elders as peacemakers, yet peacemaking program staff viewed these deviations as justified and necessary. Based on interviews with the peacemakers, they perceived that they connected well to the participants and developed a sense of community with them, even if they were not from the same geographic neighborhood. While the majority of the participants said that they appreciated what the peacemakers brought to the circle and liked them, there were two negative reports from participants. One felt that a peacemaker in his session was too familiar and made assumptions about him and his life that were untrue. Another said that she felt judged by one of the peacemakers in her group, making her unwilling to be completely forthright. It remains unclear, however, what role, if any, was played by the community background or age of the peacemakers in question; thus, it cannot be concluded that deviations from the traditional Native American model contributed to any negative perception.

The peacemaking program has included participants who are Spanish speaking and Mandarin speaking. While there are a few peacemakers and a program staff member who speak Spanish, none of the peacemakers speak Mandarin and they had to use an interpreter during the sessions. None of the Mandarin speaking participants were interviewed for the study. One peacemaker who served as the interpreter for a Spanish speaking participant said that sometimes she did not translate everything that was said because some of the side comments made by the participant were inflammatory in nature and would have derailed the peacemaking circle. The peacemakers felt that this was a limitation and that peacemaking would be most successful if everyone in the group spoke the same language had an understanding of the cultural and community norms held by those populations. Peacemaking sessions that have been held entirely in Spanish without an interpreter were considered to be more successful.

### ***Selection and Training***

According to the *Program Guide*, “The most important qualification for peacemakers is that they be respected members of the community with a desire to volunteer their time for the good of others. The length and intensity of the training program is designed to attract volunteers who are committed to their community and who are motivated by the underlying principles of peacemaking.” In the Red Hook Peacemaking Program, peacemakers recruited through various means, such as police precinct meetings, National Night Out, local community fairs and events, a John Jay College listserv, and Red Hook Houses tenant meetings.

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<sup>4</sup> There were originally 15 peacemakers in the second group but one moved away. Of the remaining 14, seven lived in other parts of Brooklyn. Of the three peacemakers who do not live in Brooklyn, one lived in Harlem (still in New York City), one in upstate New York and the third lived in Massachusetts but traveled for peacemaking.

Upon completion of the three month training, the community members were considered to be full-fledged peacemakers, but continued to receive ongoing instruction and guidance for improvement. They were also not expected to participate in a peacemaking circle alone, but always with at least one other peacemaker and a peacemaking staff member who would support the session. (There were usually two to three peacemakers and one program staff member attending each circle, although due to scheduling conflicts, sometimes there were fewer.) For newer peacemakers, the additional support allowed them to see an experienced peacemaker in action. This made them feel more comfortable with their role as a peacemaker.

During the peacemaker focus group, some participants said that their initial training was not as in depth as they would have hoped and did not necessarily prepare them to lead peacemaking sessions. They felt that the curriculum provided a good theoretical foundation, but they craved more practical skills. Others, however, argued that it contradicted the nature of peacemaking to have a step-by-step training protocol and a set program to follow. This idea was supported by one of the Native American peacemaking roundtable participants: “You can’t have a curriculum for this. That’s the thing that many people don’t like about peacemaking, it must be fluid and you have to let it happen” (Wolf 2012b).

After completing their first series of peacemaking sessions, each of the peacemakers in the focus group said they felt much more confident in their ability as a peacemaker. Peacemaking program staff have begun to incorporate peacemaker feedback into future trainings.

The peacemakers were not, for the most part, trained social workers. As the program continues expanding and more peacemakers are recruited (especially ones from outside the neighborhood), the peacemakers in the focus group all agreed that they would benefit from training on local services and resources. The peacemaking staff in Red Hook and the Justice Center Clinic staff have been available to help make referrals to those with social service needs.

All of the peacemakers felt that they received adequate support from peacemaking staff, though they did comment staff at times seemed overwhelmed (but never in the sessions themselves).

### ***Volunteer versus Stipend***

Peacemakers were recruited and trained as volunteers. Some peacemaking programs do provide a stipend for their peacemakers, so initial funding was provided in Red Hook to pay a small stipend to peacemakers as a show of respect for their time and effort. This was intended to help defray the costs of travel, phone calls and other incidentals associated with their role as a peacemaker. The honorarium amounts ranged from \$50 to \$150, depending on the number of cases each person was assigned.<sup>5</sup>

The practice of providing stipends was discontinued after the first year because staff could not afford to provide a sufficient stipend to all of the peacemakers. In addition, staff reported that the stipend money changed the dynamic between the staff and peacemakers, from a volunteer to an employee. Staff wanted the peacemakers to feel committed as volunteers and as community members, but also to be able to say they would not participate in a circle if they could not make it. Program staff plan to take the peacemakers to a sweat lodge at the Shinnecock Nation to thank them for their hard work.

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<sup>5</sup> Peacemakers were given an honorarium in the amount of \$50 for each case that they were assigned. If the case exceeded 5 sessions then an additional \$25 was given.

### ***Interaction with Participants***

According to the model, the Red Hook peacemakers are required to attend the peacemaking sessions and participate actively in the discussions by sharing stories about themselves, not simply acting as a mediator or facilitator. Each peacemaking session takes approximately two and a half hours, and the peacemakers meet with program staff beforehand to prepare. Depending on the case, some peacemaking groups will last for months, with a session scheduled every other week. Peacemakers are encouraged to attend all of the sessions for the assigned case. They may participate in more than one case at a time, if their schedule permits. All of the peacemakers interviewed agreed that they felt that they were involved in something powerful and were excited to participate in it.

Many of the participants made the comment that they “felt less alone” once speaking with the peacemakers, especially those who were parents struggling with a child. Multiple peacemakers reported that they appreciated being able to share their own personal struggles with the participants. For example, one young adult peacemaker felt connected to a defendant, who was a young woman, struggling with making better choices because of her own adolescent precociousness.

In addition to participating during the sessions, peacemakers often contributed to the program outside of the formal process. Both the peacemakers and participants shared experiences where a peacemaker had called to check in on a participant or a participant had called peacemakers for help with something. Some peacemakers also gave gifts to participants and helped them in other ways, such as professional networking or resume building. The *Program Guide* explicitly prohibits peacemakers from giving money. While some peacemakers disagree with this restriction, program staff continue to place boundaries for peacemaker/participant interactions.

### ***Conclusion***

The program deviated from the original plan by recruiting peacemakers from outside of the neighborhood and recruiting peacemakers who represent a wide range of ages rather than focusing on elders. Evaluation findings suggest that the peacemakers have nonetheless been able to create a sense of community within the individual circles. Language and cultural barriers remain a limitation to peacemaking with some populations in the catchment area.

## **Peacemaking Case Flow**

### ***Eligibility Criteria***

From the outset of the program, there were few restrictions on which cases would be eligible. In traditional peacemaking programs, a wide variety of cases can participate, including serious cases such as murder and sexual assault. Peacemaking experts say that anything can be dealt with in peacemaking, and that adjudication through the conventional court process can remain as a fallback option (Zion 1999).

Legal eligibility for the Red Hook Peacemaking Program was open to nearly all kinds of misdemeanor and violation cases (and the few low level felonies arraigned at the Justice Center), with the exception of cases involving intimate partner violence, child abuse, elder abuse or sexual assault. Cases involving other forms of family violence could be accepted on a case-by-case basis. The program officially accepted cases involving both minors and adults.

Clinical eligibility protocols required that the defendant not suffer from severe and/or untreated mental illness and not need intensive drug treatment. On their first appearance in court,

if the attorneys or judge thought that there might be a mental health or drug abuse issue, the court would refer the defendant to the Justice Center clinic for an assessment, the results of which would then be used by the prosecution to help them determine if the defendant was suitable for peacemaking. Otherwise, the main requirement for participation in peacemaking was that defendants must accept responsibility for their actions and understand the nature and intensity of the peacemaking process.

In addition, if there was a victim in the case, the victim had to consent to peacemaking. While victims are encouraged to attend the peacemaking sessions in order to heal relationships, the victim is not required to attend and the program makes no attempt to coerce the victim's participation. According to the *Program Guide*, "Peacemaking is most effective for participants who are ready to mend the relationships that were harmed by dispute, crime, or wrongful behavior. It is not appropriate for those who wish to contest the charges or who lay blame on all other parties. A defendant who does not accept responsibility should return to court for a hearing on the merits of the case."

