

Title

KAHNAWÁ:KE PEACEKEEPERS LAW

K.R.L. c. P-1

[Enacted by MCR #44/1979-80, on 13, Ohiari:ha/June, 1979]
[Amended by MCR #71/1991-92 on 30, Seskehkó:wa/September, 1991]
[Amended by MCR #30/1996-97 on 17, Ohiarih:ha/June, 1996]
[Amended by MCR #44/2001-02 on 26, Kentenkhó:wa/November, 2001]
[Amended by MCR # 08 /2005-2006 on 17 Kenténha/October, 2005]

SECTION I

“Jurisdiction”

JURISDICTION

- 1.1 This is a Kahnawá:ke Mohawk Law in and for the Mohawk Territory of Kahnawá:ke respecting the peace, order, protection and security of persons and property within the Mohawk Territory of Kahnawá:ke. It may be cited as the “Peacekeepers Law”.
- 1.2 The Mohawk People of Kahnawá:ke, as part of the Mohawk Nation are, and have always been, part of a sovereign nation and peoples.
- 1.3 The Mohawk People of Kahnawá:ke have consistently and historically exercised ultimate and exclusive jurisdiction over the Mohawk Territory of Kahnawá:ke.
- 1.4 The Mohawk People of Kahnawá:ke have an existing and inherent right of self-determination that includes the power, right and responsibility to maintain peace, order, protection and the security of persons and property within the Mohawk Territory of Kahnawá:ke. The Mohawk People of Kahnawá:ke have consistently and historically exercised this power and right and fulfilled this responsibility despite the resistance of foreign entities.
- 1.5 The Mohawk People of Kahnawá:ke have the plenary and exclusive jurisdiction to establish and maintain policing services in and for the Mohawk Territory of Kahnawá:ke.
- 1.6 On June 13, 1979, the Mohawk People of Kahnawá:ke formally established a professional policing service known as the Kahnawá:ke Peacekeepers through Mohawk Council of Kahnawá:ke Resolution No. 44/79-80. On September 30, 1991, Mohawk Council of Kahnawá:ke Resolution No. 71/91-92 amended that Resolution, later re-amended by Mohawk Council of Kahnawá:ke Resolution #30/1996-97 on 17, Ohiarih:ha/June, 1996, and further amended by MCR #44/2001-02 on 26, Kentenha/November, 2001 and further amended by MCR#08 /2005-2006 on the 17 Kenténha/October, 2005.
[MCR # 08 /05-06]

- 1.7 Since their creation, the Kahnawá:ke Peacekeepers have continuously operated as the sole policing service for the Mohawk People of Kahnawá:ke and their Territory.
- 1.8 The Mohawk Council of Kahnawá:ke, having been mandated to protect the rights and interests of the Mohawk People of Kahnawá:ke, has enacted this Law to affirm and continue the Kahnawá:ke Peacekeepers as the sole body to provide policing services in and for the Mohawk Territory of Kahnawá:ke.
- 1.9 This Law is enacted under the jurisdiction and within the authority of the Mohawk People of Kahnawá:ke and is not dependent on or derived from the laws of any other government.
- 1.10 The Mohawk Council of Kahnawá:ke is solely responsible for asserting and defending Kahnawá:ke's jurisdiction over policing matters within its Territory.
- 1.11 The Mohawk Council of Kahnawá:ke, as the governing body in and for the Mohawk territory of Kahnawá:ke, has the responsibility to preserve and promote peace, order and the protection and security of persons and property within the Territory. Accordingly, the Mohawk Council of Kahnawá:ke has sole authority over policing and policing related matters within the Territory including the establishment, implementation and, when necessary, amendment of laws, intergovernmental agreements and policies related to policing within the Territory.
- 1.12 The Mohawk Council of Kahnawá:ke will provide to the Chief Peacekeeper, and to the Kahnawá:ke Peacekeepers, the financial, political and moral support required to fulfill their mandate.
- 1.13 For greater certainty, the Mohawk Council of Kahnawá:ke will not interfere in the operational actions and decisions or the police investigations and enforcement actions taken by the Kahnawá:ke Peacekeepers.

2. **PURPOSE**

"Purpose"

- 2.1 This Law is an expression of the will of the Mohawk People of Kahnawá:ke for the maintenance of peace, order, protection and the security of persons and property within the Mohawk Territory of Kahnawá:ke and may serve as a means of enhancing and promoting the pursuit of peaceful co-existence inherent in the traditions and values of the Mohawk People of Kahnawá:ke.

3. **APPLICATION**

"Application"

- 3.1 This Law, and any Regulations or rules derived from this Law, applies to policing services in and for the Mohawk Territory of Kahnawá:ke and to all persons and properties located or found within the Mohawk Territory of Kahnawá:ke.

4. **PARAMOUNTCY**

"Paramouncy"

4.1 This Law is paramount over any other law, regulation or policy touching or concerning policing services, as it purports to relate to the Mohawk territory of Kahnawá:ke, including any law, regulation or policy of the Parliament of Canada, the legislative assembly of any province of Canada and of any other government.

5. **DEFINITIONS**

"Definitions"

5.1 For the purposes of this Law, and any Regulations or rules derived from this Law:

"Accountable"

"Accountable" means to be obliged to answer to an authority for your actions and to accept general guidance and direction from that authority;

"Administration"

"Administration Manual/Personnel Policy" means the Mohawk Council of Kahnawá:ke Administration Manual/Personnel Policy;

"Auxiliary Peacekeepers"

"Auxiliary Peacekeepers" means a person who is appointed by the Chief Peacekeeper, to act in the capacity of a Peacekeeper for a limited and specific period and who have basic police training qualifications.
[MCR # 08 /05-06]

"Business Association"

"Business association" means a relationship in which a person has a direct or indirect financial interest;

"Code"

"Code" means the Code of Professional Conduct of the Kahnawá:ke Peacekeepers, attached as Schedule "A" to this Law;

"Commission"

"Commission" means the Kahnawá:ke Justice Commission established and empowered by the Constitution of the Justice System and the Justice Committee of Kahnawá:ke, June 11, 1987 and by Mohawk Council of Kahnawá:ke Resolution Nos. 42/1996-1997, 132/1996-1997 and 32/1998-99;

"Complaint"

"Complaint" means a concern, dispute or allegation of wrongdoing made in writing by a person or persons against one or more Kahnawá:ke Peacekeepers and, for greater certainty, does not include an employee grievance filed by a Kahnawá:ke Peacekeeper;

"Complaint Committee"

"Complaint Committee" means a committee of five (5) persons established by the Ethics Committee, in accordance with section 59.2 of the present Law to hear and decide a complaint against a Peacekeeper in accordance with the provisions of this Law and the Regulations derived from this Law;

[MCR # 08 /05-06]

"Defining Documents"

"Defining documents" means:

- a) this Law and any Regulations or rules derived from this Law;
- b) the Code of Professional Conduct of the Kahnawá:ke Peacekeepers set out in Schedule "A" of this Law;
- c) the Oaths set out in Schedule "B" of this Law;
- d) the Mohawk Council of Kahnawá:ke Operations Manual;
- e) the Mohawk Council of Kahnawá:ke Administration Manual/Personnel Policy;
- f) the policies and procedures developed by the Peacekeeper Services Board that are consistent with the Act.

