

# 2010

Justice Commission

## [CONDENSED SUMMARY]

Community Decision-Making Process Phase I – Community Hearings on Justice, held 30  
Seskéhkó:wa/September 2009 – 3 Enníska/February 2010

## **CONDENSED SUMMARY**

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## **INTRODUCTION**

The following is a condensed Summary of the information gathered during the Community Decision-Making Process, Phase I – Community Hearings on Justice, held between 30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010. During the Hearing Process there were six (6) Records of Discussion derived from the dialogue of the Community Members. That dialogue is the information consolidated and condensed for this Report.

Prior to the condensed consolidation there will be a brief history of the events leading up to the Hearing Process. This is to ensure continuity and to keep the Community completely informed of all that has transpired regarding the Community Decision-Making Process to date. Following the History of Kahnawà:ke's Community Decision-Making Process, there will be a description of the Community Hearings Format and Community Hearings Process (30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010). The condensed consolidation of the dialogue will come next, followed by a Summary, a Conclusion, and Appendices.

### **I. HISTORY OF KAHNAWA:KE'S COMMUNITY DECISION-MAKING PROCESS**

The purpose of the Community Hearings was to determine whether or not the People of Kahnawà:ke want their own Justice System. One of the reasons the Community was asked this question is due to the fact that the present Kahnawà:ke Justices of the Peace are the only ones left in Canada. Once they retire there is no mechanism in place to replace them. Also, the present Court and Justices of the Peace positions all stem from the Indian Act. This is another reason the Community was asked whether they want their own Justice System, to break away from this oppressive document.

During Community consultations held in 1979, the People of Kahnawà:ke had expressed that they wished to return to more Traditional ways of dispute resolution while still maintaining some aspects of the adversarial system of Justice. These Hearings were held in an effort to move away from the Indian Act to something more Traditional while taking into account modern realities.

The Kahnawà:ke Justice Commission (KJC) was delegated in 1995 by the Mohawk Council of Kahnawà:ke (MCK) to create Laws for the Community. However, there was a conflict because the people comprising the KJC were also the people responsible for the enforcement and interpretation of Law. There was a need to separate the legislative duties from the judiciary duties.

As well, there was an even larger factor for the MCK to consider with regard to decision-making. This factor was the Community's dissatisfaction with the way decision-making occurred in the past. To address this dissatisfaction the MCK gave a mandate to the Office of the Council of Chiefs (OCC) to research and develop a Community Decision-Making Process, one that had direct Community involvement and participation.

The OCC drafted the Community Decision-Making Model, which is based on consensus building. It is considered to be a form of direct Democracy. It includes Principles and a meeting format similar to Traditional methods of Decision-Making. This is in an effort to move towards the 1979 expression of returning to a more Traditional way of dealing with disputes.

The Mohawk Council of Kahnawà:ke established the Interim Legislative Coordinating Committee (ILCC) on, 30 Onerahtohkó:wa/May 2005, as the body responsible for the legislative

process. The ILCC was given the Community Decision-Making Process Model (with an accompanying Flowchart) as one of its Administrative tools, on 14 Kenténha/October 2005, by the MCK. The Flowchart – Type I, consists of the following headings; Preparation, Phase I, Phase II and Phase III, and sets out what is to transpire under each Phase. The ILCC officially came into force on 1 Onerahtóhkha/April 2007.

Numerous information sessions, on the Community Decision-Making Process, were conducted within the Community between 2005 – 2007. The ILCC was then instructed by the MCK, to test the Community Decision-Making Model by conducting three (3) Community Mock Sessions. The Mock Sessions were held on 12 Seskehkó:wa/September 2007, 21 Kentenrhkó:wa/November 2007, and 12 Tsothohrhkó:wa/January 2008. The purpose of these sessions was twofold, one, to inform and educate the Community with regard to the new Process; and two, to receive information and feedback regarding Values and Principles important to Law building.

The feedback from the Mock Sessions is found in the Community Decision-Making Process Summary Report, dated, 15 Seskéha/August 2008, Section 3, and is listed under the following headings: Process, Participation, Consensus Building, Enforcement and Terminology. Under Section 4, is the heading, Community Values and Principles. The goal of this particular feedback was to obtain Values and Principles held in common by Community Members, derived directly from the Community Members who participated in the Mock Sessions.

One of the most important features under the heading, Values and Principles, was a Draft Preamble created by the Community Member Mock Session participants. This Draft Preamble is important because it was used to launch the discussions at the first Community Decision-Making Process Phase I – Community Hearing (30 Seskehkó:wa/September 2009).

Following the mock sessions on the Community Decision-Making Process, the ILCC began Phase I. The result of Phase I was the mandate to draw up the first piece of Legislation, in this case, a Justice Act. To acquire this mandate the ILCC began Community Consultations regarding Justice. Information sessions were held between, 7 - 28 Tsothohrhkó:wa/January 2009. There was also a Survey which was conducted between 13 Enníska/February 2009 and 10 Seskehkó:wa/September 2009.

A summary of the Consultation dates and the Survey results, along with the Draft Preamble, was presented to the participants of the first Community Decision-Making Process Phase I – Community Hearing (30 Seskehkó:wa/September 2009). The Survey Results are important, like the Preamble, because they also formed part of the discussion during the first Hearing. There will be a more in-depth explanation of the role the Survey Results played in the Hearing Process, under the “Community Hearings Process” heading below.