As this discussion makes clear, the *Peacemaking Program Guide* gave few formal restrictions on cases. However, based on discretionary factors, the cases also had to be deemed appropriate by the prosecutorial agency (the Brooklyn District Attorney's Office in adult criminal cases or Corporation Counsel's Office in delinquency cases) and accepted by the defense attorney, defendant, and judge.

### ***Referral Process***

Peacemaking program staff anticipated that referrals for peacemaking would come from a number of different sources, including the judge, prosecutors, and defense attorneys. The initial design of the referral process also indicated that there would be a number of points within the court process where a defendant could be referred to peacemaking, including both pre- and post-disposition. Figure 4.1 on the following page presents a flow chart delineating the intended path of a case as imagined prior to the start of peacemaking in Red Hook (Center for Court Innovation 2012).

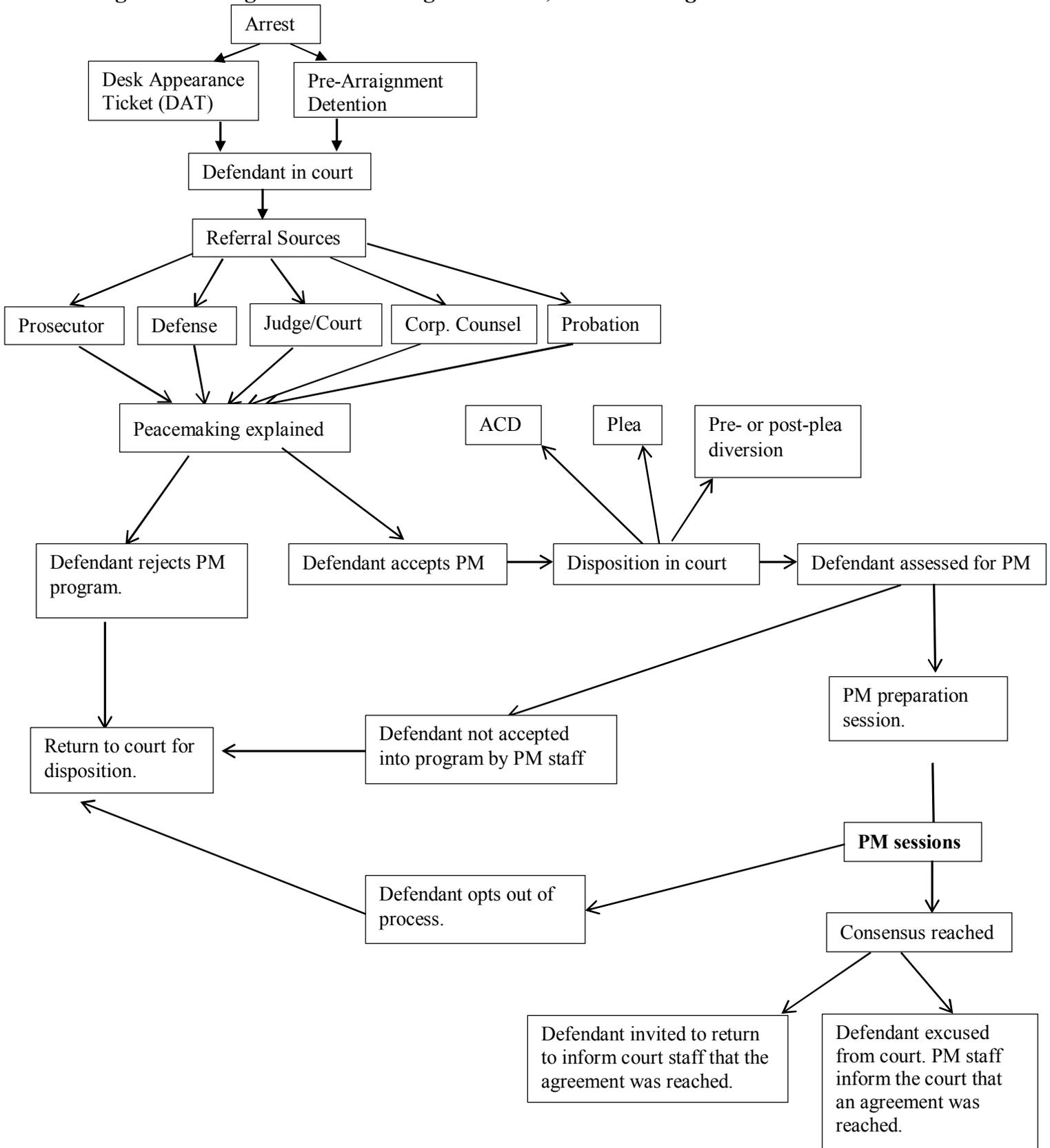
A defendant would appear in court for their arraignment and then be referred to peacemaking by the prosecution, their defense attorney, or the judge (or even probation in some juvenile cases) at the time of their arraignment. If the judge and both attorneys agreed to proceed, the referral would be sent to the program coordinator. At this point, the program coordinator would determine if the defendant met the eligibility criteria and was willing to participate. If the defendant agreed to participate, the program coordinator would then inform the court and counsel.

If there was a victim in the case, the prosecutor's office would reach out to ensure consent; the victim would then be invited, but not required, to participate in the peacemaking sessions as well. Once both defendant and victim consented to peacemaking, the court would then recall the case to enter the disposition consistent with the plea offer. This disposition could include a guilty plea, an ACD<sup>6</sup>, or pre-plea diversion (the latter of which is not technically a court disposition but may be interpreted loosely as a pre-plea diversion agreement). The defendant would then meet

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<sup>6</sup> An ACD, or adjourned in contemplation of dismissal, generally results in a dismissal six or 12 months later (depending on the charge), except where the prosecutor chooses to re-open the case due to alleged noncompliance.

**Figure 4.1. Original Peacemaking Case Flow, from the *Program Guide***



with the program coordinator for a complete assessment (the assessment initially took approximately an hour to complete). If there were any concerns that arose, the program coordinator would re-calendar the case. If there were no issues, the program coordinator would set up a peacemaking preparation session. Then within two weeks, the first peacemaking session would be scheduled (Center for Court Innovation 2012).

