

**COMMUNITY DECISION-MAKING PROCESS  
KAHNAWÀ:KE JUSTICE SYSTEM**

Golden Age Club  
4, Enníska/February 2014  
6:00 – 8:30 PM

**RECORD OF DISCUSSION**

**FACILITATORS:**

Kahente Horn-Miller (Lead - CDMP)  
Patsy Bordeau

**RESOURCE PEOPLE:**

Ron Skye (Lead – Resource Person)  
Joe Delaronde  
Christine Zachary-Deom

**RECORDERS:**

Leslie Skye (Lead/Logistics)  
Sophia Dupont (Main Screen)  
Angie Lawrence

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**6:00 P.M. OPENING – Leslie Skye**

**6:05 P.M. INTRODUCTION/MEETING GUIDELINES – Kahente Horn-Miller**

**6:10 P.M. KAHNAWÀ:KE JUSTICE SYSTEM - Ron Skye**

**6:15 P.M. DELIBERATIONS/DISCUSSION – 1 Group**

**8:15 P.M. NEXT STEPS – Kahente Horn-Miller & Ron Skye**

**8:30 P.M. CLOSING – Leslie Skye**

**Facilitator:** Patsy Bordeau  
**Resource Person:** Ron Skye  
**Recorder:** Sophia Dupont

## Section V – COURT OF KAHNAWÀ:KE JUDGMENTS

### 13. FORM

- 13.1 all judgments must be in writing
- 13.2 was moved to appellate section

**Consensus reached**

### 14. SPECIAL ORDERS

- Suggestion to read all clauses out loud
- Judge can find other remedies, unless it is prescribed in the applicable law (example of a judge ordering the issuance of a Medicare Card for an immigrant child)
- It gives the judge some leeway in finding a solution
- Gladue is considered when it comes to sentencing
- For contempt of court there is a difference between criminal and civil law
- When contempt is charged by a judge, it has to be heard by another judge

14.1 “including other remedies” rather than “or other remedies”

14.2 ok

14.3 ok

**Consensus reached**

**QUESTIONS/ANSWERS:**

None

**OUTCOME/POSITION**

- **CONSENSUS REACHED**

**PARKING LOT ITEMS:**

None

**Section VI – APPEALS FROM COURT OF KAHNAWÀ:KE  
IN CRIMINAL MATTERS**

**15. JURISDICTION FOR APPEALS IN CRIMINAL MATTERS**

- Kahnawake would be the court of first instance for criminal files but appeals would be to the Superior Court of Quebec (until such a time as we develop our own criminal code, charter, etc.)
- Suggestion: “In criminal matters subject to a Kahnawake Criminal Code, an appeal to the Kahnawake Court of Appeal may apply (may lie)”.
- Clause was worded as such to keep the door open.
- “competent jurisdiction” if Kahnawake had its own criminal law then the appeal would be heard in Kahnawake
- For MRI law, Akwesasne’s law would have to identify the Court of Kahnawake or the Judges to be its appellate court.

15.1 ok

15.2 “Criminal matters” change to “criminal matters”

**Consensus reached.**

**QUESTIONS/ANSWERS:**

- None

**OUTCOME/POSITION**

- **Consensus reached**

**PARKING LOT ITEMS:**

- None

**Section VII – APPEALS FROM COURT OF KAHNAWÀ:KE  
IN PENAL MATTERS**

**16. JURISDICTION FOR APPEALS IN PENAL MATTERS**

16.1 Ok

16.2 Ok

16.3 Ok

**Consensus reached.**  
**QUESTIONS/ANSWERS:**

- None

**OUTCOME/POSITION**

- **Consensus reached**

**PARKING LOT ITEMS:**

- None

## **Section VIII – KAHNAWÀ:KE COURT OF APPEAL**

### **17. COMPOSITION OF THE KAHNAWAKE COURT OF APPEAL**

- Where do these judges come from? Found in qualifications of judges.
- It was decided for Kahnawake that there is a minimum criteria such as legally-trained etc. so if other community's judge do not meet minimum, we will not be able to use that judge.
- Where do the reasons for appeal appear? They will appear in the Regulations that are yet to be developed.
- Should section 17 go at the end? Should composition go after jurisdiction?
- Suggestion for Sections 15, 16, and 18 to stay together then place section 17 either before or after 18.
- Suggestion to keep all the jurisdiction sections together and all the composition sections together (reorder clauses).