## **II. COMMUNITY HEARINGS FORMAT**

The Community Hearings Format consists of three (3) groups, made up of Community Members. As an alternative to Clan identification, the Groups are divided by color code. In each Group there is one (1) Facilitator, one (1) Originator, one (1) Chiefs Oversight Representative, and one (1) Recorder per group.

The ILCC Phase I Technical Team, (which is made up of the ILCC; Originator/Justice commission; and the Chiefs Oversight Committee) presents an issue to the Hearing, along with

all background information and activities performed to date. It is then officially submitted to the three (3) Groups.

Each of the three Groups is given a period of time to discuss the issue amongst themselves. Each Group appoints a Speaker. The first Group then has their speaker present their position/decision. The second group discusses this position/decision and then their Speaker sends it back to the first group, (in the form of agreement, disagreement or suggestions/comments). The third group can interject at any time if they required clarification, or questions arose. This information is passed to the lead facilitator who then presents the information to all three (3) Groups. All of the groups respond to the information. Once the first and second groups have reached consensus, the position/decision is sent to the third group who have been formulating their own opinion. The Third Group then has their Speaker present their position/decision. All three (3) groups discuss the position/decision until there is consensus by all three (3) groups.

### **III. COMMUNITY HEARINGS PROCESS (30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010)**

The format described above was utilized at the Hearings held between, 30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010. However, prior to explaining how the actual dialogue from the Process played out, there will be a brief description of the documents handed out and the introduction provided to Community Members attending the Hearing Process.

Upon entering the first Hearing, each Community Member was given an agenda with documents attached. The documents contained a Community Decision-Making Model Process Flowchart – Type 1 (Phases I – III) (**Appendix 1**), a Justice Community Hearing – Meeting Format floor plan (**Appendix 2**), a list of support personnel, along with an explanation of the personnel's Roles and Responsibilities (**Appendix 3**). Following those documents was the Preamble (**Appendix 4**), a list of General Meeting Guidelines (**Appendix 5**), Community Hearing Guiding Values and Principles (**Appendix 6**), a Selection of Community Representatives Form and a Certification of Process Form (**Appendix 7**). A second set of documents was also handed out, titled, "Kahnawà:ke Justice Consultation – Survey Results" (**Appendix 8**). Each Hearing opened and closed with the Ohén:ton Karihwatéhkwén. There was a Welcome/Introduction, Process Overview, and Introduction of the Topic.

The list of support personnel (**Appendix 3**) included, Lead Facilitator, Group Facilitator(s), Lead Resource Person, Originator(s), Lead Recorder, Group Recorder(s), and the Community Decision Making Process Technical Team. For Phase I, the Community Decision-Making Technical Team consisted of, the Interim Legislative Coordinating Committee (ILCC), Originator Personnel (or Project Technicians), and the Chiefs Oversight Committee (3). However, in Phase II, it will grow to include Community Representatives (3).

Along with the above-mentioned documents, a color-coded sliver of paper was given to each Community Member upon entering the first Hearing. The Community Members were instructed to proceed to the group that had the same color code. At the first two (2) Hearings, Community Members were sometimes given different color codes from their previous session. By the third Hearing it was decided by everyone that the color-coded group in which a Community Member was currently participating in, was the group they should stay with for the duration of the Hearings.

Once everyone was in a group, and after the Introductions/Overview, the Hearing began with the discussion of the Kahnawà:ke Justice Consultation Survey Results. An explanation was provided stating that a mandate was given by the Community regarding the development of a Kahnawà:ke Justice System. The mandate was derived from the Survey results, particularly Question 13, in which eighty (80%) percent of the respondents answered "yes". (The question is listed below).

The Survey consultation helped provide a basis and framework for the Community Hearings. The Survey was answered by Community Members from various demographics within the Community. The responses ranged from fifty-one to eighty percent (51- 80%) in favor of the questions posed, with the exception of Questions eight (8) and nine (9), which required specific answers, as opposed to a simple "yes" or "no". The Survey consisted of the following thirteen (13) questions:

1. Should Kahnawà:ke have its own Justice and Court System?
2. Should Mediation services be available within a Kahnawà:ke Justice System?
3. Should Arbitration services be available within a Kahnawà:ke Justice System?
4. Should Administrative Tribunals be available within a Kahnawà:ke Justice System?
5. Should an Appeal Court be available within a Kahnawà:ke Justice System?
6. Once developed, should a Kahnawà:ke Justice System be the recognized Justice Forum/Process within our Territory displacing all foreign Courts?
7. Should development of a Kahnawà:ke Justice System include recognition from other Governments?
8. What types of cases should a Kahnawà:ke Justice System handle?
9. If you agree that a Kahnawà:ke Justice System should be based on the Principles and Values of our People, identify one or more of these.
10. Do you believe that Collective Rights should supersede individual in a Kahnawà:ke Justice System?
11. Should non-Kahnawà:kehró:non be subject to the Kahnawà:ke Justice System when on the Territory?
12. Do you agree with the current mandate of the Kahnawà:ke Justice Commission?
13. Would you provide the Kahnawà:ke Justice Commission with the mandate to draft a working document on a Kahnawà:ke Justice System which will then be submitted to the Community for further development?