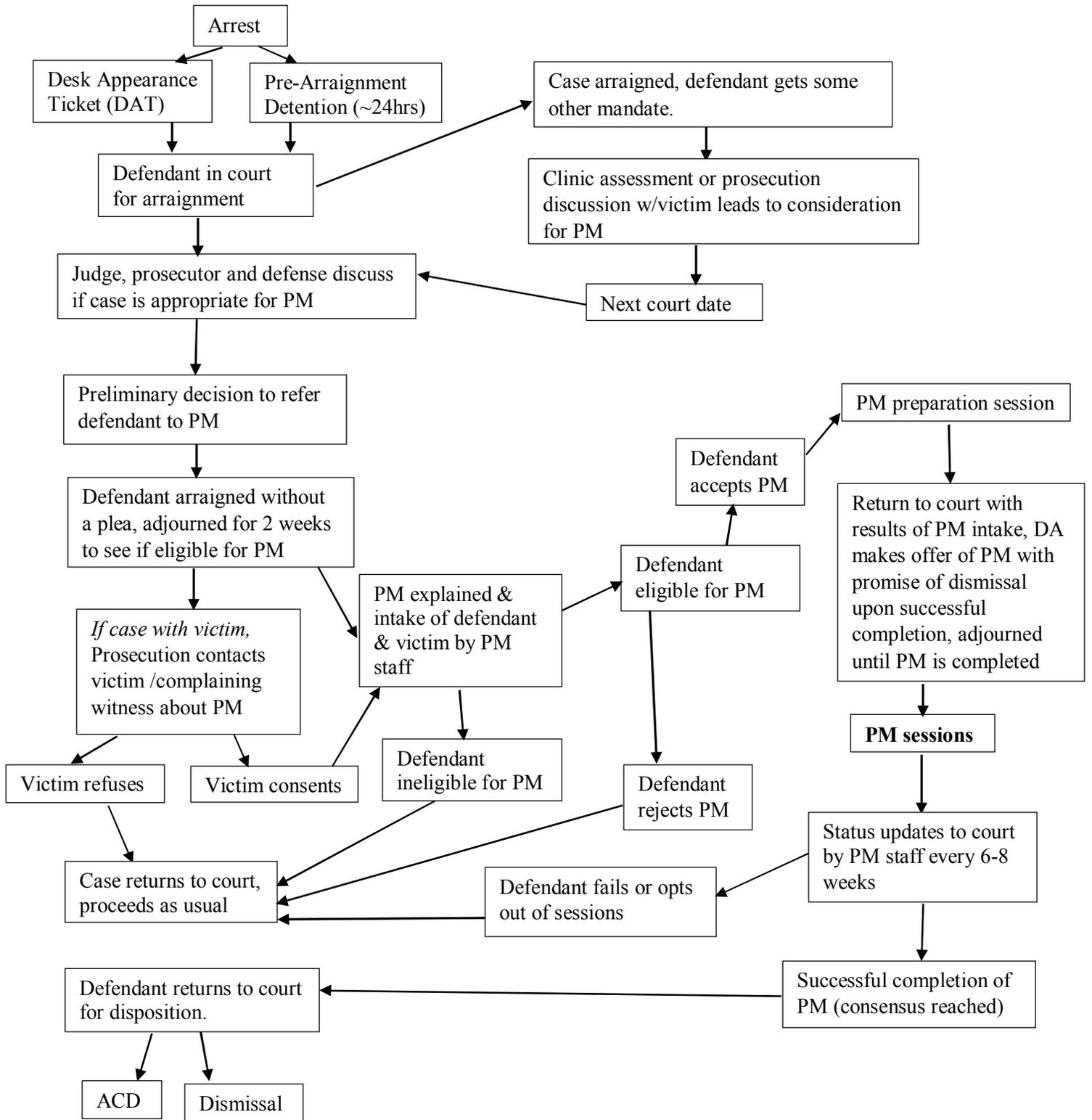
While the peacemaking referral process was initially adhered to, it currently deviates significantly enough in practice that Figure 4.1 no longer serves as an accurate representation of the peacemaking case flow. Figure 4.2 more accurately captures the current case flow.

Typically, cases referred to peacemaking during the evaluation period were made at arraignment, when the defendant first appeared in court; however, referrals to peacemaking can come at any point in the process. As shown in the alternative pathway represented in Figure 4.2, in some cases, peacemaking was the obvious choice and all agreed to that initially. In others, the case was arraigned and processed outside of peacemaking but later the prosecutor or someone else would realize—after talking to a complaining witness/victim or receiving results from a clinic intake—that a defendant was appropriate for peacemaking and would refer them to the program at that point.

Initially, the defense, judge, or prosecution could refer a case to the peacemaking program after arraignment, at which point the staff would contact the defendant for an intake interview. However, this led to many intake interviews with defendants who were ultimately not eligible for peacemaking. Cases were being referred without permission from the prosecutor's office, who had to obtain victim consent for participation. About a year into the peacemaking program, the referral process was streamlined. While fewer referrals are currently made to peacemaking, a greater percentage of those cases are actually participating in the program. In 2013, the peacemaking program interviewed 87 defendants referred by the judge or attorneys. Of these, 17 defendants (14% of referrals) ended up participating in peacemaking. The following year (through June 2014), the court referred 33 individuals and 15 defendants (45%) participated.

Upon hearing a case at arraignment, the attorneys and judge conference and discuss whether the case is appropriate for peacemaking. At this point, the peacemaking coordinator would sometimes conduct a brief intake interview with the defendant. The case would then be adjourned for two weeks (or longer) with the intention of finding out if the parties were interested in peacemaking. In a case with a victim, the prosecutor's office would speak with the victim, explain the peacemaking process, and receive consent for the defendant to participate in peacemaking as an alternative to the formal court process. The victim could then choose to participate in the peacemaking circle or not. The prosecutor would then contact the peacemaking associate to let the coordinator know whether or not the victim consented to peacemaking and was willing to participate. At that point, the peacemaking program would contact the defendant, conduct the intake interview, and prepare the defendant for the peacemaking sessions. The defendant could still opt out at this point and the case would continue with the normal court process. The victim could also opt out at this point.

**Figure 4.2. Current Peacemaking Case Flow**



After the adjournment period, the peacemaking staff and attorneys returned to court for a second appearance. At this point, if the victim had consented and the intake found the defendant eligible, the prosecution made an offer of peacemaking to the court. The offer was often, although not always, accompanied by a promise of dismissal upon successful completion. The case was then adjourned for 6-8 weeks for a status update. Unless the peacemaking sessions were completed at that time, the defendant was excused from attending the status updates. At the status updates, the peacemaking associate informed the court of the participation of the defendant, though no specific details about the sessions themselves. Once the sessions concluded with consensus reached, the case was returned to the court calendar for disposition.

A number of factors played into the decision to recommend peacemaking. The prosecutor's office had to feel that if the victim might be amenable to the defendant participating in peacemaking; no defendant actually participated in peacemaking until the prosecutor's office spoke to the victim and obtained consent. In general, the prosecution was only willing to recommend peacemaking in certain low level cases. The prosecutor's office expressed that since they held responsibility for a case, they were hesitant to cede control to community peacemakers. In short, the prosecutor did not want to appear to be discharging their responsibility to protect the community. (Peacemaking sessions are closed to court personnel and observers and details about the sessions are confidential. Moreover, peacemaking is not intended to be a punitive measure, which may be hard for court actors, especially the prosecution, to accept.) This led to the prosecutor's office only recommending cases that the staff felt would have received a dismissal or adjournment in contemplation of dismissal (ACD) anyway. If there was a mandate or sentence that the prosecutor preferred for a case, the prosecutor would opt for that over peacemaking, especially since the peacemaking model does not allow for additional services to be added to a case on top of peacemaking.

The judge was often vocal about the cases he felt should be considered for peacemaking. The judge was especially keen to use peacemaking in cases with a young person who was not doing what he or she was supposed to be doing, like keeping curfew, going to school, or achieving other goals. The judge felt that peacemaking was a great way for a young person to hear from other community members about the importance of education and staying out of trouble.

While the peacemaking program has now been operating in Red Hook for a year and a half, court players still struggle with seeing peacemaking as a legitimate alternative. In the focus group Stakeholders admitted that they were still trying to figure out in what instances it was legally appropriate and in what instances it was not. For example, a prosecutor spoke about a case where the individual had eight charges of petit larceny and shoplifting. She was not sure how peacemaking could work in this instance, but since several previous jail sentences had not worked, the prosecutor decided to give peacemaking a chance. In this case, peacemaking was deemed appropriate. Questions about the referral process still remain for some stakeholders: in the focus group, the participants discussed extensively which types of defendants were appropriate for mediation as opposed to peacemaking. Some stakeholders expressed that they still did not understand the difference between the programs.

The peacemaking program also accepts referrals from the community. The program staff anticipated that referrals would come from schools, public housing authorities, and community members. These potential referral sources were told about peacemaking by the housing managers in the Red Hook Houses. At the time of this report, the peacemaking program had only held sessions with two community referrals. They are not included in this study.

### ***Voluntary Participation***

Participation in the peacemaking program is voluntary. However, the voluntary nature of the program was not always immediately evident to the defendants. A number of the defendants interviewed stated that they did not know what their option would have been if they had not agreed to peacemaking. Participants were largely under the impression that the peacemaking program was mandated by the judge. One directly stated that "...I was not offered any other alternative. The judge gave it to us and said, 'They have to make peace.'" When asked why he accepted the peacemaking process, another said that *he* had not made the decision, rather, he was sentenced by the judge to peacemaking. The voluntary nature of the program may be lost on program participants, especially if they are in the criminal court setting for the first time.

Others expressed that while they knew that the program was voluntary, they did not know what their other alternative was, and peacemaking was presented as the only way for a positive resolution (a dismissal) for their case. Some did know what their alternatives were but felt that peacemaking would be a quicker way of resolving the case. For example, one woman arrested for shoplifting did not really know what peacemaking was but felt that it would be better than 16 sessions of counseling which were also offered to her as an alternative. Another commented that he thought peacemaking would be "the easy way out."

