MOHAWK NATION
OF GRAND RIVER
SECRETARIAT

BOOK X OF THE REGISTER'S BOOKS

The Bench Book

For the Court of the Nation: its independence, the values of the bench, procedure from intake to hearing, a fair hearing, evidence, model words for the hearing, writing reasons, outcomes, and the Register's part in the Court's work.

One of the National Books of the Mohawk Nation of Grand River.

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The Bench Book

Book X of the Register’s books

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SECTION 1

The Court and its independence

What the Court of the Nation is, who sits in it, and why no one directs it.

For the Chief Magistrate, the Magistrates, the Court Registrar and the Clerks.

Its colour: **Cover ink**

INDEPENDENCE

The Court

Office	Role
Chief Magistrate	Heads the Court; makes its Orders; assigns matters; hears reviews
Magistrates (Justices of the Peace)	Hear matters; approve summonses, notices, adjournments, judgments
Court Registrar	Keeps the docket; accepts filings; issues summonses and notices
Court Clerks	Take statements of claim and affidavits; keep the record of each hearing

Independence

The Court decides each matter on the facts and the law, free of any influence — from the Secretariat, from the parties, from anyone. No officer of the Secretariat may direct a Magistrate in a matter, ask how it will be decided, or comment on it before it is. This follows the UN Basic Principles on the Independence of the Judiciary (1985).

The values of the bench

Value	In practice
Independence	Decide free of influence; refuse every approach about a matter
Impartiality	No favour, bias or prejudice — and none that a fair observer could see
Integrity	Conduct above reproach, on the bench and off it
Propriety	Avoid impropriety and its appearance: gifts, private contact with a party, comment on a matter
Equality	Treat every person equally, whoever they are
Competence and diligence	Know the law; prepare; decide without delay

The six values of the Bangalore Principles of Judicial Conduct (2002).

SECTION 2

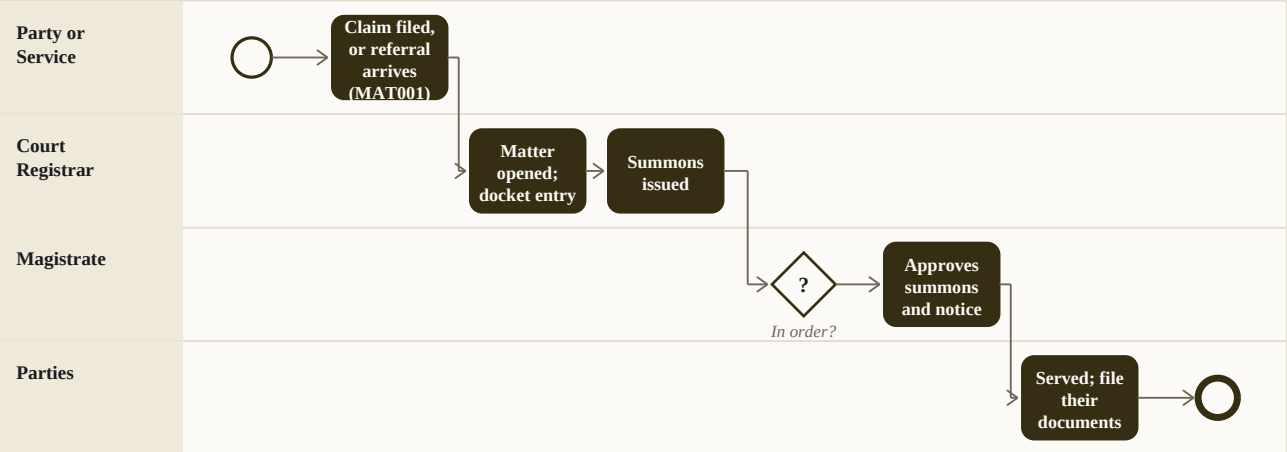
From intake to hearing

How a matter comes to the Court and is made ready.

Its colour: **Cover ink**

PROCEDURE

How to read the diagram: each row is one party — Party or Service, Court Registrar, Magistrate and Parties. Follow the steps left to right, from the start to the end. A diamond marks a decision — In order? — and the path that follows each answer.