During the first Hearing discussions, there was a question regarding the accuracy of the Survey Results. The response was that Kahnawà:ke is considered an urban Reserve with approximately eight thousand (8) residents. According to Statistics Canada a sample population would require approximately three hundred and fifty (350) respondents to have an

accurate reading that is considered representative of the Community. In this case there were four hundred and twenty-five (425) respondents.

The Community Members were then informed that once the mandate was given to the KJC, four (4) questions were developed. These were the questions they were being asked to answer in the Community Decision-Making Process Phase 1 - Community Hearings. It was also explained that the Process is new and it would be time-consuming, but because the answers are so important, people should be patient. Everyone was told that some questions might take more than one Hearing session to answer. The Groups were informed that once all four (4) Questions were answered, they would be asked to decide on the Qualifications required for three (3) Community Representatives who would be participating in Phase II.

During the Hearings, if a question was still being discussed, yet it was time to adjourn for the day, the discussion was stopped. The Community Members continued the discussions where they left off, at the next Hearing. For example, Questions 2 and 3, required two (2) Hearing sessions each. Conversely, if a question attained consensus, yet there was still time left in the Hearing, the next question could be posed. This is what occurred with Question 4, which was answered in the same Hearing where Question 3 was completed.

#### **IV. CONSOLIDATED/CONDENSED SUMMARY OF THE COMMUNITY HEARINGS DIALOGUE**

The following is a Consolidated/Condensed Summary of the information, contained in the Comprehensive Summary Report, regarding the Community Decision-Making Process, Phase 1 – Community Hearings on Justice, held between 30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010.

#### **Purpose of the Community Justice Hearings**

The purpose of the Community Hearings was to determine whether the Community of Kahnawà:ke should have its own Justice System. The Process used to conduct the Hearings was a Community Decision-Making Model, based on consensus building, and considered to be a form of direct Democracy. It includes Principles and a meeting format similar to Traditional methods of Decision-Making.

#### **Community Hearings Issue**

The ILCC Technical Team presented the three (3) Groups with the issue, made up of four (4) questions, listed below. Once all four (4) Questions were answered, the Groups then decided on what Qualifications the three (3) Community Representatives should possess going in to the next Phase.

- 1) Should Kahnawà:ke have a Justice System?
- 2) What Issues or Concerns should the Justice System address?

- 3) Should Judgements, Orders, Decisions from a Kahnawà:ke Justice System be recognized outside the Territory? (This was originally Question 4, but was reversed at Community Hearing (3), Kentenhkó:wa/November 2009.
- 4) Would you prefer that the Kahnawà:ke Justice Commission develop a Working Document or would you prefer to use this forum to develop the System? (This question was re-formulated during Community Hearing (5) to read, "Given the Community's answers to the previous 3 questions, does the Justice Commission have the mandate to develop a Justice system, and do you have any further concerns or qualifications?")
- 5) Confirm Qualifications of three (3) Community Representatives participating in Phase II.

### **Community Hearings Dialogue**

The Community Hearings on Justice created a lot of dialogue, in the form of Questions, Concerns and Comments. Although the three (3) Groups were separate, a lot of the same ideas were being expressed in answering the questions. In the Comprehensive Summary Report the dialogue was placed under themed categories or headings, such as, "Jurisdiction", "Specific Areas of Law", and "Community Involvement", etc. The dialogue that could not be placed under a specific theme was placed under, "Miscellaneous." As well, questions or issues that could not be answered at these Hearings were placed under the heading, "Parking Lot". However, most of those headings have been omitted from this section since this is a condensed Summary. (Please see Comprehensive Summary for a complete listing of the themed categories/headings).

The first question posed at the Hearing process was:

#### **1) Should Kahnawà:ke Have a Justice System?**

Most people generally agreed that Kahnawà:ke requires its own Justice System. In fact, some stated that it was an Inherent and Sovereign Right. Some participants felt it was better to have a System in Kahnawà:ke, since there would be a better chance of fairness, as opposed to always being subject to the outside System. Some stated that they needed to learn more about the whole process before making a decision. Others stated that this whole process "will, and needs, to take time." It was stated "we can agree on "something", if we don't like what it entails, then we need to start over. We need to have that first step to take us anywhere, something has to be done."

There was a suggestion that the Laws from the Kaianere'kó:wa should be used, but modernized. A participant stated that we are all part of the Confederacy and we have an opportunity to have a healthy Justice System, if it is based on the Kaianere'kó:wa since the Indian Act is a barrier that separates us.

The Community participants were almost split on whether or not to use the word Kaianere'kó:wa, in any of the statements made by the Group, regarding Justice. Most were comfortable with using the Principles and Values stemming from it, but were not comfortable with direct reference to it. It was stated that the Justice System should reflect Peace, Harmony, Good Mind and Respect, and therefore, be culturally relevant.



The participants asked, "what Law will Kahnawà:ke be subject to?" "What type of System should it be?" Some asked, "if it was decided to follow a "Traditional" route, "what kind of "Traditional" System would that be? (since) everyone has his/her opinions of what "Traditional" is. If Kahnawà:ke does not have our own System of Justice, will Kahnawà:ke be subject to Federal or Provincial Law? Some answered that the Community needs its own System to deal with issues, such as, Business Law and Labor Law. It was stated that Kahnawà:ke's Justice System and Principles should "reflect our culture and our people."