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"Document"

"Document" includes print, audio tape, videotape, electronically coded medium, computer disc and information or data stored or retrieved by any other means;

"Ethics Committee"

"Ethics Committee" means the Kahnawá:ke Peacekeepers Ethics Committee;

"Familial relationship"

"Familial relationship" means a person's grandparents, parents, siblings, spouse, children and grandchildren;

"Independent"

"Independent" means having the ability to take operational actions and decisions without interference from another person or entity and, without limiting the generality of the foregoing, in relation to the Kahnawá:ke Peacekeepers means having the ability to conduct police investigations and enforcement actions without interference from another person or entity;

"Kahnawá:ke Mohawk Law"

"Kahnawá:ke Mohawk Law" includes:

- a) Kahnawá:ke Laws and By-Laws that have been duly enacted by the Mohawk Council of Kahnawá:ke which are in force within the Mohawk Territory of Kahnawá:ke;
- b) Laws that are in force under the authority of one or more Mohawk communities, and
- c) those laws and Regulations, or portions thereof, of the Parliament of Canada or the legislature of a Canadian province that are recognized by the Mohawk Council of Kahnawá:ke to be applicable within the Mohawk Territory of Kahnawá:ke;

"Liaison Committee" means the Tri-partite Peacekeepers Liaison Committee

"Liaison"

<i>Committee</i>	established by the Mohawk Council of Kahnawá:ke, the Government of Canada and the Government of Quebec;
<i>“Member”</i>	“Member” unless otherwise specified herein, means a member of the Kahnawá:ke Peacekeepers Ethics Committee and includes the Chairperson;
<i>“Mohawk Council of Kahnawá:ke”</i>	“Mohawk Council of Kahnawá:ke” means the governing body in and for the Mohawk Territory of Kahnawá:ke mandated by the Mohawk People of Kahnawá:ke to enact Kahnawá:ke Mohawk Law;
<i>“Mohawk of Kahnawá:ke”</i>	“Mohawk of Kahnawá:ke” means a person who is identified by Kahnawá:ke Mohawk Law, as it may be amended from time to time, as a Mohawk of Kahnawá:ke;
<i>“Mohawk People of Kahnawá:ke”</i>	“Mohawk People of Kahnawá:ke” means the community of persons identified as Mohawks of Kahnawá:ke by Kahnawá:ke Mohawk Law, as it may be amended from time to time;
<i>“Mohawk Territory of Kahnawá:ke”</i>	“Mohawk Territory of Kahnawá:ke” means the lands to which the government of Canada refers as Indian Reserve No. 14; Doncaster; the original lands designated as the Seigneurie of Sault Saint Louis; traditional Mohawk territory, and includes: <ul style="list-style-type: none"> a) the lands now held under the mandate of the Mohawk People of Kahnawá:ke; b) any and all lands that may be added to the lands now held by the Mohawk People of Kahnawá:ke through the negotiation and resolution of land grievances, and c) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawá:ke as the result of any other means;
<i>“Oaths”</i>	“Oaths” means the Oath of Allegiance and Office, the Oath of Secrecy and the Oath of Primacy set out in Schedule “B” of this Law;
<i>“Operational Manual”</i>	“Operational Manual” means the Mohawk Council of Kahnawá:ke Operations Manual;
<i>“Peacekeeper & Kahnawá:ke Peacekeeper”</i>	“Peacekeeper” and “Kahnawá:ke Peacekeeper” means a person authorized by this Law to act as a police officer and includes the Chief Peacekeeper;
<i>“Peacekeeper Services Board”</i>	“Peacekeepers Services Board” means that Board established and having those functions listed in the present Law.

[MCR # 08 /05-06]

SECTION II

6. KAHNAWÁ:KE PEACEKEEPERS

*"Kahnawá:ke
Peacekeepers"*

- 6.1 The police force known as the Kahnawá:ke Peacekeepers is hereby reaffirmed and continued as the police force with exclusive jurisdiction in and for the Mohawk Territory of Kahnawá:ke.

7. MANDATE

"Mandate"

- 7.1 The mandate of the Kahnawá:ke Peacekeepers is:
- a) to preserve and maintain peace, order, protection and security of persons and property in and for the Mohawk Territory of Kahnawá:ke;
 - b) to prevent offenses against Kahnawá:ke Mohawk Law;
 - c) to investigate any offenses that may have been committed against Kahnawá:ke Mohawk Law;
 - d) to pursue, apprehend, arrest and detain persons who may have committed offenses against Kahnawá:ke Mohawk Law, and
 - e) to assist in the laying of charges and prosecution of any person who may have committed an offense against Kahnawá:ke Mohawk Law

in a manner that is consistent with the traditions and values of the Mohawk People of Kahnawá:ke.

8. INDEPENDENCE OF THE KAHNAWÁ:KE PEACEKEEPERS

*"Independence of
the Kahnawá:ke
Peacekeepers"*

- 8.1 Except as provided by this Law, the Kahnawá:ke Peacekeepers will fulfill their mandate independently from the Mohawk Council of Kahnawá:ke, the Commission, the Ethics Committee, the Liaison Committee, the Court of Kahnawá:ke, the Peacekeepers Services Board, any other government, governmental entity, person, group or organization.

[MCR # 08 /05-06]

9. **ACCOUNTABILITY OF THE KAHNAWÁ:KE PEACEKEEPERS**

9.1 The Kahnawá:ke Peacekeepers are ultimately accountable to the Mohawks of Kahnawá:ke for all of their actions and decisions.

9.2 The Kahnawá:ke Peacekeepers are accountable to the Mohawk Council of Kahnawá:ke for the matters set out in this Law.

9.3 The Chief Peacekeeper will on an annual basis, or more frequently if directed in writing by the Peacekeeper Services Board, provide a detailed written report of the activities of the Kahnawá:ke Peacekeepers covering the period of time since the previous such report. The Chief Peacekeeper’s reports must include, but are not limited to:

- a) the names and qualifications of persons hired as Peacekeepers;
- b) the names and job descriptions of persons hired as support staff;
- c) details of training provided to the Peacekeepers;
- d) a financial statement showing the amount and type of all expenditures made by the Kahnawá:ke Peacekeepers from their annual budget, and
- e) a summary of the policing activities of the Kahnawá:ke Peacekeepers for the period of time in question.

9.4 The Chief Peacekeeper is accountable to the Peacekeepers Services Board to ensure that matters related to the administration, financing and personnel of the Kahnawá:ke Peacekeepers are managed in a way that enables the Kahnawá:ke Peacekeepers to fulfill their mandate efficiently, effectively and in accordance with the needs and expectations of the Mohawk People of Kahnawá:ke.

[MCR # 08 /05-06]

9.5 The Chief Peacekeeper is not required to provide information to the Peacekeepers Services Board or to any other person or body, that in the opinion of the Chief Peacekeeper, is confidential or that may jeopardize a police investigation or enforcement action.

[MCR # 08/05-06]

10. **TERRITORIAL JURISDICTION**

10.1 The Kahnawá:ke Peacekeepers will exercise the functions necessary to fulfill their mandate within the Mohawk Territory of Kahnawá:ke and in such other territorial jurisdictions:

- a) as they may be required to enter as a necessary aspect of

performing their functions, and

- b) in which they may be authorized to enter or function pursuant to an agreement with the government of another territorial jurisdiction.

“Personnel”

11. **PERSONNEL**

11.1 The Kahnawá:ke Peacekeepers will be composed of a Chief Peacekeeper, Assistant Chief Peacekeeper and other Peacekeepers in such numbers as are required to fulfill the mandate of the Kahnawá:ke Peacekeepers.
[MCR # 08 /05-06]

11.2 The Kahnawá:ke Peacekeepers will also employ the support staff necessary to fulfill their mandate.

“Chief Peacekeeper”

12. **CHIEF PEACEKEEPER**

12.1 The Chief Peacekeeper will be selected and appointed by the Mohawk Council of Kahnawá:ke upon recommendation of the Peacekeeper Services Board.
[MCR # 08 /05-06]

“Selection”

12.2 The Peacekeeper Services Board will review applications and interview applicants for the position of Chief Peacekeeper and/or Assistant Chief Peacekeeper, in accordance with the hiring procedure in the Mohawk Council of Kahnawá:ke Administration Manual/Personnel Policy. The Peacekeeper Services Board will present its findings to the Mohawk Council of Kahnawá:ke to assist the Council in making its selection of a Chief Peacekeeper and/or Assistant Chief Peacekeeper.
[MCR # 08/05-06]

“Termination”

12.3 The appointment of a Chief Peacekeeper and/or Assistant Chief Peacekeeper will be terminated if:

- a) he or she resigns or is unable or unwilling to perform his or her duties;
- b) his or her appointment is revoked by the Mohawk Council of Kahnawá:ke upon recommendation of the Peacekeeper Services Board.

[MCR # 08/05-06]

“Duties”

12.4 The Chief Peacekeeper’s duties include:

- a) directing and managing specific operational decisions, investigations and enforcement actions of the Kahnawá:ke Peacekeepers;
- b) hiring individual Peacekeepers and supervising and administering

the day to day operations of the Kahnawá:ke Peacekeepers, including the appropriate and necessary training of the Peacekeepers, as well as disciplinary matters;

- c) subject to the principles and procedures set out in the Administration Manual/Personnel Policy and Operations Manual, disciplining and terminating individual Peacekeepers;
- d) subject to the principles and procedures set out in the Administration Manual/Personnel Policy and Operations Manual, hiring, supervising and, when necessary, disciplining or terminating support staff;
- e) subject to the advice of the Liaison Committee, establishing and maintaining operational protocols with other policing agencies or governmental agencies;
- f) subject to the approval of the Mohawk Council of Kahnawá:ke, establishing a fiscal year end for the Kahnawá:ke Peacekeepers, preparing and administering the Kahnawá:ke Peacekeepers' annual budget and preparing the annual financial reports required by this Law; and
- g) and any other duties that the Peacekeeper Services Board may assign to him/her.