Despite some confusion, there were participants who understood the purpose and expressed their interest in a peaceful resolution. One said, "I wanted to make peace and wanted to be over with all of this. I don't want to do time for something stupid." Another said that she "felt like I needed it. I had no one out there to listen to what I had to say." A third was keen to avoid going to trial and knew that the people in the peacemaking group had been friends before and could figure out a way to be friends again.

### ***Conclusion***

The system of referrals to peacemaking was streamlined after the first year to go through the prosecutor's office so that only those with an agreeing complaining witness/victim would actually start the peacemaking process. While peacemaking is open to nearly everyone, cases are often limited to lower level offenses that the prosecutor's office considers appropriate — although the ostensible program design did not envision limiting the program in this fashion. Participation is voluntary, and the program design intends for both peacemaking and court staff, including the judge and attorneys, to clearly state the voluntary nature of the peacemaking program and possible alternatives; however, the voluntary nature of peacemaking was not always evident to the participants. Those who choose to participate in peacemaking generally do so as a pretrial diversion program, and completing all requirements results in either a straight dismissal or adjournment in contemplation of dismissal disposition, the latter of which virtually always culminates in a dismissal six months later.

### **Participant Characteristics**

The cases that ultimately participated in peacemaking were typically ones that involved two parties: the defendant and a complaining witness/victim; or a cross-complaint. Table 4.1 shows the charges, charge severity, and relationship with the victim or cross-complainant for each individual defendant who participated in peacemaking. Nearly all of the charges were A misdemeanors, but there were a few participants who were arrested on a D or E felony or a violation. The majority of the cases involved assault charges, often a conflict between two people

with a pre-existing relationship, such as friends, family members, neighbors or roommates. In the 31 peacemaking cases, 42 defendants and 24 complaining witnesses/support people participated (there were some cases with multiple defendants or cross-complaints who met in the same peacemaking group). Defendants were most frequently arrested for an incident (usually an assault, but also disorderly conduct, harassment, and menacing) involving family members: 26 percent were conflicts between parent and child, where the child was the aggressor, and seventeen percent were with other family members, including siblings, aunt or uncle, and others. The parties in the remaining 14 cases with a victim or cross-complainant were roommates, neighbors, friends, shopkeepers, and a pair of taxicab drivers. Eight cases that were accepted into peacemaking did not have a traditional complaining witness (the charges for those cases were petit larceny, grand larceny, possession of a weapon, and possession of stolen property).

In reviewing cases, peacemaking staff attempted to determine if the violent incident that led participants to court was part of a larger pattern of abuse or not<sup>7</sup>. There was one assault case where a young man assaulted his mother's boyfriend. The peacemakers discovered that the boyfriend was abusing the mother. The peacemakers removed the boyfriend from the peacemaking sessions and helped the mother and son to create a safety plan and seek further assistance. There were also a few cases where peacemakers found that while the youth was the aggressor in the current case, there was prior abuse by the parent; in those cases the peacemaking staff called child protective services and continued peacemaking with the youth only. Due to the nature of the charges and relationship between defendants and complaining witnesses, nearly all of the assault cases, including those with cross-complaints, included an order of protection, either full or limited, with an exception for participation in peacemaking.

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<sup>7</sup> The peacemaking program excluded cases that involved intimate partner violence, child abuse, or elder abuse. Elder abuse, as defined by the federal Administration on Aging, defines victims as "people who are older, frail, and vulnerable and cannot help themselves and depend on others to meet their most basic needs... Elder abuse is a term referring to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult" (2013).

**Table 4.1. Peacemaking Cases**

<b>Number of participants</b>	<b>42</b>	
<b>Number of cases</b>	<b>31</b>	
<b>Top Arrest Charge</b>		
Assault	26	62%
Petit Larceny	5	12%
Graffiti	3	7%
Disorderly Conduct	2	5%
Harassment	2	5%
Menacing	1	2%
Grand Larceny	1	2%
Possession of stolen property	1	2%
Possession of a weapon	1	2%
<b>Top Charge Severity</b>		
Felony	3	7%
Misdemeanor	35	83%
Violation	4	10%
<b>Relationship with Complaining Witness or Cross Complainant</b>		
Parent/child	11	26%
Other family	7	17%
Neighbors	5	12%
Roommates	3	7%
Friends	3	7%
Other	5	12%
None	8	19%
<b>Family Court</b>	<b>2</b>	<b>5%</b>

**Conclusion**

Of the 42 defendants who participated in peacemaking, all but eight cases involved a complaining witness or victim. Nearly all of the peacemaking defendants had a pre-existing relationship with the complaining witness, most often a non-spousal family member. More than half of the defendants were arrested on an assault charge, though defendants with a variety of other charges were also referred to the program.

## Understanding of Peacemaking

Once referred to peacemaking, there were a number of reasons why defendants opted to participate. The following are some of the stated reasons:

*Wanted to speak directly with the complaining witness*

*Was promised case would be sealed if went to peacemaking and restraining order would be removed*

*Wanted peace in my household and felt it was easier with peacemaking than through the traditional court setting*

*I think it will help my relationship with my son*

*Sounds interesting*

*It's an opportunity to do the right thing; wanted to try to solve the problem*

*Wanted an opportunity to apologize*

*It was offered and seemed like a quick way to get through this*

*Would rather do something one day a week rather than something every day*

*No other option*

People who did not agree to participate in the program also had their reasons:

*The other party refused to participate because she is low-life scum and only wants to fight others*

*I still have questions about the program*

*Co-defendant threatened my life and it would not be a good idea to attend*

*I do not want to be in the same room as the co-defendant*

*My parents are not supportive*

*I do not live in the same area anymore and it's not worth it to come back for peacemaking*

Participant understanding of the peacemaking program varied, although for the most part those interviewed had a fairly good grasp of what the program entailed. A few participants described it accurately and in detail as a Native American pilot program. Most frequently, participants compared it to mediation or group therapy. One man said that it was the court giving

you the opportunity to “do the right thing” while two others said it was a place to try to get the family back together or help with their problems.

Even if not all participants explained peacemaking accurately in the research interview, they nearly all said that they believed the peacemaking program had been explained well to them. However, as mentioned earlier, it was also clear that some participants did not understand the voluntary nature of the program.

### ***Conclusion***

The reasons that people chose to participate in peacemaking varied, but all the participants felt that the program had been explained well to them.

## **Accepting Responsibility**

One of the four goals of peacemaking is to hold participants accountable, which requires participants to accept responsibility for their actions and to “foster a sense of accountability.” The peacemaking process is not considered an appropriate forum for those who wish to blame others.

Of the defendants interviewed for the report, some readily accepted responsibility for what they did, while others accepted blame with the caveat that they were not the only ones responsible and that the complaining witness or co-defendant initiated the incident that led to the arrest. There were a few, finally, who completely denied any responsibility for their actions and felt that they had been wrongly accused.

By the end, all participants who were interviewed acknowledged to some extent their personal responsibility in the incident, and all participants identified ways that they could prevent a similar situation in the future. Nonetheless, there was still a lot of blame placed on the complaining witness or victim, especially if that person did not attend all the sessions. A few of the interviewed defendants expressed that they had changed during the course of peacemaking, but that the complaining witness had not. This raises some concern for the expectation that peacemaking heals relationships and encourages the defendants to accept responsibility.

In general, interview findings suggest peacemaking appeared to be most successful between friends or neighbors with a long-term relationship. In those cases, the peacemakers created a space where participants could communicate in a way that was previously difficult due to hard feelings from the arresting incident or series of incidents.

In the stakeholder focus group, the judge told of one case involving two women who lived together in a shelter who got into a fight. Both of them said that they did not want continue living with the other, but since they had to live close together in the shelter, they did peacemaking. After completing two sessions, they appeared in court and, according to the judge, behaved in a way suggesting that they had become friendly with each other. They wrote a letter to the judge expressing gratitude for the program, which not only helped them with the current case but also helped them to resolve other co-occurring conflicts.