There was also discussion asking, would it be only Traditional, or, a hybrid/combined System, where Traditional Values are used along with a legal-type System, or, would it simply be a "copy" of the outside Legal System? Another possibility discussed, was a System that avoided Courts and instead relied on Restorative Justice/Alternative Dispute Resolution (ADR).

Another question asked was, "whose Law would take precedence over the other?" Would our Laws "supersede" all outside Laws? At this point there was discussion on having to deal with the outside Governments to come to an "agreement" over Jurisdiction. There was discussion on the possibility of having a decision rendered in Kahnawà:ke, but using outside jails for criminals, since the majority agreed they do not want a jail in Kahnawà:ke. Since there are different Levels of Crime, a suggestion was made that all Major Crimes, such as, Murder and Sexual Assault be handled outside. Participants wanted to know if non-Natives would be subject to our Laws. It was generally agreed that if you are in Kahnawà:ke, you are subject to Kahnawà:ke Laws, just as you are subject to outside Laws, when outside.

A recurring question was, "will the outside "recognize" our System?" The discussion again turned to having a Justice System being an Inherent and Sovereign Right. As well, participants discussed the possibility of Kahnawà:ke working together with the outside to help each other resolve issues. Participants were told that this question would be answered during the Hearing discussions on Question 3, "Should Judgments, Orders and Decisions from the Kahnawà:ke Justice System be recognizes outside of the Territory?"

Some participants suggested approaching other Mohawk Communities, since Kahnawà:ke is not the Nation, and there are other Nations. (These comments were made during the discussions of whether or not to refer directly to the Kaianere'kó:wa). One participant stated that there should be Consensus here before going elsewhere. Another stated, "We have to get our minds together before we go out to other Communities."

One major point of discussion was regarding the number of Community Member participants and that there has to be more Community involvement. One participant pointed out that, "a lot of people are hurt and aren't confident" with the way decisions have been made in the past. However, they went on to say that, "compared to 30 years ago, we are more people orientated", "changes are there", and that, "this process is something and it started somewhere ... maybe with the rest of us trying we give them (the people that don't participate) some power to come next time. This doesn't give Council carte blanche." Others stated that "these sessions will help us (as a Community) structure and develop what a Justice System will be" as opposed to giving Council carte blanche to create a System.

There was some discussion regarding the Community Survey (conducted between 13 Enniska/February – 10 Seskehkó:wa/September 2009), which was used to gage whether Kahnawà:ke wanted a Justice System. There was a question regarding its accuracy as "an analysis of the Community's needs". The answer was that Results Table came from Stats Canada and that a population of 8000 people requires only about 350 responses for an

accurate reading. In this case, 425 people had responded, mostly with, "Yes, Kahnawà:ke needs a System, but...?" (68% strongly agree, 22% somewhat agree 3-4 % somewhat-strongly disagree, 1% did not understand, 2% did not answer). It was clear that the majority wanted a Justice System, however, it was the logistics, or the nuts and bolts, of what the system would look like, or handle, that were questioned.

Participants stated if this is such an important matter, that the Council needs to go directly out to people to ask them what they want in regards to a Justice System. It was pointed out that an invitation was extended to the whole Community. As well, it was stated that this is not an MCK project, they are simply facilitating the project by acting as a tool, or conduit, through which the Community discussions can flow. Another suggestion was that the people participating at these Hearings go home and discuss it with others and try to get those others to participate next time.

Some participants wanted to know, "how far are we willing to go?" Some responded, "We need to go all the way, if we decide that we ... need a Justice System, then we need one that the Community as a whole will agree upon." Some asked "Will our own Justice System work?" others answered, "We have Resource people who are qualified to do the job."

Some people wanted an explanation of the difference between a "Justice System" and a "Legal" System. There was discussion stating that a Legal System is not always a "Just" System and a "Just System" is based more on Principles and morals of a People.

At one point an analogy was made that this process is like "building a house". We have a foundation and now we need to build on it. Others stated that there is a foundation and frame, what needs to be put into the "house"?

### **Decision**

All three (3) Groups formulated a joint position for Question 1, and came to

### **CONSENSUS:**

***YES, WE WANT A UNIQUE SYSTEM OF JUSTICE THAT BETTER RESPOND TO OUR COMMUNITY'S NEEDS AND CONTINUES TO RESPECT OUR TRADITIONS THAT ARE BUILT UPON VALUES AND PRINCIPLES, SUCH AS, PEACE, POWER AND RIGHTEOUSNESS, HARMONY, GOOD MIND AND RESPECT.***

Another source of Community input, for Question 1 (and Question 2), came in the form of email sent to [www.kahnawakemakingdecisions.com](http://www.kahnawakemakingdecisions.com). Since this input came in the form of writing, and not as part of the Hearings dialogue (with no possibility of a two way discussion), it therefore played no role in the Decision reached. However, it can be read as "food for thought" and is included verbatim so the authors' voices may be heard.