[MCR # 08 /05-06]

13. **ELIGIBILITY**

"Eligibility"

13.1 To be eligible for consideration for employment as a Peacekeeper, an applicant must:

- a) be at least twenty-one (21) years old;
- b) provide letters from two (2) persons who are Mohawks of Kahnawá:ke, attesting to the applicant's good character;
- c) possess a valid and appropriate driver's license;
- d) possess a high school diploma, or the equivalent;
- e) never have been convicted of an indictable offense, except when a full pardon has been granted;
- f) provide a set of his or her fingerprints to the Chief Peacekeeper or to the Mohawk Council of Kahnawá:ke, Human Resources department, for verification and archiving;

- g) submit to a medical examination, and such other testing or screening requirements as the Peacekeeper Services Board may require and be declared to be in good health and free of drugs and alcohol;
- h) complete a basic training course having a minimum standard of First Nations Special Constable at a certified institution approved by the Mohawk Council of Kahnawá:ke and listed in Annex "C" to the present Law;
- i) speak, read and write English or French and have a working knowledge of the other language and of the Mohawk language, or be willing to acquire such working knowledge, in accordance with the provisions of the Kahnawá:ke Language Law;
- j) meet such other requirements as the Peacekeeper Services Board may establish.

[MCR # 08/05-06]

14. **EMPLOYMENT PREFERENCE**

"Employment Preference"

14.1 In the employment of Peacekeepers, preference will be given to Mohawks of Kahnawá:ke who are resident within the Mohawk Territory of Kahnawá:ke. Preference will also be given to persons who speak the Mohawk language. Persons who are not Mohawks of Kahnawá:ke may be considered for employment on the basis of need and merit.

15. **EMPLOYMENT RELATIONSHIP**

"Employment Relationship"

15.1 All Peacekeepers, including the Chief Peacekeeper, and all support staff of the Kahnawá:ke Peacekeepers are employees of the Mohawk Council of Kahnawá:ke and are subject to the policies and procedures in the Administration Manual/Personnel Policy and Operations Manual.

16. **AUTHORIZATION TO ACT AS PEACEKEEPER**

"Authorization to Act as Peacekeeper"

16.1 A person is not authorized to act as the Chief Peacekeeper or as a Peacekeeper until the following requirements have been satisfied:

- a) in the case of a Peacekeeper other than the Chief Peacekeeper, his or her application, in the approved form has been submitted to and accepted by the Chief Peacekeeper or, in the case of a Chief Peacekeeper, he or she has been selected and appointed in accordance with the provisions of this Law;
- b) he or she has executed an Employment Agreement, in the approved form;

- c) he or she has sworn the Oaths set out in Schedule “B” of this Law, and has executed all related documents and procedures.

“Oaths”

17. **OATHS**

17.1 The Chief Peacekeeper will swear the Oaths set out in Schedule “B” of this Law, before the Mohawk People of Kahnawá:ke in a public ceremony convened for that purpose. Every Kahnawá:ke Peacekeeper candidate will swear the Oaths before the Chief Peacekeeper.

“Weapons and Equipment”

18. **WEAPONS AND EQUIPMENT**

18.1 Subject to this Law and any Regulations or rules derived from this Law, a Peacekeeper is authorized to carry on his or her person and to transport in any vehicle under the control of a Peacekeeper, such weapons, equipment or devices that are necessary to perform his or her functions.

“Use of Force”

19. **USE OF FORCE**

19.1 A Peacekeeper’s first duty is to preserve and maintain peace, order, protection and security of persons and property in and for the Mohawk Territory of Kahnawá:ke. A Peacekeeper will, at all times, use only such force as is reasonable and necessary to perform his or her functions and duties, and for greater certainty sections 25 (Protection of Persons Acting Under Authority), 26 (Excessive Force) and 27 (Use of Force To Prevent Commission of Offense) of the *Criminal Code of Canada* are incorporated into this Law. Each Peacekeeper is required to be certified in the use of force training on a yearly basis.

“Performance of Duties”

20. **PERFORMANCE OF DUTIES**

20.1 A Peacekeeper will, at all times, perform his or her duties and otherwise conduct him or herself in accordance with all provisions of:

- a) this Law and any Regulations or rules derived from this Law;
- b) the Oaths set out in Schedule “B” of this Law;
- c) the Code of Professional Conduct set out in Schedule “A” of this Law;
- d) the Operations Manual;
- e) the Administration Manual/Personnel Policy;

in a manner that is consistent with traditions and values of the Mohawk People of Kahnawá:ke.

“Terms of Employment”

21. **TERMS OF EMPLOYMENT**

21.1 The specific terms and conditions of a individual Peacekeeper’s employment will be governed by an Employment Agreement, if applicable, and the Mohawk Council of Kahnawá:ke Administration Manual/Personnel Policy.

“Sole Remuneration”

21.2 A Peacekeeper will accept no remuneration in any form or from any source, other than as is provided by the terms of his or her employment.

“Creation of the Peacekeepers Services Board”

22. **CREATION OF THE PEACEKEEPERS SERVICES BOARD**

22.1 There is established a body to be known as the Peacekeepers Services Board with the powers, duties and functions set out in this Law.
[MCR # 08/05-06]

“Mandate”

23. **MANDATE**

23.1 The Peacekeepers Services Board’s mandate is to establish effective policies and guidelines for the management and administration of the Kahnawá:ke Peacekeepers.
[MCR # 08/05-06]

“Composition of the Board”

24. **COMPOSITION OF THE BOARD**

24.1 The Peacekeepers Services Board consists of Five (5) members, they are: The Director of Justice, a member of the Legal Services Department and Three (3) community members listed on the Kanien’kehá:ka Registry.
[MCR # 08/05-06]

“Policing Portfolio Chief”

24.2 The Policing Portfolio Chief is not a member of the Peacekeepers Services Board, but may participate in the meetings of Peacekeepers Services Board in a liaison and advisory capacity, the whole in accordance with the protocol established between the Peacekeepers Services Board and the Policing Portfolio Chief. For greater certainty, the Policing Portfolio Chief is the Council Chief selected to be responsible for the policing portfolio in Kahnawá:ke.
[MCR # 08/05-06]

“Protocol between Portfolio Chief & Peacekeeper Services Board”

24.3 The protocol between the Peacekeepers Services Board and the Policing Portfolio Chief shall include provisions whereby the Policing Portfolio Chief is the primary communication link between the Mohawk Council of Kahnawá:ke and the Peacekeepers Services Board. No other Mohawk Council Chief shall communicate to the Peacekeepers Services Board, the Peacekeepers Ethics Committee, or the

Peacekeepers without the prior knowledge and approval of the Policing Portfolio Chief.
[MCR # 08/05-06]

"Protocol between Director CPU & Peacekeeper Services Board"

24.4 The Director of the Community Protection Unit is not a member of the Peacekeepers Services Board, but may participate in the meetings of Peacekeepers Services Board in a liaison and advisory capacity, the whole in accordance with the protocol established between the Peacekeepers Services Board and the Director of the Community Protection Unit.
[MCR # 08/05-06]

"Appointment and Term of Office"

25. **APPOINTMENT AND TERM OF OFFICE**

25.1 All members of the Peacekeepers Services Board are appointed by executive directive of the Mohawk Council of Kahnawá:ke.
[MCR # 08/05-06]

"Initial term served by community members---staggered terms"

25.2 The term of office for the community members will be staggered. As such, for the first round of appointments, One (1) community member's term will be for One (1) year, one (1) community member's term will be for two (2) years, and One (1) community member's term will be for three (3) years. The amount of years initially served by the community members will be determined by them, however, if they cannot agree the determination will be made at random.
[MCR # 08/05-06]

"Community Members Term of Office"

25.3 After the first round of appointments the Three (3) community members will serve a term of office on the Peacekeepers Services Board until they resign, no longer fulfill the requirements to hold the office, become disqualified, are incapable or incapacitated, are removed from office, or until their three (3) year term is expired. The community member's term may be reconfirmed each three (3) years by executive directive of the Mohawk Council of Kahnawá:ke. If the community member is not reconfirmed before the expiry of their term of office, they are presumed to have been removed from office.
[MCR # 08/05-06]