In another case involving two friends arrested for fighting, one was issued a restraining order and had to move from his home. In this instance, both parties accepted responsibility for what had happened and were anxious to move on. While the parties were grateful for peacemaking for bringing them together, interestingly, neither participant attributed resolving their issues to peacemaking but rather due to their relationship and willingness to communicate. The experience

had been traumatic for both of them (one was injured and the other arrested for the first time) and they were anxious to put the experience and charges behind them.

### **Conclusion**

Many of the peacemaking participants interviewed expressed some level of responsibility for the conflict at issue. Moreover, for those who did not accept responsibility, research interviews suggested that the peacemaking process may still have been beneficial, especially for personal improvement of the defendant. In general, interview findings suggest that peacemaking participants who are in an existing relationship with the victim/complaining witness benefited most from the structure of the peacemaking circles in working towards healing their relationships. Those least likely to benefit appeared to be parties who did not have an ongoing relationship.

### **Ceremony**

In traditional settings, peacemaking typically commences and concludes with a prayer seeking support from the supernatural world to make peace (Costello 1999). Because prayer is not permitted in court settings, the Red Hook program sought to replace formal prayer with non-religious rituals chosen by the participants. Red Hook peacemakers were trained to ensure that any ceremonies associated with a peacemaking session not be grounded in formal religious observation.

The peacemakers in the first training group came up with some examples of ceremonies to use during the circles, including: observing a moment of silence; standing in a circle while holding hands and “passing the pulse” from one person to the next; stating “peace be with you;” stating “may all the benefits of this session today extend to all beings in all directions;” and playing a piece of music.

Participants in research interviews most often reported that the peacemaker had them start with a moment of silence or a very short ritual of holding a stone and saying nice things. One interviewee expressed nervousness in advance of the ceremony. Two of the participants interviewed actually did not remember any ceremony at all.

The main words that participants used to describe the ceremony aspect of peacemaking were “nice,” “liked it,” and “comfortable.” One interview participant described the ceremony:

*The peacemakers did a ceremony with a rock, where you have to greet everyone and say a word of encouragement to the others. They also closed with the rock and word of closure. This was something really new to me, and I found it weird at first but it was pretty cool, soothing and it grew on me and now I look forward to the different environment.*

Another participant said that she initially thought that “the ceremony sounded like a big deal and more than it really ended up being. But it was great, just centering and breathing.” She also recommended that it might not be good to call it a ceremony. The only negative comment about the ceremony was from a participant who said that holding hands during the moment of silence was awkward.

Part of the ceremonial aspect of peacemaking involved providing food, which was considered by all interviewed to be a highlight of the program. Food was provided at every session to build community. By providing food and eating together before the session begins, the

peacemakers hoped to create a sense of community and break the ice for both participants and the peacemakers. The food made participants feel that the peacemakers cared for them and wanted positive things for them. One participant said, “It was a calm experience. All the people were wonderful and we got to just talk and eat—that really opens someone up.”

### ***Conclusion***

The protocols for ceremony were followed by the peacemakers and set the tone for the sessions. Participants viewed the ceremonies favorably. The food provided at each session was appreciated by the participants and helped ease tension.

## **Participation in Peacemaking**

### ***Rules for Peacemaking Sessions***

Everyone in the peacemaking circle is given a chance to speak, including the peacemakers. Robert Yazzie, former Chief Justice of the Navajo Nation said of peacemaking, “The Navajo legal procedure is based on ‘talking things out’ so that everyone can have their say” (1996). In the Red Hook Peacemaking Program, each person indeed received a chance to speak without interruption and without judgment. However, creating a safe environment for “talking things out” took some preparation. The peacemaking program took steps to ensure that everyone would feel comfortable speaking. In the room where peacemaking took place, the chairs were set up into a circle. The peacemaking associate thought about where each person would sit and tried to not seat the defendant and victim directly across from each other. Often, especially during the first session, peacemakers took turns speaking immediately after the victim or the defendant in order to alleviate any tension or anger. In addition, the program coordinator would seat herself closest to the door in case there was an incident where she needed to get help.

Establishing a set of ground rules for each peacemaking session was vital to maintaining peace and creating a non-hostile environment. Each session began with one of the peacemakers talking about the rules for the circle. The rules of the circle were:

- 1) Respect for all involved.
- 2) Everyone works to establish a safe space.
- 3) No shouting.
- 4) No mumbling while others are talking.
- 5) No name calling.
- 6) Always maintain confidentiality.
- 7) No getting up during a session (breaks will be given).
- 8) No cell phones (no texting, emailing or calling).
- 9) One person speaks at a time using a talking piece.
- 10) Work towards consensus.
- 11) Are there any rules that you would like to add that would make you feel safe during the circle?

The rules were written, and participants were reminded of the rules by the peacemakers during the sessions. Taking turns speaking was enforced by the use of a “talking piece”—the talking piece could be anything but was often an item that held some sort of significance to the peacemakers or participants. The peacemaking staff provided talking pieces such as a worry stone, a shell, or a Native American talking stick. At one point, a defendant brought in a picture

of a deceased family member and that was used as a talking piece. The person holding the talking piece could speak without interruption or could simply hold it and stay silent. The peacemaker opening the session would start with the talking piece, then pass it clockwise in the circle, and participants had to wait for their turn with the talking piece before they could speak. This was done intentionally to require the circle participants to listen to others, and to think about their response before speaking. Sometimes peacemakers would allow the conversation to jump from person to person, but they would always try to return it to the circle format.

### ***Victim Voice***

One goal of the peacemaking program is giving victims a voice in the proceedings. The victim's point of view is represented by either victims themselves or by peacemakers who can speak from the victim's perspective. According to Julie Marthaler, a Circle Coordinator from Minnesota: "The magic of the circle is keeping the victim at the center ... [It's therefore crucial] that the harm that was done not be lost [even] if a victim is not going to be part of the circle" (Wolf 2012b).

Victim participation in the peacemaking process at the Red Hook Community Justice Center is vital. In the majority of cases that entered peacemaking, the victim was a family member who was interested in the defendant going through peacemaking. This was especially true in the cases where parents brought charges against their children. While cases with intimate partner domestic violence were not eligible, 43 percent of the cases were family violence cases. Even in cases involving a family member, some of the victims were hesitant to face the defendant. One victim said that at first it felt "weird" to participate in the circle, because she really did not want to face the person who had injured her but did so at the encouragement of other family members.

When asked how they felt sharing their story, the most common words used to describe the experience were "comfortable" and "supported." One father said, "It was a good experience. I had held stuff to myself and felt better sharing it and telling my son that I loved him and that I want to be a better father. He is a good kid." Victims were not required to attend every peacemaking session and many attended only one or two peacemaking sessions, even if the case itself lasted longer. There were also cases where the victim chose to not participate at all in the circle. When this occurred, the peacemakers attempted to represent the victim's perspective during the sessions. Victims have the option of sending someone else there to represent them, but to date none have done so.

The response from defendants varied from case to case. Some defendants were resentful of the victim for not acknowledging their own role in the incident that led to the arrest. In one instance, both the defendant and victim (mother and son) reported that it was helpful to have a peacemaker who was also a parent in the circle. The peacemaker made the parent feel like she was less alone and not the only one struggling with raising children. The peacemaker could also share a parent's perspective with the child in a different way than he had heard from his mother.

There were some victims who were not interested in participating. In some cases the prosecution reported that the parents felt that since the *youth* was the one to commit the offense, the *parent* should not be "punished" by having to attend the peacemaking sessions

### ***Defendant Voice***

The defendants also had the opportunity to speak about the arrest and circumstances that led them to court and to peacemaking. In the research interviews, the defendants expressed that they felt good about sharing their experiences and did not feel judged. In one case between two

neighbors, the defendant expressed that she felt “peaceful” and “trusted” within the circle. She said that the circle provided her with the time to communicate with her neighbor in a setting where they were not both angry and arguing. Another defendant said that at first she did not want to talk, but eventually, she realized that the peacemakers were there to help and she had to work with them if she wanted them to help her. A third defendant talked about how painful it was to relive what had happened but appreciated the peace she felt afterwards.