The first author wrote that they felt there should not be any reference to the, "Haudenosaunee Confederacy, being sovereign, lives being governed by the Principles of the Great Law, etc." since, "This could be debated amongst community members as to whether or not they actually are part of the aforementioned group. And the other side of the coin, the longhouse of 207 are

saying this is not so, aiming their disagreement at Chief and Council." The author stated "the process (and the people attending it) will be labeled "Indian Act" by those negating it." (VERBATIM)

In another email, the author wrote, "I think the term Kaianere'kó:wa is too often used with reckless and misunderstood connotation ... it is not a moral code. The Kaianere'kó:wa is national constitution that defines the structure, organization, and rules of the Confederacy's chief legislative body – the Grand Council of the Chiefs. Nowhere in the Kaianere'kó:wa are codified morality rules, nor are there rules that deal with community laws or domestic justice. Principles such as peace, righteousness, and strength are intended to be the results of legislation passed by the Grand Council of the Chiefs and its tributary national councils ... the Kaianere'kó:wa ... has no application outside the Haudenosaunee Confederacy."

This email author went on to write, "The Haudenosaunee Confederacy has defined that the Longhouse council fires are the only locally recognized legislative bodies within its territories, that serve as the stewards of the Kaianere'kó:wa and as custodians of the sovereignty which the Confederacy provides. This means that only community Longhouse councils who have and maintain a relationship with the Confederacy, exist within the context of the Kaianere'kó:wa. Likewise, citizens of the Haudenosaunee are free to democratically engage in only legislative venue recognized by the Confederacy – the Longhouse. There are no substitutes." "...the MCK, the Justice Commission, or the Community Decision-Making Process ... do not have a relationship with the Haudenosaunee Confederacy. In fact, the Grand Council of Chiefs and the legislation it passes are not recognized by the MCK or any of its tributary bodies." "For example, the Haudenosaunee Grand Council has an active policy that outlaws casinos – yet the MCK periodically pursues one, blatantly ignoring policy created by the legislative body defined by the Kaianere'kó:wa." However, this same author agreed that "... Kahnawà:ke should have a justice system that is independent from Canadian or provincial law – but MUST accept and respect legislation passed by the Haudenosaunee Confederacy and recognize the Grand Council and the Mohawk Nation Council of Chiefs for starters." (VERBATIM)

Another Community email author wrote, "Color cards were given out last night to signify what group you were to sit in. Keep it this way, do not premise it to be the way o the clans holding a meeting and having dialogue. The process of last night was facilitation one and had focus groups congregating and coming up with a position. Do not mix up the focus with a clanship one." This person then went on to say, "This is what I saw and feel after attending last night session. The process has definite potential and I personally hope to see it lead to the Haudenosaunee way. With due diligence and facilitation techniques, it should happen." (VERBATIM)

The same author wrote that they felt a "bigger area is required" or "may be isolation" so that the groups can talk and not be distracted by the noise generated from all the groups discussing amongst themselves. They also wanted more screens "to digest the changes being made to the subject matter." (VERBATIM)

One email author had written that there was, "Concern over leading questions – you just about had to agree w/supporting. When one groups wanted more information, we were just about told to stick to the question. I understand timeframe has a lot to do with process but his will have major impact on Kahnawà:ke – should we not be doing this by allowing the community to speak their minds." (VERBATIM)

In the final email, the author wrote, "My questions were concerning how a "dissenter's" voice was heard and represented within the individual group or the larger group. I have been concerned that an individual may disagree with a particular component of a decision and due to the composition of the group; they may not be heard, may be "over ruled" or may not be validated. In addition, that the person may have input that should be heard by the other 2 groups as it may affect their decision as well. Linda (Delormier) explained how the process worked ... concerning dissenter's that were present and further explained how this played out among the larger group, meaning the final wording was changed due to the dissenter's input, and that after that, the dissenter could therefore live with the process. I would suggest that an explanation be provided to everyone to explain this element, as I believe it is valuable for people to know that their voice is being heard and addressed, even when they disagree with a particular component." (VERBATIM)

The second question posed at the Hearing process was:

## **2) WHAT ISSUES OR CONCERNS SHOULD THE JUSTICE SYSTEM ADDRESS?**

Everyone agreed that the System would have to start small, with Laws that Kahnawà:ke can handle, and then expand. There was agreement that there is a need to define the types of issues or problems the System will deal with, and a need to develop the Methods and Processes to resolve the issues and problems. Some suggested that there is a need to review all of the applicable Laws, their relevance and where they came from. It was suggested that there should be research into "what has already been developed, what we want, and then compare, improve, and fill in the blanks." The Powers and Authority of the Court will have to be set out to, "Empower the Court to enforce, adjudicate, existing Laws."

There was discussion regarding Existing Community Laws and the fact that they are not enforced. For example, the Dog Law and the ATV Law, some stated that we have these Laws but "we can't use them and can't hear them". It was suggested that Existing Community Laws and, "Laws we are not currently able to handle here, but (that exist) on the outside", should be made available to the Community, or the Hearing participants", for comparison and to make Community Members aware of how Laws are enforced. As well, there should be an explanation of the variances in a Justice System, such as, "Restorative, Mediation, Arbitration, Court, Traditional." The role of the Peacekeepers would also have to be clearly spelled out.