	Step
1	A claim is filed, or a referral from the Public Safety Service arrives as a matter (MAT001), restricted where it comes from a criminal case
2	The Court Registrar opens the docket entry and checks the matter is the Court’s to hear
3	A summons is issued to each party (and a witness summons where needed), telling them of the matter, their right to a lawyer, and an interpreter if needed; a Magistrate approves it
4	A notice of hearing sets the date, time and place — in person, or with a link to attend online — with time to prepare; public unless reasons are recorded
5	Parties file documents and evidence into the matter from their own pages; the registry accepts each into the record, dated, or returns it with the reason
6	The hearing bundle is prepared: an index, the certificate, and each exhibit with its cover sheet — as separate files, never one merged bundle

RULE Every filing is accepted or returned with a reason the same day it is reviewed. A returned filing may be corrected and filed again.

SECTION 3

A fair hearing

What every party is owed, and how the bench makes sure of it.

Article 14 of the International Covenant on Civil and Political Rights.

Its colour: **Cover ink**

A FAIR HEARING

Every person is owed	The bench makes sure
A fair and public hearing by an independent, impartial tribunal	Hearings are public unless reasons for privacy are recorded
To be presumed innocent until proven guilty	The accuser proves; the accused need prove nothing
To be told promptly, in a language they understand, what is alleged	The summons, and the bench at the start
Adequate time and facilities to prepare	No hearing goes ahead before the party has had a fair chance to prepare
To be tried without undue delay	Adjournments only for good reason, recorded
To be present, and to defend themselves or through a lawyer	Told of the right to a lawyer; a party without one is helped to understand the process
To examine the witnesses against them, and call their own	Each party may question each witness
A free interpreter if they need one	Arranged before the hearing; the interpreter takes the oath
Not to be compelled to testify against themselves	The bench tells an accused person so
A review of a conviction by a higher tribunal	Every decision says how it may be reviewed
Not to be tried twice for the same thing	The docket is checked for an earlier matter

SECTION 4

Evidence

What may be relied on, and how much it must prove.

Its colour: **Cover ink**

EVIDENCE

What may be relied on

Evidence must be relevant to what is in issue, and fairly obtained. Weigh each piece for what it is worth. A Nation document is proven by its standing and its Edge Mark (Book XXII); a record from the Register by its Record Code and its Ledger entry; physical and digital evidence by its chain of custody — every hand-over recorded and on the Ledger, and digital evidence by its SHA-256 fingerprint, acquired under ISO/IEC 27037.

How much must be proven

Matter	Standard of proof
A criminal charge	Beyond reasonable doubt
A claim between parties	On the balance of probabilities: more likely than not

Proposed: for the Nation to adopt by its Gazette.

WATCH FOR A break in the chain of custody does not make evidence worthless, but it lessens its weight. Ask what happened in the gap, and record the answer.

SECTION 5

At the hearing

Model words, for the bench to use or adapt.

Its colour: **Cover ink**

MODEL WORDS

Opening

“This is a hearing of the Court of the Nation, in the matter [Record Code]. I am [name], a Magistrate of the Court. The hearing is public. Will each party please say who they are, and who is with them.”

To a party without a lawyer

“You have the right to a lawyer. If you wish to have one, you may ask for time to find one. If you go on without one, I will explain each step as we go, and you may ask me to explain anything you do not understand.”

The interpreter’s oath

“Do you swear, or solemnly affirm, that you will interpret truly and fully everything said in this hearing, to the best of your ability?”

A witness

“Do you swear, or solemnly affirm, that the evidence you give will be the truth, the whole truth, and nothing but the truth?”

To an accused person

“You do not have to say anything, or give evidence. If you choose to, what you say will be part of the record.”

Delivering a decision

“I will give my decision and my reasons. [Reasons.] My decision is [decision]. [Orders.] You may ask for this decision to be reviewed, by [how and when].”

Order in the hearing

If someone disrupts a hearing, warn them first, plainly, of what will follow if it continues. Only if it continues may they be asked to leave. Record the warning and what followed.

SECTION 6

Writing reasons

Every decision gives its reasons, so that the parties, and anyone reviewing it, can see how it was reached.

Its colour: **Cover ink**

REASONS

Part	What it says
The matter	Its Record Code, the parties, what is asked
The issues	What the Court has to decide, as questions
The facts found	What the Court finds happened, and on what evidence
The law	The instruments and principles that apply, cited by Record Code
Applying the law	How the law answers each issue on those facts
The decision and orders	What the Court decides, and what each party must do, by when
Review	How the decision may be reviewed

Reasons

GOOD
· “I accept the witness’s account that the van was at the pump house at one in the morning: it was given in her own words, without hesitation, and is consistent with the photographs (EVI001-261026-000003).”

NOT LIKE THIS
· “I prefer the evidence of the prosecution.”

Why: Reasons must let a party see why they won or lost. A preference without a why is not a reason.