Not everyone found the talking useful. One participant said that talking made him uncomfortable and that the most useful part of peacemaking was the help provided by the peacemaking staff to find a job. For another set of co-defendants, only one found the process healing, while the other thought it was unproductive.

The victims attending the peacemaking circles also had to hear the defendants about what happened. For some victims it was eye-opening to hear the defendants speaking. One mother expressed that while she had heard her son talk about his arrest before after peacemaking, she felt he understood consequences and was motivated to improve. Another mother said that she felt enlightened by her child telling her in the peacemaking circle that she yelled too much. A third mother said that it hurt her to hear how much her daughter was hurt by her mother and father. Others echoed similar sentiments. However, some of the victims reported that they felt re-victimized by hearing the defendant talking about the incident, at least during the first session. One said that she had expected some contrition and acceptance of blame but instead heard “lies and hatred”; another felt bullied. However, both participants said that they did feel that the peacemakers were aware of their feelings and indicated that over the course of the sessions the peacemakers attempted to address those feelings.

### ***Conclusion***

The Red Hook peacemaking program made an effort to ensure that the victim voice was part of the peacemaking circles. According to interview findings, telling their story and being heard helped both the defendants and the victims understand the entire circumstances of the arrest better and allowed them to communicate better through peacemaking. However, based on additional discussions during the research interviews, peacemakers have to be especially mindful of potential re-victimization during the sessions.

### **Healing Steps**

The goal of each peacemaking session is to reach a consensus for healing and restitution, and this is done through crafting “healing steps.” The *Program Guide* describes healing steps as meaningful forms of restitution. Some suggested steps include creating a family tree, participating in a mentoring program, volunteering at a senior center, attending a cultural event, volunteering with a veterinarian, learning farming techniques, or participating in StoryCorps (an oral history project).

In Red Hook, healing steps were developed to fit the unique nature and circumstances of each conflict. For example, in a case where one sister assaulted the other, the prosecution would have recommended that the defendant participate in an anger management class and ordinarily have a full order of protection. In peacemaking, however, the members of the circle decided together what they should do to heal the relationship and address underlying issues. The defendant participated in six peacemaking sessions, two hours each, and was given healing steps that included editing her resume, attending a job fair, completing two days of community

service, keeping an anger journal, practicing controlling her temper, writing down positive memories of her sister and sharing them, and spending time with her sister. These healing steps actually helped her to find a job.

In a harassment case between two family members, the prosecution would have typically offered an adjournment in contemplation of dismissal (ACD) and full order of protection; instead, the healing steps included a family outing. In an assault case between a young man and his mother's boyfriend, the prosecution offer would usually have included a violation, anger management class, community service, and full order of protection. In this instance, the healing steps for the participant included attending an anger management class, as well as working on his resume, looking for a job, and writing a letter of apology. The peacemakers followed up on each of these healing steps during their sessions, which were held every few weeks. The defendant also spent time in the peacemaking office where the peacemakers assisted him with the resume writing and job search.

In yet another case, a dispute between coworkers involving an assault charge, the prosecutor would have offered an ACD, anger management class, and full order of protection; instead, the case successfully concluded with a dismissal and limited order of protection after one 2.5 hour peacemaking session, with the participants agreeing to resolve their problems peacefully and contacting the peacemaking office if they argued again.

One-third of the peacemaking participants were given healing steps that included participation in a class or service outside of peacemaking. These classes included: a parenting class, GED class, job fair, community service, anger management, and individual counseling. The healing steps also included such measures as thinking about how to deal with conflict in the future, keeping a journal, doing activities with the complaining witness or having a conversation with him/her, and working on interactions with other family members.

In general, the participants had positive feedback about the healing steps. Many of the interview participants brought up the steps related to controlling their temper and communicating "more peacefully" with others. One participant relayed that to control her temper she wrote in an anger journal about what was happening during the week and how she controlled her temper in those situations. She reported that it helped her see healthy ways in which she could react, such as walking away when someone was bothering her. She said, "It was like letting out everything inside of me. I feel so much lighter. Nothing will stop me. I have regrets but I am not stopped by them and this process made me see a lot of things."

Not all healing steps were as successful. Some participants refused to comply with healing steps or viewed them as mere suggestions for things that they could do. In a shoplifting case, a participant was supposed to write a letter to the store where she had shoplifted. She completed the task and her case was resolved, but she felt that the letter had been a waste of time. There were a few cases in which the healing steps involved interacting with the victim, and the participants reported that the best interaction they could have with the complaining witness was to avoid them. In addition, many of the assault cases involved an order of protection with an exception for participation in peacemaking. Three defendants mentioned during their interviews that the order of protection kept them from trying to interact with the victim, and that on at least one occasion when one of the defendants tried to have a positive interaction, the victim threatened to call the police to enforce the order of protection.

In general, due to the confidential nature of the peacemaking sessions, the healing steps were not discussed in court. Once the peacemakers felt that the case had reached a consensus resolution, they informed the court that the participant could be returned to the court calendar. In

some cases, the participant submitted a letter to the judge, defense attorney, and the prosecutor discussing their involvement in peacemaking. However, none of the details about the peacemaking sessions, such as the healing steps, were shared in court on the record.

Some court actors reported that it would have been beneficial for them to hear more about the healing steps. Court actors conveyed that they did not have a clear understanding of what was happening in peacemaking, and hearing more about the healing steps might make them more likely to make more referrals. Peacemaking staff were concerned that the court might not agree with the steps taken and, rather than dismiss a case as expected, might mandate the defendant to additional services or punitive measures. Peacemaking staff indicated that confidentiality and builds trust and respect within the circle. The things shared within the circle are private, and if there is a concern that something private shared in the circle will be repeated in court the circle may not be as effective as it could be.

### ***Conclusion***

During the peacemaking sessions, participants were given healing steps that were flexible and individualized; they included enrolling for outside services, community service, and apologizing to the victim, among others. Participants reported that they found the healing steps helpful. Court actors expressed an interest in learning more about the healing steps, but program staff expressed a belief that it is important to maintain some confidentiality of individual peacemaking sessions and healing steps.

### **Reaching Consensus**

Peacemaking concludes when all the parties in the circle agree that the relationship harmed due to the conflict is healed, or is in the process of healing. Consensus determines when the sessions are done. According to one peacemaker, “You just know when the peacemaking circle is done. Everyone can feel it and we all look at each other and say ‘yeah’.” Upon completion, the peacemaking associate notified the court that the peacemaking process had concluded and then the court calendared the case for final disposition.

Each of the concluded peacemaking cases resulted in a final consensus agreement signed by the defendant and victim (if there was one). The consensus decision, while usually not read in court, was included in the case file. The consensus decisions usually included general language about maintaining peace and showing each other respect, but sometimes also language specific to the case. One consensus decision included that the neighbors would greet each other. Many of the decisions said that the parties would reach out to the peacemaking program if they needed help. Most of the participants said that they were satisfied with the agreement. According to peacemaking staff, sometimes the parties reached agreement due to other pressures, such as perceived pressure from the ,or because they wanted peacemaking to be done and their case dismissed.

Overwhelmingly, the community participants interviewed said that they were happy with the resolution and liked participating in the program. They also said that they would recommend it to others, depending upon the case. The cases that community participants felt would benefit most from peacemaking involved families, especially those with adolescents.

The defendant participants also reported, for the most part, that they liked the process, and that peacemaking was a good way to resolve the case, though some would have preferred not to have been arrested in the first place. Some were not as pleased with the outcome as others. One

defendant had hoped that the outcome would be a peaceful resolution with her daughter, the complaining witness, so that she could see her grandsons again, but that did not happen. Another defendant reported that she signed the consensus just to get it done with.

### ***Conclusion***

While all the completed cases reached a consensus resolution, interview findings indicated that peacemakers need to assess whether a consensus has truly been reached, rather than an agreement for the sake of ending peacemaking and court involvement.

### **Duration of the Sessions**

According to the *Program Guide*, each peacemaking session is intended to last 2-3 hours, with no fixed length of time or number of sessions. At the conclusion of each session, the group would decide if it was the last session and consensus could be reached. If not, the peacemakers would schedule another session on a biweekly basis, or as frequently as schedules allowed, until resolution. The peacemaking program intentionally did not seek to place any expectations on length of time that the sessions would take or to express such an expectation to the participants.