17.1 OK

**Consensus reached**

### **18. JURISDICTION FOR APPEALS IN CIVIL MATTERS**

- "The amount fixed by regulation " will be set by the Justice Commission

18.1 Ok

18.2 Ok

18.3 Ok

18.4 OK

**Consensus reached**

## 19. KAHNAWAKE COURT OF APPEAL HEARINGS

- One judge shall hear an appeal
- A law may require more than one judge to hear an appeal
- An interlocutory judgment is not a final judgment
- Why is there a difference in number of required days for an appeal? It is a standard number set in rules of practice.

19.1 Ok  
19.2 Ok  
19.3 Ok  
19.4 Ok  
19.5 Ok  
19.6 Ok

**Consensus reached.**

## 20. DECISIONS OF THE KAHNAWAKE COURT OF APPEAL

- Change 20.2 “A dissenting judge must submit his/her reasons for his/her dissent in writing” to “**A dissenting judge must submit reasons in writing**”.
- Add “**There can be no abstentions**”.

20.1 Ok  
20.2 Ok  
20.3 Ok

**Consensus reached.**

### **QUESTIONS/ANSWERS:**

- None

### **OUTCOME/POSITION**

- **Consensus reached**

### **PARKING LOT ITEMS:**

- None

## Section IX - OTHER

### 21. OPERATIONAL BUDGET FOR THE COURT OF KAHNAWAKE

- MCK is responsible to fund.
- Why is there mention of a salary grid? Should appear in Regulations section.
- Remove 21.2 as it does not belong there.

21.1 Ok  
21.2 Ok

**Consensus reached.**

### 22. RATSÉNHAIENHS/IETSÉNHAIENHS RESPONSIBLE FOR LAW

- This ensures accountability
- What if CDMP no longer exists, refer to “Definitions” or “any process which may replace it”.
- Why is it not the CDMP that is responsible for having law reviewed? Because it is the responsibility of the Portfolio Chief and there is a mandatory review date assigned.
- 22.2 remove “chief” and insert “Ratsénhaienhs/letsénhaienhs”

22.1 Ok  
22.2 Ok

**Consensus reached**

### 23. AMENDMENTS

- Suggestion to add “suspended or repealed”
- Also change “may” to “shall”
- Suggestion to add “in whole or in part”. Cannot be done because to change any section, it has to go through CDMP
- Suggestion to put first sentence back “This Law shall only be amended or repealed by the Kanien’kehaka of Kahnawà:ke in accordance with the established procedure under the CDMP”.
- Suggestion to keep only the word “amended” because it is not realistic to suspend or repeal the whole justice system
- Jumping back and forth saying sections can be amended or cannot be amended, it is not clear
- Final: “Sections of this Law shall only be amended or repealed by the Kanien’kehaka of Kahnawà:ke using the CDMP. Any amendments to sections of this Law shall not affect the hearing of cases before the Court at the time of the amendment or repeal.”

23.1 Ok

**Consensus reached**

#### **24. COMING INTO FORCE**

- No change

24.1

**Consensus reached**

**QUESTIONS/ANSWERS:**

#### **25. HISTORY**

- No change

**Consensus reached**

#### **26. TRANSITIONAL MEASURES**

- Remove double negative
- All laws of general application which are consistent with the present Law continue....”
- Change word “adapted” to “adopted”

**Consensus reached**

#### **27. GENDER**

- No change

**Consensus reached**

**OUTCOME:**

**Consensus reached**

**NEXT STEPS:**

**Next Hearing: Tuesday, February 18, 2014 @ Golden Age Club**

- **Definitions and decide whether judges must be of aboriginal descent**

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Ron Skye, Director of Justice

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Date

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Christine Zachary-Deom, Portfolio Chief

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Date