Judgments are registered with their Record Code and made public, unless the protection of a child, or another reason the Court records, requires otherwise.

SECTION 7

Outcomes

What the Court may order, and the standards that guide it.

Its colour: **Cover ink**

OUTCOMES

Restorative first

Where the parties consent freely, the Court may refer a matter to a restorative circle, in keeping with the Nation’s own ways of mending harm and the UN Basic Principles on Restorative Justice (2002). Anyone may withdraw at any time; taking part is not an admission; nothing said in the circle is evidence if the matter returns to the Court.

Measures other than custody

Custody is the last resort. Prefer measures in the community — reparation, service, supervision, conditions — as the UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules, 1990) set out. Where women are concerned, take account of the UN Rules for the Treatment of Women Offenders (the Bangkok Rules, 2010).

Young people

For anyone under 18, the aim is their well-being and their return to the community, in proportion to the harm and to their circumstances, as the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules, 1985) and the Convention on the Rights of the Child require. Their names are not made public.

Review

A decision may be reviewed by the Chief Magistrate, or for a decision of the Chief Magistrate, by a panel of three Magistrates. Proposed: for the Nation to adopt by its Gazette.

SECTION 8

The bench itself

Stepping aside, keeping the record, and working with the Register.

Its colour: **Cover ink**

THE BENCH

Stepping aside

Step aside if	Because
You know a party, or are related to one	A fair observer could doubt your impartiality
You, or your family, would gain or lose by the outcome	You would be judging in your own cause
You have said what you think of the matter	You have decided before hearing
You have acted in the matter in another role	You cannot judge your own work

RULE When in doubt, tell the parties and ask the Chief Magistrate to assign another Magistrate.

The Register’s part

The Register	For the Court
The docket	Every matter, its stage, its hearings, its filings
E-filing	Parties file from their own pages (FIL001, EVD001)
Hearing bundles	Separate files, each with its cover sheet, hashed and signed
Affidavit Builder	Paragraphs drafted from the records, each citing its Record Code and exhibit
The Court’s forms	Summons, notice of hearing, affidavit, adjournment, order, judgment, interpreter, referral to a circle — Book XIV

Standards

Standard	For
UN Basic Principles on the Independence of the Judiciary (1985)	The Court’s independence
The Bangalore Principles of Judicial Conduct (2002)	The values of the bench
International Covenant on Civil and Political Rights, Article 14	A fair hearing
UN Basic Principles on Restorative Justice (2002)	Circles
The Tokyo Rules (1990)	Measures other than custody
The Beijing Rules (1985); Convention on the Rights of the Child	Young people
The Bangkok Rules (2010)	Women
ISO/IEC 27037	Digital evidence

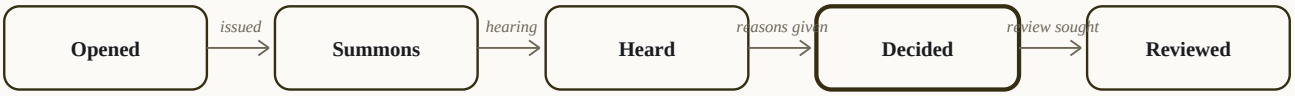
SECTION 9

How it works, and how we compare

The benchmarks the Nation measures itself against, the standards it follows, and the questions an expert or critic would ask — answered.

Its colour: **Cover tan**

A matter’s life



How we compare

Benchmark	What they do	What the Nation does
The Equal Treatment Bench Book (England and Wales)	Guidance for judges on fair treatment of every person in court	Section 3, and the model words of Section 5
The Canadian Judicial Council’s Ethical Principles for Judges	Independence, integrity, diligence, equality, impartiality	The six Bangalore values
The Tsuut’ina Nation Peacemaker Court	An Indigenous court with peacemaking, within a nation’s own order	Restorative circles, and the Court’s own procedure
Navajo Nation Peacemaking	Traditional peacemaking alongside a nation’s courts	Referral to a circle, with consent

Questions an expert or critic would ask

By what authority does the Court sit?
Under the Nation’s instruments, within its own order, as UNDRIP Article 34 recognises Indigenous juridical systems. It claims no jurisdiction on any other government’s behalf.

Can Magistrates be independent if the Secretary-General appoints them?
Independence needs security of tenure: a Magistrate should be removable only for cause, by a process the Gazette sets, and never for a decision. Adopting that is recommended.

What if a party will not accept the Court?
The Court records its decision and its reasons; how it is followed outside the Nation depends on the parties and on others. A restorative circle, where everyone consents, often resolves what a decision alone cannot.