Peacemakers and court staff agreed that there was no way to tell beforehand how many sessions it would take to complete peacemaking. On average, the cases took 2.74 sessions to complete. Twenty-one percent of the cases lasted only one session. The most sessions it took to complete a case was eight. One case lasted nearly a year, from August 2013 to June 2014. The length of time it took to finish all of the peacemaking sessions was the main complaint voiced by interviewed participants. Often, for scheduling reasons, multiple weeks passed between sessions. In between sessions, the peacemakers or program staff remained in contact with the defendant in a variety of ways, such as phone calls to follow-up with healing steps.

One peacemaker said that she felt pressured to wrap up a particular case that she did not feel was ready to be completed. She said she felt that program staff wanted to complete the process so that they could move on to the next thing. Another peacemaker said, "This isn't microwave justice." Juvenile cases often took longer to resolve because it took the juveniles a longer time to "figure it out." For one case, it took a young man more than five sessions before the peacemakers felt they could finally make some progress with him. Peacemaking staff reported that there is often pressure, not from the Red Hook court, but on cases referred from the main Brooklyn Criminal Court, about cases finishing in a set amount of time. (Court players are undoubtedly concerned about due process and legal proportionality among other factors.)

In some instances there is a real time constraint because of job pressures. In other cases the participant may just want the process over and done with. A number of the interviewed participants said that they felt like the process took too.

### ***Conclusion***

The number of sessions and length of time it took to complete the process was in line with what was anticipated in the *Program Guide*. There were some instances where the peacemakers felt some pressure from court to reach consensus in a shorter timeframe. In research interviews participants expressed concern with the length and intensity of program obligations, not with the possibility that sessions were ended too soon.

## Outcomes

Table 4.2 shows the case outcomes for the peacemaking participants. Of the 42 defendants who participated in peacemaking over the course of the study, 31 completed the program successfully, five did not successfully complete due to noncompliance, three were unable to complete because staff determined that they were inappropriate for the program,<sup>8</sup> and three were in the middle of their sessions at the time of this analysis. Nearly all of the defendants who successfully completed peacemaking received a dismissal of their case (90 percent). The remaining 10 percent were given an ACD, which means their charges would ultimately be dismissed if they stayed out of trouble for a predetermined length of time depending on the charges, usually six months. While many of the assault cases had an order of protection in place over the course of the peacemaking sessions,<sup>9</sup> all but four of such orders were discontinued at the conclusion of the successfully completed cases.

**Table 4.2. Peacemaking Outcomes**

<b>Number of completed participants</b>	<b>39</b>	
<b>Case Completion</b>		
Successful completion	31	79%
Did not complete (noncompliance)	5	13%
Did not complete (ineligible)	3	8%
<b>Disposition after peacemaking (successful cases only)</b>		
Dismissal	28	90%
ACD	3	10%
<b>Continued Order of Protection (successful cases only)</b>	<b>4</b>	<b>10%</b>

Of the five defendants who did not successfully complete peacemaking, two failed to comply with the healing steps and were returned to court. Three defendants did not complete peacemaking due to being re-arrested and incarcerated on a new charge. Of the 42 defendants who have participated in peacemaking through August 2014, six have thus far been re-arrested. Of those, three were arrested after they completed peacemaking, and three were arrested while in peacemaking.

<sup>8</sup> These participants did not fail peacemaking due to noncompliance but were found to be inappropriate for peacemaking after starting. One began peacemaking but was found to have mental health problems and was referred to the Justice Center clinic instead for services; one had been mandated by the court to multiple other services outside of peacemaking, which conflicted with the peacemaking guidelines and so was returned to court; and one was withdrawn from peacemaking by their defense lawyer.

<sup>9</sup> The exact number of order of protections during the cases was not available from the data gathered.

## Chapter 5

### Perceptions of Peacemaking

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#### Peacemaking Participant Perspectives

Most defendants and support people who participated in the peacemaking process reported that it went as expected, although there were some surprises. For one participant, it was harder than she thought it would be. The peacemakers pushed her to talk about difficult things, which she ultimately found beneficial because it allowed her to communicate with her child without anger. Another said that she had not expected to cry as much during the sessions. She had hoped that the situation would be resolved so that she could see her grandsons but that was not the case. A third thought peacemaking would be “just talking” and all “lovey lovey stuff” and was surprised how comfortable he felt expressing himself. Finally, one participant felt that peacemaking provided the key parties with an opportunity to speak. However, she also felt that one of the peacemakers was partial to the complaining witness.

Overall, the peacemaking program was received positively by participants. Community participants, including victims or support persons, felt like the peacemaking process was a good experience for them, reporting that they felt they were making progress with the problem that brought them to the program.

Victims were asked about the impact the peacemaking process had on the defendant, if any. Most interviewed were close to the conclusion of the peacemaking sessions, so no one had time to see long-term impacts on behavior. Some were positive in their assessment, saying that they already saw the defendant making increased efforts to change their lives. One said that peacemaking helped his son figure out how to cope with the death of a friend who was recently stabbed. Another said that her son actively listened to the peacemakers and was subsequently communicating more; she hoped that this would be a lasting change. Another parent said he found his son more respectful now. His son found a job and a girlfriend and called his father to let him know where he was, unlike before peacemaking.

However, not all saw positive changes. One victim said that while she noticed that it had helped the defendant control her anger more, she still did not trust the defendant at the conclusion of peacemaking. The victim in another particularly difficult case said that she did not see any changes in the defendant.

While willing to attribute positive changes in the defendants to peacemaking, the victims were generally less likely to say that the peacemaking process had an impact on their own healing, though some did acknowledge improvements especially in family relationships. One reported that he now felt like he could express his feelings to his son. One complaining witness, a mother, said, it had made her want to be closer to her daughter.

The defendants were also asked if they saw any changes in themselves due to the peacemaking process. Many reported seeing changes due to the impact of the arrest and a desire to avoid going through Central Booking again. One first-time offender said: “I already knew what I did was wrong, peacemaking didn’t teach me anything new. I was brought up in a good home and taught right from wrong, so I can’t blame the alcohol. Peacemaking hasn’t changed anything for me, but being arrested and in court did. Being locked up in a cell is something I

don't ever want to be put through again. The feeling of handcuffs on your hands and your shoulders hurting—I can't deal with that.”

A few reported changes in their lives due to peacemaking. One man said that he was waking up early thanks to peacemaking and even wanted to be a peacemaker. Another realized that she needed positive people to talk to in her life and planned to seek out a sponsor. One defendant felt that she benefitted a great deal from finding a new job and starting to write about her own issues, but it did not improve her relationship with the victim. The most positive response was from one defendant who initially did not accept blame for the incident but through peacemaking realized her role in hurting the victim even though she had not been the primary aggressor in the conflict. She said that peacemaking helped her to make that realization and now she tried to walk away from situations that in the past would make her snap.

One father said that peacemaking changed everything for him and his son. His son had recently moved from out of state to live with him and did not get along with his father's new girlfriend, which led to a lot of conflict at home. Through peacemaking, the father said that the best thing that happened was that he finally heard his son “man up and tell me the problem.” The son had moved to his grandparents' house during the peacemaking sessions because of an order of protection, but the father and son now spoke every day on the telephone. The son had forgiven his parents and wanted to move back home, and the father wanted him to come back as well.

## **Peacemaker and Stakeholder Perspectives**

The peacemakers took their role seriously. In their view, it was their role to keep the participants out of the justice system. In the focus group, they described their job as providing a connection for people who are isolated. One peacemaker shared her experience with a teenage girl who was refusing to come to court for a court date and had locked herself in the bathroom. The peacemaker called her and convinced her to come to court so that she would not be warranted. While the peacemaker is not sure if there will be any long-term impact for the girl, she felt that interaction made a positive impact on her life in some small way.

The peacemakers also perceived that the program had an impact on their own lives. In the focus group, the peacemakers emphasized how they shared their own personal experiences in the circles. As community members who were part of the peacemaking circles, they became more invested in their community. Some of the peacemakers explained that they were not peaceful themselves before this program, but through facilitating multiple circles, seeing program staff demonstrate peacemaking, and sharing their own experiences with participants, they became more peaceful.

