

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

Golden Age Club
4, Enniska/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

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**

Ron Skye, Director of Justice

Date

Christine Zachary-Deom, Portfolio Chief

Date