"Director of Justice"

25.4 The Director of Justice serves a term of office on the Peacekeepers Services Board consistent with his/her term as Director of Justice, or until such time as he/she becomes disqualified or is no longer able to act. In the event the Director of Justice becomes disqualified he/she will be replaced on the Peacekeepers Services Board by a person selected and appointed by the Mohawk Council of Kahnawá:ke after consultation with the remaining members of the Peacekeepers Services Board.
[MCR # 08/05-06]

"Legal Services Team"

25.5 The Legal Services member serves a term of office on the Peacekeepers Services Board until such time as they are removed by executive directive of the Mohawk Council of Kahnawá:ke, become disqualified, or are no longer able to act.
[MCR # 08/05-06]

*“Qualifications to
be a Board
Member”*

26. **QUALIFICATIONS TO BE A BOARD MEMBER**

26.1 When appointing the Three (3) community members to the Peacekeepers Services Board, the Mohawk Council of Kahnawá:ke will take into account eligibility requirements such as the candidate’s educational background, work experience, managerial experience, financial experience, police experience, sound judgment, and good interpersonal skills. Screening, evaluation and selection of candidates will be made by the members of the PSB and then appointed by the Mohawk Council of Kahnawá:ke. The three (3) community representatives cannot be employed by the Mohawk Council of Kahnawá:ke.
[MCR # 08/05-06]

“Disqualifications”

27. **DISQUALIFICATIONS**

27.1 The following persons are disqualified from being a member of the Peacekeepers Services Board:

- a) a judge,
- b) a justice of the peace,
- c) a police officer or Peacekeeper,
- d) an attorney who practices criminal law as a defense counsel or as a Crown Prosecutor,
- e) a member of another Kahnawá:ke board, commission or committee that issues permits or licenses of any kind in Kahnawá:ke,
- f) a Mohawk Council of Kahnawá:ke Chief other than the Policing Portfolio Chief,
- g) a member of the Police Ethics Committee or Complaints Committee,
- h) a person who has been convicted of a criminal offence and who has not been granted a pardon,
- i) a person who by reason of a conflict of interest cannot act independently.

[MCR # 08/05-06]

“Election of Chair”

28. **BOARD GOVERNANCE**

28.1 The members of the Peacekeepers Services Board shall elect a chair at the board’s first meeting in each fiscal year. The Peacekeepers Services Board members may also elect a vice-chair at the first meeting in each year, and the vice-chair shall act as the chair if the chair is absent or if the chair’s position is vacant.

[MCR # 08/05-06]

"Meetings per Year"

28.2 The Peacekeepers Services Board may hold meetings whenever necessary but never less than four meetings each year, at a location within the Mohawk Territory of Kahnawá:ke, or at such other location or times as the Board may decide.

[MCR # 08/05-06]

"Public Meetings"

28.3 Meetings and hearings conducted by the board should be open to the public, subject to the exceptions mentioned hereinafter, and notice of the meetings should be published in a manner determined by the board.

[MCR # 08/05-06]

"Exception"

28.4 The Peacekeepers Services Board may exclude the public from all or part of a meeting or hearing if it is of the opinion that:

(a) Matters involving public security may be disclosed and, having regard to the circumstances, the desirability of avoiding their disclosure in the public outweighs the desirability of adhering to the principle that proceedings be open to the public; or

(b) Intimate financial or personal matters or other matters may be disclosed of such a nature, having regard to the circumstances, that the desirability of avoiding their disclosure in the interest of any person affected or in the public outweighs the desirability of adhering to the principle that the proceeding be open to the public.

[MCR # 08/05-06]

"Quorum"

28.5 A majority of the members of the board will constitute a quorum. All decisions are to be taken by at least three (3) members present at a duly convened meeting of the board.

[MCR # 08/05-06]

"Procedures"

28.6 The board will establish its own rules and procedures in performing its duties.

[MCR # 08/05-06]

29. **RESPONSIBILITIES AND DUTIES OF THE BOARD**

"Responsibilities & duties of the Board"

29.1 The Peacekeepers Services Board will be responsible for the provision of adequate and effective police services in Kahnawá:ke and shall:

a) After consultation with the Chief Peacekeeper, determine objectives and priorities with respect to police services in the community;

b) After consultation with the Chief Peacekeeper, establish policies for the effective management of the Peacekeeper Department;

- c) After consultation with the Chief Peacekeeper, establish the policies and procedures for the training of the Peacekeepers;
- d) Recruit and recommend the appointment of the Chief Peacekeeper to the Mohawk Council of Kahnawá:ke, determines their working conditions, and ensures that their annual remuneration is determined in accordance with established policies and procedures;
- e) Give general direction to the Chief Peacekeeper and monitor his or her performance;
- f) Establish policies respecting disclosure by the Chief Peacekeeper of personal information about individuals;
- g) Establish guidelines for disclosing secondary and/or off-duty activities of Peacekeeper Officers and deciding whether to permit such activities;
- h) Receive regular reports from the Chief Peacekeeper on disclosures and decisions made for secondary and/ or off-duty activities of Peacekeeper Officers;
- i) Establish guidelines with respect to the indemnification of members of the Kahnawá:ke Peacekeepers for costs, charges and expenses that arise from legal proceedings (Civil and or Criminal) resulting from actions taken or lack their of by a Peacekeeper in the course of his/her duties.
- j) Establish guidelines for dealing with complaints made under the *Kahnawá:ke Peacekeepers Law*;
- k) Review the Chief Peacekeeper's administration of the complaints system and receive regular reports from the Chief Peacekeeper on his or her administration of the complaints system,;
- l) Establish guidelines and policies for the purpose of reducing the size of the Peacekeeper Department by terminating the employment of Peacekeepers, provided the reduction does not contravene the *Kahnawá:ke Peacekeeper Law and* Mohawk Council of Kahnawá:ke agrees with the proposed action.;
- m) Define when a Public meeting of the Kahnawá:ke Police Service Board should take place. Establish guidelines and policies on when hearings will be "in camera" in consultation with the Chief Peacekeeper.

[MCR # 08/05-06]

"Written
Instruction"

29.2 The Peacekeepers Services Board may give written instructions and directions to the Chief Peacekeeper, but not to other members of the Kahnawá:ke Peacekeepers, and no individual member of the Peacekeepers Services Board shall give orders or

directions to any member of the Kahnawá:ke Peacekeepers, including the Chief and Assistant Chief Peacekeeper.

[MCR # 08/05-06]

“Daily Operations”

- 29.3 The Peacekeepers Services Board shall not direct the Chief Peacekeeper with respect to specific operational decisions, investigations, or with respect to the day-to-day operations of the Peacekeeper Department.

[MCR # 08/05-06]

“Exception”

- 29.4 Notwithstanding sections 29.2 and 29.3, the Director of Community Protection may during a State of Emergency (as declared by the Mohawk Council of Kahnawá:ke), direct the Chief Peacekeeper as per MCR # 40/1997-98. The directions will be given in the form of a written order and the Director will as soon as possible call a special meeting of the PSB to inform the board and justify his/her decision to issue the directions. (MCR # 40.1997-98 annexed to Mandate).

[MCR # 08/05-06]

“Budgetary Administration”

30. **BUDGETARY ADMINISTRATION**

- 30.1 The Peacekeepers Services Board will, in conjunction with the Chief Peacekeeper, submit operating and capital estimates to the Finance and Administration Department of the Mohawk Council of Kahnawá:ke that will show, separately, the amounts that will be required:

- a) To maintain the Peacekeeper Department and provide it with equipment and facilities; and
- b) To support the expenses of the board’s operation other than the remuneration of board members.

[MCR # 08/05-06]

“Format of Estimates”

- 30.2 The Finance and Administration Department of the Mohawk Council of Kahnawá:ke will determine the format of the estimates, the period that they cover and the timetable for their submission.

[MCR # 08/05-06]

“Budget”

- 30.3 Upon reviewing the estimates, the Finance and Administration Department of the Mohawk Council of Kahnawá:ke will establish an overall budget for the Peacekeepers Services Board for the purposes of operating the Peacekeeper Department and the Peacekeepers Services Board.