The court stakeholders also perceived that peacemaking was having an impact. The chief clerk in Red Hook said that she had heard from both peacemakers and participants about the value of what they had experienced, and the community within the circles.

A defense attorney shared that the case of a client who attended peacemaking with his father. The father and son engaged in one peacemaking session and reported back to the attorney that it helped them get on the same page and the young man had decided to go back to school. Another attorney shared that one of her clients had multiple sessions of peacemaking with the defendant, victim, and a third party who was part of the underlying issues. At the conclusion of the sessions, the defendant had found a job with the help of the peacemaking staff and some of the conflict in the home had been resolved. The attorney expressed that this was much further than they would have gotten with community service and anger management.

The judge also perceived that peacemaking was making an impact. He recalled one assault case that was sent to peacemaking with people who had been friends but had developed significant problems. At the conclusion of one of the sessions, the defendant saw the complaining witness at the bus stop and offered her a ride home.

The peacemaking staff considered the program successful in creating change when a peacemaking participant reached out to them when they encountered a trigger for anger. For example, one adult participant called a peacemaker when he was about to get into a fight and asked what he could do to avoid it. In another case, a peacemaking staff member had spoken with a participant extensively about her triggers and how she needed to be responsible for her actions. When a neighbor called her names, this former peacemaking participant called the peacemaking staff instead of getting into a fight, which stopped the conflict.

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## **Appendix B**

### **Long Interview with Peacemaking Participants**

Peacemaking Project Process Evaluation:  
Long interview with Peacemaking participants

- I. Who: Peacemaking defendant participants
- II. When: End of process, when they return to court for compliance check
- III. Who will administer: Researcher
- IV. Instructions: Thank you for agreeing to participate in this study. I will be asking you questions about your current case and your experience with the peacemaking program. The questions are open ended. Please limit your responses to just this current case for which you went to peacemaking, and not any other cases or situation you may be involved in currently or in the past.
- V. Questions:
  1. Why were you in court? Why were you arrested?
  2. What impact did your behavior have on others? (victim, community, family)
  3. What impact did your behavior have on your own life?
  4. Have you been through the traditional court system before? If yes, how did this process differ from that experience?
  5. Did the Peacemakers open and close with a ceremony? How comfortable did you feel with that? Were there certain ceremonies you liked best or least?
  6. Why did you accept to do the peacemaking process?
  7. Did it go as you thought that it would? Would you choose this path again?
  8. What did you think about the length of time that the whole process took? What about individual sessions?
  9. What did you think about the Peacemakers who led your sessions?

10. What did you like best about the process? The least? What worked/didn't work for you?
11. What was it like to face people in your community and talk about what you did/hear them talk about what you did?
12. How did telling your story make you feel? How do you think your story made other peacemaking participants feel?
13. Has the peacemaking changed how you viewed your arrest?
14. Were you given a strategy/tools/plan/things you can do to help you to not reoffend?
15. Has your experience with peacemaking changed anything for you? In what way?
16. Has this process affected your relationship with your family? Your community? In what way?
17. Have you noticed changes in yourself during the peacemaking process? If so, do you feel like those changes are lasting?

## **Appendix C**

### **Community Participant Interview**

Peacemaking Project Process Evaluation:  
Interviews with community participants

- I. Who: Victims, family, friends, other support people who participated in the peacemaking process
- II. When: End of each case, within 2 weeks
- III. Who will administer: Researcher
- IV. Instructions: Thank you for your willingness to participate in this focus group. I have a series of questions to ask you about your experience as a peacemaker over the last year. It will be an open discussion, but we request that you are respectful to each other and speak one at a time. There are no right or wrong answers and we encourage you to share your personal opinions about the process, but please do not share any specific details about the cases in which you participated.
- V. Questions:
  1. What was your role coming to Peacemaking?
    1. Complaining witness
    2. Support person
    3. Community member
  2. How did you feel about the peacemaking process?
  3. Did the peacemakers open and close with a ceremony? How did you feel about that? Were there certain ceremonies you liked best or least?
  4. What happened during the sessions that you liked? What happened during the sessions that you didn't like?
  5. How did you feel when you shared your story with the group?
  6. How did you feel when you heard the defendant share their story? Did the experience change at all as the peacemaking process moved along?
  7. How did you feel about the peacemakers?
  8. Did the peacemaker challenge the defendant? In what way?
  9. How did the defendant respond to the peacemaker?

10. What impact do you feel the process had on the defendant?
11. How did peacemaking affect the defendant and the defendant's family/relationships with others?
12. Have you observed changes in the defendant during the peacemaking process? If so, what kind of changes? Do you feel like those changes are lasting?
13. Do you feel like you/the victim can move forward in a positive way? Why or why not?
14. How did you respond to the peacemaker?
15. What impact do you feel the process had on you?
16. How did peacemaking affect your family/relationships with others?
17. Have you observed changes in yourself during the peacemaking process? If so, what kind of changes? Do you feel like those changes are lasting?
18. Was the process different from what you initially expected? In what ways?
19. If you have been involved in a traditional court case in any way before, how do you feel that this process compared to that experience?
20. Did you feel like the rules were explained to you at the beginning? Were they fair? Were they followed throughout the sessions?
21. Was the case resolved in an amicable way? Would you recommend it to others? In what situations?
22. What did you think about the length of time that the whole process took? What about individual sessions?

# **Appendix D**

## **Stakeholder Focus Group Protocol**

### Peacemaking Project Process Evaluation: Focus Groups with Stakeholders Protocol & Questions

- I. Who is invited: prosecutors, judge, defense, probation, administrators
- II. When: End of program (Feb. 2014)
- III. Who will administer: Researcher
- IV. Questions:
  - 1. What was your role in the peacemaking referral process?
  - 2. How did you feel about peacemaking versus traditional court?
  - 3. What were your expectations for the program? Were they met?
  - 4. How did you feel the referral process worked? Was it smooth and did it make sense?
  - 5. What challenges did you find in the implementation of the peacemaking process? What about in compliance?
  - 6. How did you feel about the length of time the process took?
  - 7. Do you feel that peacemaking was a legally appropriate alternative? Why or why not?
  - 8. Could the peacemaking process be thought of as being “soft on crime”? Why or why not?
  - 9. Would you continue to refer people to the peacemaking process again? Why or why not?
  - 10. What impact do you feel the process had on the participants/victims/community?

# Appendix E

## Peacemaker Focus Group Protocol

### Focus groups with Peacemakers

- I. Who: Peacemakers
- II. When: At the end of the program (June 2014)
- III. Who will administer: Researcher

#### I. Training

- 1. How long have you been a peacemaker?
- 2. How many cases have you worked with?
- 3. Did the training prepare you well to lead the peacemaking process?
- 4. Did you get the support/training that you needed?
- 5. Were you provided with clear guidelines for the process?
- 6. How could the guidelines/training be improved? Did anything take you by surprise?

#### II. Location/Set-up/Length of time

- 7. Was there a setup/method/location that worked best for you?
- 8. How many peacemakers were usually present? Was it challenging to be present at all the sessions?
- 9. How did scheduling work?
- 10. How did you feel about the length of time the peacemaking sessions took?
- 11. How did you feel about the length of the peacemaking process for the whole case?

#### III. Peacemaking process

- 12. How did you feel about the ceremony aspects of peacemaking?
- 13. What did you think about the peacemaking process, considering the cases that you participated in?
- 14. How did participants initially respond to peacemaking and did their reaction to it change as the process moved along?
- 15. Do you feel like the outcome was fair to the defendant/victims/community?
- 16. From what you could tell, how did this affect the defendant and his/her relationship with family/victim/community?

#### IV. Outcomes

- 17. What was your biggest challenge?
- 18. What was the most rewarding experience?
- 19. What effect do you think peacemaking has on the community?
- 20. How did your perception of peacemaking change as you led the peacemaking process?
- 21. What suggestions do you have for improving the peacemaking program/expansion of it?
- 22. Would you do it again or recommend the process to people you know or recommend others to be peacemakers?