The discussion continued regarding whether the System will be Traditional, or Modern with some Traditional Principles, some wanting to apply Traditional Laws in a modern sense. Others wanted to compare Traditional and modern Legislation, in order to combine/improve and develop the System. One participant asked, "What is acceptable to say instead of, "build a Justice System"?" One response was "Develop, recreate and expand. Take the Kaianere'kó:wa Model and adapt it." Another responded that, "To keep stating that we should be building a Justice System makes it sound like we don't have anything, like we are completely dependent on Canadian Law, but we have a Law (Kaianere'kó:wa), we need to build on it."

So, even though Community Members did not want direct reference to the Kaianere'kó:wa (Great Law), as stated at the First Hearing (when answering Question 1, "Should Kahnawà:ke Have a Justice System?"), they still kept bringing it into the dialogue. Community Members expressed a need and desire to have a Justice System that is Culturally relevant, and since the Kaianere'kó:wa is a large part of Culture, they at least want the Principles of it incorporated somehow into the System. However, one participant asked, "...how is this "Culturally Relevant"

when it comes to the end of the day? It needs to be an integration of what we have ... I don't think there is a line to be drawn between Justice and Cultural Relevance. I think there needs to be integration."

One participant asked, "Why do we go through this process if we want to follow the Great Law (Kaianere'kó:wa)? It has been in existence for many years. Do we want to be in a ship or a canoe? If it's not broken, why fix it?" Another participant responded, "In the modern world, is the Great Law going to cover our realities? ... Will they apply to real world issues, happening now? Will it meet the needs of the moment, i.e. Child Support?" Another asked, "Can we build upon the Great Law because of the positions of the Longhouse groups and Council? Our Traditions and Culture should be part of the discussion when creating the Justice System. Using the Principles rather than saying you have to learn the Great Law."

A participant asked, "How would you enforce Culture and Traditions?" For example, "How would we address the situation of 'only women can own the land'?" The response was "... you can't go Traditional because this is the way it goes (land only to the women). You can't go Traditional fully." Another stated, "The discussion we had the last time (at a previous Community Hearing), was to respect the Principle." Another Community Member stated, "We're not actually going to take the Kaianere'kó:wa as it is, it's going to be the umbrella, the Justice System, or whatever other System is under that." One Community Member stated, "We are all Mohawks of the Confederacy; we all have a right to use that Law."

Following that discussion, the Community participants compiled a list of the Specific Areas of Law that everyone wanted included in Kahnawà:ke's Justice System. The list included most areas of Law, such as, Family Law, Civil Law, Criminal Law, Business Law, Environmental Law, Tobacco Law (which many agreed should be dealt with at a later date), Youth Protection Law, etc., also included, was the need for an Appeals process. Membership was later added to the list. As well, a listing of different methods of resolution was also discussed, such as, Mediation, Arbitration, Court, Traditional, Restorative Justice/Alternative Dispute Resolution, and possibly a Community Forum. One point made clear was that the Justice System will have to "respond to Community needs" and "We need to determine what our Collective Rights are."

Along with a list of Specific Areas of Law, and different methods of resolution, there were discussions on what to do regarding Levels of Crime, and what the different forms of Punishment, Sentencing and Restitution possibilities would be. It was decided that Major Crimes, such as, Murder, Sexual Assault and Sexual Abuse would not be heard in a Kahnawà:ke Justice System. Everyone agreed that Kahnawà:ke would not build a jail, and that anyone sentenced to jail would serve time in an outside jail.

At this point it was agreed that to be able to make this type of arrangement, negotiations would have to take place between Kahnawà:ke and the outside Governments. There would have to be "recognition" of a Kahnawà:ke Justice System, if we were to ask them to house Kahnawà:kehró:non sentenced to jail time. Some participants did not agree with outside recognition, saying that would come at a later time. Many felt that there has to be internal recognition first and foremost, by Kahnawà:kehró:non. A Kahnawà:ke Justice System would have to be enforceable and to be recognized within the Community first and then on the outside. One Community Member stated that the "Laws should be made internally, applicable to us."

One Community Member asked, "how does it (Justice System) get recognized outside? Will it be challenged out there?" The answer given was an example with regards to the Peacekeepers and how "every step of the way it (Peacekeepers) was deemed illegal by the outside but we

kept it up until they accepted it. We don't need the outside to recognize it immediately." Another question was whether people "will still challenge on the outside if they don't get the answer they want (in a Kahnawà:ke Justice System)?" As well, it was asked, "Can we have our System recognized and still ask the outside for assistance with things we cannot handle?" Neither question was directly answered.

The discussion turned to whether there would be a Conflict of Laws, between Kahnawà:ke Laws and the outside (Federal and Provincial) Laws. It was stated that there will have to be a mechanism in place in the event of a Conflict of Laws, and that there will have to be a relationship with the Federal and Provincial Governments. The Groups stated that Kahnawà:ke Laws are just as important as outside Law and this fact has to be made known to the outside Governments and that it will be up to the MCK to "get recognition from outside Governments."

They also want the System to "remain in the hands of the People" when electing Judges, or to create an Oversight Committee. It has to be a System that "empowers" the entire Community. The people involved in the Process should be from the "Traditional Community", "Elders", "those Legally trained", and have to be "skilled and educated on the matters before making Laws, technical expertise has to be there." The sentiment coming from the Community Members was that the System has to "ensure everyone in the Community is included" and that it be "one system for all." However, there was a suggestion that for "major decisions of what or how to deal with offenders" people from other Mohawk Communities could possibly come in, like a traveling Tribunal. The idea being that they would be perceived as neutral in their decision-making.