[MCR # 08/05-06]

“Not Bound”

- 30.4 The Finance and Administration Department of the Mohawk Council of Kahnawá:ke is not bound to adopt the estimates submitted by the Peacekeepers Services Board.

[MCR # 08/05-06]

“Limitations on Authority”

- 30.5 In establishing the overall budget for the Peacekeepers Services Board, the Finance and Administration Department of the Mohawk Council of Kahnawá:ke will not have the authority to approve or disapprove specific items in the estimates.

[MCR # 08/05-06]

"Final Approval"	<p>30.6 All budgetary submissions and recommendations are subject to the final approval of the Mohawk Council of Kahnawá:ke. [MCR # 08/05-06]</p>
"Relationship with the Peacekeeper Ethics Committee"	<p>31. <u>RELATIONSHIP WITH THE PEACEKEEPER ETHICS COMMITTEE</u></p> <p>31.1 The Peacekeepers Services Board will establish guidelines and procedures for hearing complaints against members of the Peacekeepers that are directed to the Chief Peacekeeper. If the complainant is not satisfied with the outcome of the complaint, he/she may file an appeal with the Peacekeeper Ethics Committee under the provisions of this Law. [MCR # 08/05-06]</p>
"Complaint against Chief Peacekeeper"	<p>31.2 If the complaint is against the Chief Peacekeeper, it will be directed to the Peacekeepers Services Board. If the complainant is not satisfied with the outcome of the complaint, he/she may file an appeal with the Peacekeeper Ethics Committee. [MCR # 08/05-06]</p>
"Implementation of Decision"	<p>31.3 The Peacekeeper Ethics Committee will provide its decisions on complaints against one or more Peacekeepers to the Peacekeepers Services Board, which will be required to direct the Chief Peacekeeper to implement the decision of the Peacekeeper Ethics Committee in the case of a complaint under section 31.1. If the complaint was made under section 31.2, the Peacekeepers Services Board will be required to implement the Peacekeepers Ethics Committee's decision. [MCR # 08/05-06]</p>
"Independent"	<p>31.4 Apart from this relationship, the Peacekeeper Ethics Committee is separate and independent from the Peacekeepers Services Board. [MCR # 08/05-06]</p>
"Kahnawá:ke Peacekeeper Ethics Committee"	<p>32. <u>KAHNAWÁ:KE PEACEKEEPERS ETHICS COMMITTEE</u></p> <p>32.1 There is established a body to be known as the Kahnawá:ke Peacekeepers Ethics Committee, with the powers, duties and functions set out in this Law.</p>
"Mandate"	<p>33. <u>MANDATE</u></p> <p>33.1 The mandate of the Ethics Committee is to:</p> <ul style="list-style-type: none"> a) consider complaints made by any person against one or more members of the Kahnawá:ke Peacekeepers and to resolve those complaints using the principles and processes set out in this Law, and any regulations derived from this Law; b) prepare and distribute criteria through which the Mohawk People of Kahnawá:ke can provide comments regarding the performance

of the Kahnawá:ke Peacekeepers and to collect, record and report to the Mohawk Council of Kahnawá:ke, the comments provided;

- c) make recommendations to the Peacekeeper Services Board for the modification of administrative or operational practices that, in the opinion of the Ethics Committee, will enable the Kahnawá:ke Peacekeepers to fulfill their mandate more efficiently, effectively and in accordance with the needs and expectations of the Mohawk People of Kahnawá:ke;
- d) enact such Regulations as may be required by section 47.1 of this Law;
- e) perform any other function assigned to the Ethics Committee by the Mohawk Council of Kahnawá:ke.

[MCR # 08/05-06]

"Fair and Reasonable"

33.2 The Ethics Committee will fulfill its mandate in a manner that is fair, reasonable and equitable to all concerned. At all times, the Ethics Committee will act in a manner that best promotes a harmonious co-existence between and amongst the Mohawk People of Kahnawá:ke, the Kahnawá:ke Peacekeepers and all other persons in a manner that is consistent with the traditions and values of the Mohawk People of Kahnawá:ke.

"Court of Kahnawá:ke"

33.3 The Court of Kahnawá:ke will resolve any uncertainties or disputes concerning the application of this Law.

[MCR # 08/05-06]

34. ACCOUNTABILITY OF THE ETHICS COMMITTEE

"Accountability of the Ethics Committee"

34.1 The Ethics Committee is ultimately accountable to the Mohawks of Kahnawá:ke for all of its actions.

"Accountable to the Mohawk Council of Kahnawá:ke"

34.2 The Ethics Committee is accountable to the Mohawk Council of Kahnawá:ke to ensure that every complaint against a Peacekeeper is decided fairly, reasonably and equitably and in accordance with the principles and procedures of this Law and the Regulations derived from this Law. For greater certainty, this section does not modify the principles and procedures for the imposition of penalties set out in sections 71.1 to 71.4, inclusive, of this Law.

[MCR # 08/05-06]

"Quarterly Reports:"

34.3 The Ethics Committee must, on a quarterly and an annual basis, or more frequently if directed in writing by the Mohawk Council of Kahnawá:ke, provide a written report covering the period of time since its previous report. The Ethics Committee's reports to the Mohawk Council of Kahnawá:ke must include, but are not limited to:

- a) the number and date of Ethics Committee meetings;

- b) the names of Ethics Committee members who attended each meeting;
- c) a summary of all resolutions passed by the Ethics Committee;
- d) a copy of all Regulations enacted by the Ethics Committee;
- e) a report of all the comments received by the Ethics Committee from the Mohawk People of Kahnawá:ke regarding the performance of the Kahnawá:ke Peacekeepers;
- f) financial statements or the Ethics Committee detailing the amount and type of all expenditures for each fiscal year;
- g) a summary of any other decisions or activities of the Ethics Committee for the period of time in question;
- h) based on its experience with the complaints procedure set out in this Law and the comments it has received from the Mohawk People of Kahnawá:ke, any recommendations the Ethics Committee may wish to make to the Mohawk Council of Kahnawá:ke for the modification of the complaints procedure that, in the opinion of the Ethics Committee, will enable the Kahnawá:ke Peacekeepers to fulfill their mandate more efficiently and effectively or any recommendations for the modification of operational or administrative practices that, in the opinion of the Ethics Committee, will enable the Kahnawá:ke Peacekeepers to fulfill their mandate more efficiently, effectively and in accordance with the needs and expectations of the Mohawk People of Kahnawá:ke, and
- i) the number, nature and disposition of all complaints received from any person against a Peacekeeper.

"Copies Public"

34.4 Upon request, the Ethics Committee will provide a copy of its reports to any interested Mohawk of Kahnawá:ke.

"Production of Report"

34.5 When the Ethics Committee produces a report it will advise the Mohawks of Kahnawá:ke through the electronic and print media that a report is available and the location and times at which copies of the report can be obtained. Any Mohawk of Kahnawá:ke may obtain a copy of the Ethics Committee's report, free of charge.

35. **ELIGIBILITY**

"Eligibility"

35.1 Subject to the other provisions of this Law, any Mohawk of Kahnawá:ke who is at least twenty-one (21) years old and resides within the Mohawk Territory of

"Not Eligible"

Kahnawá:ke is eligible to be a member of the Ethics Committee.

35.2 Persons not eligible to be a member of the Ethics Committee include:

- a) any person named as a party to a legal action or complaint involving the Kahnawá:ke Peacekeepers, the Mohawk Council of Kahnawá:ke, the Liaison Committee, the Commission, the Court of Kahnawá:ke, the Peacekeeper Services Board or any individual who is a member or officer of these bodies;
- b) any person convicted of an indictable offense, unless that person has been granted a pardon with respect to that conviction.

[MCR # 08/05-06]

"Structure"

36. **STRUCTURE**

36.1 The Ethics Committee will consist of five (5) members, selected and appointed in accordance with the provisions of this Law.

"Three additional members"

36.2 In addition to the abovementioned five (5) members of the Ethics Committee, the following members of the Ethics Committee will advise the Committee in all hearings against a member of the Peacekeepers force, prior to any disciplinary action being sent to the Peacekeepers Services Board. They are: a third party native police officer, a member of the Mohawk Council of Kahnawá:ke's Human Resources Department and a member of the Mohawk Council of Kahnawá:ke's Legal Services Department. Each of these members will be appointed by the Mohawk Council of Kahnawá:ke.