Other Miscellaneous items were discussed, such as, having a Charter or Constitution, what resources do we have to deal with Legal issues, can we afford prisons? Others stated that "We want a unique Justice System", "We have to deal with it (creating a Justice System) whether we like it or not", and, "Things are changing in our Community, such as parking signs being put up without the Community being informed." One important point brought up was the fact that attendance had decreased and that there was "concern" that the Community Decision-Making Process might fail because of this. One suggestion was to have a "sixty to ninety (60 - 90) day period to address the/a Law once it passed so that they would have a chance to voice their concern or oppose."

### **Decision**

All three (3) Groups formulated a joint position for Question 2, and came to

### **CONSENSUS:**

**IN ORDER TO MAINTAIN PEACE AND HARMONY IN OUR COMMUNITY, THE JUSTICE SYSTEM SHALL BE BUILT UPON, SANCTIONED AND RESPECTED BY ALL KAHNAWA'KEHRO:NON.**

**IT MUST ADDRESS ISSUES OF INDIVIDUAL AND COLLECTIVE RIGHTS AND RESPONSIBILITIES INCLUDING AND/OR CONCERNING ALL EXISTING AND FUTURE LAWS TO BE DISCUSSED AND/OR DECIDED IN DIFFERENT FORUMS APPROPRIATE TO THE OFFENSE.**

**THE DEVELOPMENT OF THE JUSTICE SYSTEM SHALL TAKE INTO ACCOUNT ALL OF THE FEEDBACK, ISSUES, CONCERNS AND QUESTIONS AT THE COMMUNITY JUSTICE HEARINGS ON JUSTICE.**

Another source of Community input, for Question 2 (as for Question 1), came in the form of email sent to [www.kahnawakemakingdecisions.com](http://www.kahnawakemakingdecisions.com). Since this input came in the form of writing, and not as part of the Hearings dialogue (with no possibility of a two way discussion), it therefore played no role in the Decision reached. However, it can be read as "food for thought" and is included verbatim so the authors' voices may be heard.

One email author wrote, "I was wondering why the next ilcc hearing is scheduled for a time that most people cannot attend? wed at 1pm-4pm? i can schedual my jobs around it, but most people don't have that luxury. it must be re-scheduled for a date and time that allows for the community to participate." (VERBATIM)

The response provided was, "Agreed. And, we also received comments from other community members that cannot come in the evenings because of shift work, children, etc. Our goal is to reach as many community members as possible. The next session will be at a different time and location. We will be accepting feedback through out. Can i add this feedback to the next community hearing report?" (VERBATIM)

The email author's response was, "Yes. and the following as well, should you choose to. those attending the afternoon session due to children, would be leaving before the hearing closes, our kids get home from school at 3pm.maybe each question put to the community should have 2 sessions to answer it, one session evenings, and one session afternoons, and compile data from both.id also like to have a ilcc representative visit the elders lodge and KMH to present the same questions to our elders, there not likely to attend either an evening or afternoon hearing." (VERBATIM)

The third question posed at the Hearing process was:

**3) SHOULD JUDGEMENTS, ORDERS AND DECISIONS FROM THE KAHNAWA:KE JUSTICE SYSTEM BE RECOGNIZED OUTSIDE OF THE TERRITORY?**

The Community participants agreed that for the Justice System to work, the Judgments, Orders and Decisions it makes have to be "recognized" by the outside. However, the Community Members stated, first and foremost, there has to be internal "recognition" by the whole Community. The Community Members also discussed the fact that getting "recognition" will be difficult and it raises several issues. Some of the issues raised are; Enforcement, Conflict of Laws, outside/inside having different views on Justice/Law, Jurisdiction, and Sovereignty. Aside from internal recognition, and the issues raised regarding recognition, there was discussion on whose outside recognition would be required. The Community Members discussed getting recognition from; the Federal and Provincial Governments, other First Nations or Indigenous Peoples, and possibly the United States, or even internationally. They also discussed who would be responsible for seeking recognition on behalf of the Community. The Community Members also compiled a brief outline of the 'pros' and 'cons' of having a Justice System recognized on the outside.

In regards to self-recognition there was a lot of discussion with respect to the challenges of getting everyone in the Community to participate or work together. One Member stated, "The only piece of Sovereignty we are missing is "unity." Are there any roadblocks that we see? Yes, our own People will throw a monkey wrench at Council." They also stated, "The Community has a false sense of security." "Sovereignty, Jurisdiction is exercised, we do all these things but we don't recognize it." Another Community Member stated, "I firmly believe that we are here for the Community. I believe that everyone is treated equally ... There's always been a division in this Community but we do that to ourselves ... We have to get along and take away those barriers. I guess one of the challenges of direct Democracy is that not everyone participates in the Community."

Another Member stated, "We are creating a System where no one (from the Community) is involved, it is a MCK initiative, people are feeling this is being done with or without them anyway." Another responded, "I don't think that's the overall opinion, I think we should have faith in ourselves whether MCK or whatever, I'm a Community Member, certain things should be left up to us." In turn another participant stated, "I view the MCK as the white man's system, the white man's Law, only twelve hundred (1200) people vote. The MCK represent a small fraction of the Community, that's a big problem for me." Another replied, "Those people have a choice; they can be here at this meeting right now. I may not agree, I could stay home, but I come." Alternatively, another Community Member stated that previously a consultation had been done, "with the Longhouse. They self participated and said that fewer than six hundred (600) people, in the three (3) Longhouses voted, even less that in the Elected System, and the rest of the Community is just silent. So that leaves a small amount who tries to figure out a way to come together and develop something we can live with."