[MCR # 08/05-06]

"Selection & Appointment"

37. **SELECTION AND APPOINTMENT**

37.1 Members of the Ethics Committee mentioned in section 36.1, will be selected by the Mohawk Council of Kahnawá:ke using the following procedure:

- a) the Mohawk Council of Kahnawá:ke will publicly request that Mohawk People of Kahnawá:ke submit recommendations for eligible persons to serve as members of the Ethics Committee;
- b) not less than thirty (30) days from the date of the public request, the Mohawk Council of Kahnawá:ke will select, from the recommendations made by the Mohawk People of Kahnawá:ke five (5) persons who are eligible to serve as member of the Ethics Committee.

[MCR # 08/05-06]

"Fewer Than Five Names"

37.2 In the event fewer than five (5) names of eligible persons are submitted, the Mohawk Council of Kahnawá:ke will repeat the process set out in the section 55 until such time as five (5) eligible persons have been selected and appointed to serve as members of the Ethics Committee.

“Chairperson”

38. **CHAIRPERSON**

38.1 The Ethics Committee will, by majority vote, appoint one of its members as Chairperson. The Chairperson will preside over meetings of the Ethics Committee and will ensure the Ethics Committee follows the principles and procedures provided in this Law and the Regulations enacted pursuant to this Law.

“Term of Office”

39. **TERM OF OFFICE**

39.1 Unless terminated earlier in accordance with the provisions of this Law, a member’s term of office is four (4) years. A member may be re-appointed for another term of office. There is no limitation on the number of consecutive terms of office a member may serve.

“Removal from Office”

40. **REMOVAL FROM OFFICE**

40.1 A member of the Ethics Committee may be removed prior to the expiration of his or her term of office by resolution of the Mohawk Council of Kahnawá:ke, terminating his or her appointment. The Ethics Committee may, by unanimous resolution of the remaining members citing reasons, recommend that the Mohawk Council of Kahnawá:ke terminate the appointment of a Ethics Committee member.

“Resignation”

41. **RESIGNATION**

41.1 A member of the Ethics Committee may resign from office prior to the expiration of his or her term of office by giving a written notice to the Ethics Committee at least thirty (30) days prior to the date on which the resignation is to be effective.

“Vacancy”

42. **VACANCY**

42.1 If a member is removed, resigns or is unable to continue performing his or her duties for any reason the member’s position will be filled by resolution of the Mohawk Council of Kahnawá:ke appointing a new member.

“Quorum”

43. **QUORUM**

43.1 A quorum of the Ethics Committee for the purpose of conducting a meeting will consist of three (3) members, one of who must be the Chairperson. Decisions of the Ethics Committee will be made by a concurring vote of at least three (3) members.

“Meetings”

44. **MEETINGS**

44.1 The Ethics Committee will meet on a monthly basis and may schedule other meetings and activities in accordance with its Regulations and rules, or as may be

necessary. Unless the Ethics Committee previously scheduled it, the Chairperson will give all members at least four (4) days written notice of a meeting.

“Remuneration”

45. **REMUNERATION**

45.1 Members of the Ethics Committee will be compensated for a loss of income occasioned by services associated with their office or such reasonable expenses or remuneration as the Mohawk Council of Kahnawá:ke determines.

“Administration”

46. **ADMINISTRATION**

46.1 The Ethics Committee may contract with the Mohawk Council of Kahnawá:ke to provide the support staff and professional assistance necessary to fulfill its mandate.

“Regulations”

47. **REGULATIONS**

47.1 The Ethics Committee may, by resolution, enact Regulations that:

- a) establish the forms required for the complaint procedures set out in this Law, namely:
 - i. Minutes of Settlement;
 - ii. Notices of Hearing;
 - iii. Notices to Attend;
 - iv. Notices to Produce;
- b) establish By-Laws for the internal operation and procedures of the Ethics Committee and Complaint Committees established by the Ethics Committee.

“Consistency”

47.2 All Regulations enacted by the Ethics Committee must be consistent with the substance and spirit of this Law.

“Distribution”

47.3 A copy of all Regulations enacted by the Ethics Committee will be provided to the Chief Peacekeeper, the Commission, the Liaison Committee, the Peacekeeper Services Board and the Mohawk Council of Kahnawá:ke, and will be made available to any interested member of the public upon request.

[MCR # 08/05-06]

“Submission of Complaints”

48. **SUBMISSION OF COMPLAINTS**

48.1 All complaints made by any person against one or more Peacekeepers, other than a complaint against the Chief Peacekeeper, will be submitted in writing to the

		Chief Peacekeeper, with a copy to the Ethics Committee, within thirty (30) days of the incident or matter which is the subject of the complaint.
<i>"Information concerning complaint process"</i>	48.2	Upon receipt of a complaint, the Chief Peacekeeper will advise the complainant of the complaints procedures set out in this Law and of any procedures that may be available through the Ethics Commission established by the province of Quebec
<i>"Third party complaints"</i>	49.	<u>COMPLAINANTS</u>
	49.1	A complaint may be submitted by a person who was not directly affected by the matters that are the subject of the complaint, provided that within fourteen (14) days of the date on which the complaint was submitted, the person, provided he or she is capable, who was directly affected gives his or her written consent to having the complaint reviewed by the Ethics Committee.
<i>"Complaint by parent etc"</i>	49.2	A complaint may be submitted by a parent or guardian on behalf of a child or incapable person who was directly affected by the matters that are the subject of the complaint.
<i>"Resolution by Chief Peacekeeper"</i>	50.	<u>RESOLUTION BY CHIEF PEACEKEEPER</u>
	50.1	The Chief Peacekeeper will use his or her best efforts to resolve each complaint in a timely fashion. The Chief Peacekeeper will report to the Ethics Committee as to the efforts he or she has taken to resolve a complaint, whether or not the complaint has been resolved and any disciplinary measures that may have been taken as a result of the complaint.
<i>"Not Settled"</i>	50.2	If the complainant is not satisfied with the Chief Peacekeeper's efforts to resolve a complaint, he or she may request in writing that the matter be referred to the Ethics Committee. The Ethics Committee must receive a complainant's request not more than ninety (90) days after the date on which the complaint was originally submitted.
<i>"Settled"</i>	50.3	If the Chief Peacekeeper has advised the Ethics Committee that a complaint has been resolved and the complainant has not requested the matter be referred to the Ethics Committee within the delays set out in this Law, the matter will be considered closed.
<i>"Referral to the Ethics Committee"</i>	51.	<u>REFERRAL TO THE ETHICS COMMITTEE</u>
	51.1	In the event: <ul style="list-style-type: none"> a) the Chief Peacekeeper is unable to resolve a complaint; b) a request to refer a complaint to the Ethics Committee has been received from the complainant within the delays set out in this Law; or

the complaint will be referred to the Ethics Committee.
[MCR # 08/05-06]

*"Acceptance of
Complaint"*

- 51.2 The Ethics Committee will accept a complain for review provided that:
- a) the complaint is in writing and signed by the complainant;
 - b) the complaint names one or more Peacekeepers by name, badge number or some other means by which a Peacekeeper can be identified;
 - c) the complaint was originally submitted to the Chief Peacekeeper within thirty (30) days of the incident or matter which is the subject of the complaint, and
 - d) the complainant has confirmed in writing that he or she has chosen to have the complaint addressed using the procedures in this Law.

"Delay"

- 51.3 If a complaint is submitted more than thirty (30) days after the incident or matter, which is the subject of the complaint, the Ethics Committee will accept the complaint for review only if it is satisfied that the delay was the result of special and extenuating circumstances.

*"Request for
Additional
Information"*

52. **REQUEST FOR ADDITIONAL INFORMATION**

- 52.1 Upon receipt of a complaint, the Ethics Committee will, at the earliest opportunity:
- a) forward a letter to the complainant, with a copy to the Chief Peacekeeper, confirming that the complaint has been received and requesting that the complainant forward to the Ethics Committee, within ten (10) days, any additional written information, documents, photographs or diagrams that directly relate to the complaint;
 - b) forward a letter to each Peacekeeper to whom the complaint relates, with a copy to the Chief Peacekeeper, advising that a complaint has been received; providing a summary of the complaint; and requesting that the Peacekeeper provide a written response to the Ethics Committee within ten (10) days, attaching any additional written information, documents, photographs or diagrams that directly relate to the complaint, and
 - c) forward a letter to the Chief Peacekeeper directing that he or she forward to the Ethics Committee within ten (10) days, the contents of his or her file concerning the complaint.

"Initial Review"

53. **INITIAL REVIEW**

53.1 At the earliest opportunity following the ten (10) day period referred to in the requests for additional information, the Ethics Committee will review the complaint and any additional materials submitted by the complainant, the Peacekeeper and the Chief Peacekeeper.

"Frivolous Complaint"

53.2 Following its review, if the Ethics Committee concludes that a complaint:

- a) does not allege a specific breach of any provision of a defining document, or
- b) is clearly frivolous, vexatious or without substance,

the matter will be closed and the complainant, the Peacekeeper in question and the Chief Peacekeeper will be so advised in writing.

"Review Where Not Frivolous"

53.3 If the Ethics Committee concludes that the complaint does allege a specific breach of one or more provisions of a defining document or is not clearly frivolous, vexatious or without substance, the Ethics Committee will accept the complain for further consideration in accordance with the procedures set out in this Law and the Regulations derived from this Law.

"Acceptance of Complaint"

54. **ACCEPTANCE OF COMPLAINT**

54.1 The acceptance of a complaint for further consideration is not a determination of the merits of the complaint and does not imply that the Ethics Committee has determined the culpability of the Peacekeeper to whom the complaint relates.

"Notification"

54.2 When a complaint has been accepted for further consideration, the Ethics Committee will provide written notification to the complainant, the Peacekeeper to whom the complaint relates and the Chief Peacekeeper specifying the provision or provisions of the defining document or documents that the Peacekeeper is alleged to have breached.

"Admission"

55. **ADMISSION**

55.1 Before any further steps are taken, the Peacekeeper to whom the complaint relates will be offered the opportunity to admit the breach or breaches in question. If the Peacekeeper does so admit, the Ethics Committee will refer the matter to either the Chief Peacekeeper or the Peacekeeper Services Board in the case of an admission on the part of the Chief Peacekeeper, to be addressed in accordance with the Penalty provisions of this Law.

[MCR # 08/05-06]

<i>"Mediation"</i>	56. <u>MEDIATION</u>
<i>"Willingness to Mediate"</i>	56.1 If the Peacekeeper to whom the complaint relates does not admit the commission of the breach or breaches in question, the matter may be referred to mediation, in accordance with the procedures set out in this Law.
<i>"Not Mediate"</i>	56.2 The complainant and the Peacekeeper to whom the complaint relates must provide to the Ethics Committee, within ten (10) days of being requested to do so, written confirmation of their willingness to participate in the mediation process set out in this Law.
<i>"Appointment of Mediator"</i>	56.3 If either the complainant or the Peacekeeper to whom the complaint relates is unwilling to participate, the Ethics Committee will advise the parties that mediation of the complaint is not available and will establish a Complaint Committee to conduct a hearing.
<i>"Appointment"</i>	56.4 If the complainant and the Peacekeeper to whom the complaint relates both provide written confirmation of their willingness to participate in the mediation process, the Ethics Committee will, at their earliest convenience, appoint as mediator, a person who has the skills, training and expertise appropriate for the circumstances and who does not have any familial relationship or business association with the complainant or the Peacekeeper to whom the complaint relates.
<i>"Confidential Communications"</i>	56.5 The mediator will, within thirty (30) days after his or her appointment, arrange a meeting to be attended by the mediator, the complainant, and the Peacekeeper to whom the complaint relates and will use his or her best efforts to reach a mediated resolution of the complaint.
<i>"Minutes of Settlement"</i>	56.6 All discussions at a mediation meeting are strictly confidential and cannot be used by any person in a subsequent proceeding.
<i>"Legal Counsel"</i>	57. <u>MINUTES OF SETTLEMENT</u>
<i>"Settlement Minutes"</i>	57.1 If the complaint is resolved as a result of a mediation meeting, the mediator will prepare Minutes of Settlement detailing the terms of the resolution, including a mutual release and waiver, to be executed by the complainant and the Peacekeeper to whom the complaint relates.
	57.2 Prior to executing Minutes of Settlement, each party will be advised by the mediator to retain independent legal counsel to review and advise them with regard to the Minutes of Settlement.
	57.3 The mediator will ensure that copies of the executed Minutes of Settlement are provided to the complainant, the Peacekeeper who was the subject of the complaint, the Chief Peacekeeper and the Ethics Committee and the matter will be closed. Copies of the Minutes of Settlement will not be made available to any

<i>"Minutes Recorded"</i>	<p>other person without the written consent of the complainant, the Peacekeeper who was the subject of the complaint and the Ethics Committee.</p> <p>57.4 The Ethics Committee will enter a copy of the Minutes of Settlement in a record kept by the Ethics Committee for that purpose.</p>
<i>"Unsuccessful Mediation"</i>	<p>58. <u>UNSUCCESSFUL MEDIATION</u></p> <p>58.1 If the complainant fails to attend or to participate in good faith in a mediation meeting, the Ethics Committee will, on the recommendation of the mediator, either dismiss the complaint or establish a Complaint Committee to conduct a hearing.</p>
<i>"Return for Hearing"</i>	<p>58.2 If the Peacekeeper to whom a complaint relates fails to attend or to participate in good faith in a mediation meeting, or if the mediator advises the Ethics Committee that the mediation was unsuccessful for any other reason, the Ethics Committee will establish a Complaint Committee to conduct a hearing.</p>
<i>"Complaint Committee"</i>	<p>59. <u>COMPLAINT COMMITTEE</u></p> <p>59.1 When required by this Law, the Ethics Committee will establish a Complaint Committee:</p> <ul style="list-style-type: none"> a) to conduct a hearing into a complaint, in accordance with the procedures set out in this Law and the Regulations derived from this Law; b) to determine whether the Peacekeeper to whom the complaint relates has breached one or more provisions of a defining document or documents, and c) in the case of a breach, to impose a penalty or penalties on the Peacekeeper, in accordance with the provisions of this Law.
<i>"Composition"</i>	<p>59.2 A Complaint Committee will be composed of five (5) persons, at least two (2) of which will be members of the Ethics Committee, one (1) person will be from the Human Resources department of the MCK, one (1) person from the Legal Services department of the MCK, and one (1) person who is a police officer but not a Peacekeeper. [MCR # 08/05-06]</p>
<i>"Conflict"</i>	<p>59.3 No one who has any familial relationship or business association with the complainant or the Peacekeeper, to whom the complaint relates, is eligible to be a member of a Complaint Committee.</p>
<i>"Forward of Documents"</i>	<p>59.4 Upon its establishment, the Ethics Committee and the Chief Peacekeeper will provide a Complaint Committee will all written information, documents,</p>

photographs and diagrams previously provided to the Ethics Committee and the Chief Peacekeeper by any party concerning the complaint.

*"Expire of
Mandate"*

59.5 The mandate of a particular Complaint Committee expires after its functions, as set out in this Law, have been completed.

*"Notice of
Hearing"*

60. **NOTICE OF HEARING**

60.1 A Complaint Committee will, within ten (10) days after the date on which it is established, prepare a Notice of Hearing, to be served on the complainant and the Peacekeeper to whom the complaint relates, setting out:

- a) the facts alleged in the complaint;
- b) the provision or provisions of the defining document or documents alleged to have been breached;
- c) a list of the written information, documents, photographs and diagrams previously provided to the Ethics Committee by any party concerning the complaint;
- d) the date, time and location of the hearing.

*"Documents &
Witnesses"*

61. **DOCUMENTS AND WITNESSES**

61.1 Copies of all written information, documents, photographs, and diagrams listed in the Notice of Hearing will be provided to the complainant and the Peacekeeper who is the subject of the complaint upon receipt of a written request.

*"Provide
Documents"*

61.2 Not later than ten (10) days prior to the date fixed for the hearing, each party shall provide to the Complaint Committee and to the other parties:

- a) copies of any written information, documents, photographs and diagrams not listed in the Notice of Hearing to which the party intends to refer during the hearing;
- b) a list of the witnesses the party intends to call at the hearing.

"Notice to Attend"

62. **NOTICE TO ATTEND**

62.1 In addition to the witnesses the parties intend to call, the Complaint Committee may, at the request of a party or of its own volition, issue a Notice to Attend to any person which the Complaint Committee has reason to believe will give

evidence at the hearing that is relevant to the proceedings, directing the person to attend and give evidence at the hearing.

63. **NOTICE TO PRODUCE**

“Notice to Produce”

63.1 In addition to the written information, documents, photographs and diagrams referred to in the Notice of Hearing and provided by the parties prior to the hearing, a Complaint Committee may, at the request of a party or of its own volition, issue a Notice to Produce to any person having in their possession or control any written information, documents, photographs or diagrams the Complaint Committee has reason to believe will be relevant to the proceedings, directing the person to produce the material in question to the Complaint Committee for the purposes of the hearing.

“Powers to Subpoena”

63.2 A Notice to Attend and a Notice to Produce issued by a Complaint Committee have the same force and effect as a subpoena issued by a court of competent jurisdiction.

64. **PUBLIC HEARING**

“Public Hearing”

64.1 The hearing before a Complaint Committee will be open to the public unless, on the application of a party, the Complaint Committee, in its sole discretion, orders the proceedings, or some portion of the proceedings to be held *in camera*.

65. **EVIDENCE UNDER OATH**

“Evidence Under Oath”

65.1 All evidence from parties and witnesses at a hearing will be given under oath or solemn declaration. Any person who gives false or misleading evidence at a hearing is subject to prosecution.

66. **REPRESENTATION BY COUNSEL**

“Representation by Counsel”

66.1 A party is entitled to be represented by legal counsel at a hearing.

67. **RULES OF EVIDENCE AND PROCEDURE**

“Rules of Evidence & Procedure”

67.1 A Complaint Committee conducting a hearing will follow the procedures set out in this Law and the Regulations derived from this Law and, where necessary, will rule on any evidentiary or procedural question that may arise during the course of the hearing. The Complaint Committee will, at all times, apply the principles of equity, fairness and reasonableness.

68. **ONUS OF PROOF**

“Onus of Proof”

68.1 The onus of proof is on the complainant to prove, on a balance of probabilities, the essential facts of which he or she complains.

“Procedure”

69. **PROCEDURE**

69.1 The complainant will give his or her evidence first, including the production of any witnesses, documents, and evidence. The complainant and his or her witnesses and documents are subject to any relevant questions the Peacekeeper who is the subject of the complaint may have.

“Counter Evidence”

69.2 After the complainant has given evidence, the Peacekeeper in question will give his or her evidence, including the production of any witnesses or documents, subject to any questions the complainant may have.

“Questioning of Party or Witness”

69.3 Any member of the Complaint Committee may, at any time during the hearing, question any party or witness who has given evidence or who may provide evidence.

“Closing Statements”

69.4 After all evidence has been produced, each party, commencing with the Peacekeeper who is the subject of the complaint, will be entitled to address the Complaint Committee with any closing arguments or statements he or she may wish to make.

“Decision”

70. **DECISION**

70.1 A Complaint Committee will decide whether the Peacekeeper to whom the complaint relates has breached one or more provisions of a defining document or documents.

“Within one Month”

70.2 The Complaint Committee may render its decision immediately after the hearing is concluded or may reserve its decision and render it at a later date but not more than one (1) month following the conclusion of hearing. In either case, the Complaint Committee will prepare a written statement of its decision, signed by each member of the Complaint Committee who concur with the decisions.

“Majority Decision”

70.3 To be valid, at least three (3) of the members of the Complaint Committee must concur in the decision rendered. A dissenting member of the Complaint Committee may render a written dissenting opinion that will be attached to the written statement of decision.

“Copies of Decisions”

[MCR # 08/05-06]

70.4 Copies of the Complaint Committee’s written statement of decision, including any dissenting opinion, will be provided to the complainant, the Peacekeeper who was the subject of the complaint, the Chief Peacekeeper, the Ethics Committee, the Peacekeeper Services Board and the Mohawk Council of Kahnawá:ke. A copy of the decision will be entered in a record kept by the Ethics Committee for that purpose and will be made available to any interested member of the public upon request.

[MCR # 08/05-06]

“Penalties”

71. **PENALTIES**

“Imposition of Penalties”

71.1 When the Complaint Committee finds that a Peacekeeper has breached a provision or provisions of a defining document or documents, it will refer the matter to the Chief Peacekeeper for the imposition of the appropriate penalty or penalties in accordance with the Administration Manual/Personnel Policy.

71.2 When the Complaint Committee finds that the Chief Peacekeeper has breached a provision or provisions of a defining document or documents, it will refer the matter to the Peacekeeper Services Board for the imposition of the appropriate penalty or penalties in accordance with the Administration Manual/Personnel Policy.

[MCR # 08/05-06]

“Additional Action”

71.3 In addition to, or in lieu of, any penalty imposed by the Chief Peacekeeper or the Peacekeeper Services Board, as the case may be, a Peacekeeper may also be directed to:

- a) provide a written or oral apology to the complainant;
- b) provide restitution or compensation to the complainant in a form or amount as determined by the Chief Peacekeeper or Peacekeeper Services Board, as the case may be, or
- c) perform community or charitable services, the nature and extent of which as determined by the Chief Peacekeeper or Peacekeeper Services Board, as the case may be.

[MCR # 08/05-06]

“Execution of Penalty”

71.4 The Chief Peacekeeper will be responsible for ensuring the penalty or penalties imposed on a Peacekeeper are carried out. Peacekeeper Services Board is responsible for ensuring the penalty or penalties imposed on the Chief Peacekeeper are carried out.

[MCR # 08/05-06]

“Civil Remedies & Criminal Prosecution”

72. **CIVIL REMEDIES AND CRIMINAL PROSECUTION**

72.1 Any matter which is the subject of a complaint to the Ethics Committee may also be the subject of a civil proceeding.

“Multiply Recourses”

72.2 Any matter which is the subject of a complaint to the Ethics Committee may also be the subject of a criminal prosecution. The submission of a complaint to the Ethics Committee and the processing of that complaint pursuant to the procedures in this Law does not preclude or otherwise affect any existing or subsequent criminal prosecution concerning the same subject matter.

"Annual Budgets & Funding"

73. **ANNUAL BUDGETS AND FUNDING**

73.1 The Kahnawá:ke Peacekeepers and the Ethics Committee will each prepare an annual budget of all costs and expenses to be incurred by each entity for the next fiscal year.

"60 Day Delay"

73.2 The annual budgets will be submitted, not later than sixty (60) days prior to the fiscal year end for each organization, to the Mohawk Council of Kahnawá:ke for review and approval.

"Funding"

73.3 The Mohawk Council of Kahnawá:ke will provide funding to the Kahnawá:ke Peacekeepers, Peacekeeper Services Board and to the Ethics Committee, in accordance with the annual budgets approved for the fiscal year in question.

"Annual Financial Statement"

73.4 The Kahnawá:ke Peacekeepers, Peacekeeper Services Board and the Ethics Committee will each prepare annual financial statements detailing the manner in which funds were expended for each fiscal year. The annual financial statements will be submitted to the Mohawk Council of Kahnawá:ke not more than thirty (30) days after the last day in the fiscal year end in question.

"Copies of Statements Public"

[MCR # 08/05-06]

73.5 Copies of the annual budgets and the annual financial statements for the Kahnawá:ke Peacekeepers, Peacekeeper Services Board and the Ethics Committee will be made available to the Mohawk People of Kahnawá:ke.

[MCR # 08/05-06]

"Plural References"

74. **PLURAL REFERENCES**

74.1 References in this Law to the Kahnawá:ke Peacekeepers Services Board and to the Ethics Committee include and are binding on, each individual Peacekeeper or member of the Ethics Committee, as the case may be.

[MCR # 08/05-06]

"Decisions Final"

75. **DECISIONS FINAL**

75.1 All decisions of a Complaint Committee are final. For greater certainty, this section does not prohibit or otherwise affect a Peacekeeper's right to file a grievance pursuant to the provisions of the Administration Manual/Personnel Policy regarding a penalty or penalties imposed under sections 71.1 to 71.4 of this Law.

[MCR # 08/05-06]

"Portfolio Chief Responsible for Law"

76. **PORTFOLIO CHIEF RESPONSIBLE FOR LAW**

76.1 The Policing Portfolio Chief is responsible for this Law.

[MCR # 08/05-06]

"Court Judicial Review"

77. **COURT**

77.1 The Court of Kahnawá:ke may review a decision of the Ethics Commission if the Commission has issued a manifestly or patently unreasonable decision, if it has

breached the rules of natural justice or has not acted fairly towards one of the participants, or has exceeded its jurisdiction.

"History"

78. **HISTORY**

78.1 This Law is subject to a mandatory review on the 17th of October/Kenténha 2009.
[MCR # 08/05-06]