Other participants stated, "If it's our People making Laws, then it will be made by the People, for the People, and enforced by the People"; "We are always going to say (Community Members) will want to go outside, but the majority of Community Members do want to have their cases heard right in the Community;" and; "Kahnawà:keró:non should have the right to go to Court within their own Community to settle Minor Offences, such as, Small Claims."

There was a realization that along with the internal challenge of "recognition", there will also be a great challenge to get outside "recognition." Everyone agreed that for the Justice System to work there would have to be reciprocal recognition. Reciprocal recognition, means that Kahnawà:ke would recognize and acknowledge the outside Justice System and the outside would recognize and acknowledge Kahnawà:ke's Justice System. In relation to this, one Community Member asked, "What if Quebec or Canada said, 'that's fine, but we want something in return.' What would be agreeable for us to give in return? We would be imposing our Laws on them." An answer provided by one Member was, "The Jurisdictions can exist like two (2) canoes (i.e. they have their Landlord/Tenant Law, we have ours). There's going to be things (from the outside) that are going to be useful here (in Kahnawà:ke) as well."

One example of reciprocal recognition would be with respect to jails. The majority of Community Members stated, they did not want a jail within Kahnawà:ke. Therefore, there would be a need for an agreement or arrangement with the outside to house prisoners in an outside jail, even though the conviction came from a Kahnawà:ke Judgment. This would mean that Kahnawà:ke would have to "recognize" the outside Justice System, since that is where their prisoners would be housed. In return, the outside would have to "recognize" Kahnawà:ke's Justice System if it was being asked to house prisoners following a Judgment rendered in Kahnawà:ke. In relation to jails, one Community Member expressed concern over how jail time would be paid for and by whom. They stated, "Will the Canadian Government find a way to



charge us for housing prisoners?" The response provided by another Community Member was, "They (the Canadian Government) will find a way to either, charge us, bill us, or even in the end tax us."

Another aspect of "recognition", which needs to be reciprocal, is in regards to Enforcement. Community Members stated, they did not want people to think they could try to escape Justice by coming to Kahnawà:ke. One Community Member stated, "If we had two (2) separate Systems that don't communicate, people would sabotage the System thinking they can get a better deal out there." Another Community Member stated, "When we're talking about recognition, like deadbeat dads/moms, if they relocate somewhere else, in that situation I would expect our Judgments to be recognized for the benefits of whom they are rendered for. We don't want to impose our Laws on the outside but we want it (the Judgment) to follow the people that are trying to escape it. If people commit (Offences) outside and come back here trying to avoid the Courts out there, are we going to reciprocate? Are we going to support the Decision out there for those kids' sake? That's part of reciprocity."

One Member stated, "if someone is convicted of something (a crime), then we need something recognized, otherwise we are at a loophole." As well, one Community Member stated, "the outside is still going to come in here every day. I want them to recognize it (Justice System) if they are going to come in here and break it (the Law). If we break their Laws, we go to their jails." One Community participant stated, "If our Laws are not recognized, then offenders can come into Mohawk Territory and/or go out of Kahnawà:ke for their Offenses and if they do not like the outcome, in the end they will say that, 'you can't touch me now, I'm outside the Jurisdiction'." A Community Member stated that not being "recognized" is another "roadblock", stating, "We've had Laws, but right now they are not enforceable," and, "Our own Justices (of the Peace) cannot do anything about certain Court issues." Another Member stated, "If we have our own Principles of Conduct, Laws and an understanding with the Province, we need to have some kind of strength to enforce our own Laws."

The Community Members discussed the possibility of a Conflict of Laws between a Kahnawà:ke Justice System and an outside System. For example, if each System has a Law regarding, "Land Fill", which Law would take precedence if there was a dispute? Would a Community Member be able to go to an outside Court and use the outside Law in place of the Kahnawà:ke Law and System? As well, should they be able to choose one System over another for every dispute? Or, would there have to be an Order stating that every Legal issue occurring within in Kahnawà:ke has to be heard in Kahnawà:ke?

Some Community Members discussed the idea that Kahnawà:ke has a different view from the outside. One Member stated, "We need it (Justice System) because the Community does not recognize the outside Law. The Laws that the People put forward, we need to make them our own. The white man is worried about money. Our morals, our priorities, are different in our mentality, in our Sovereignty." Another responded, "At times our values would clash, say for example something like Capital Punishment. We would have to decide what would happen in conflict."

Another aspect of the issue of recognition is whether the outside will accept giving up Jurisdiction over certain areas of Law. For example, some Community Members were charged for Tobacco offences in an outside Court. These individuals had their phones tapped and were arrested and charged outside, for activity that took place solely within the Territory, involving only Tobacco. Getting the outside to "recognize" and relinquish control over certain areas of Law is something the Community Members acknowledged will be difficult.

The notion of Sovereignty, in relation to recognition and the cost, was also discussed. One Community Member stated, "Why should Judgments be recognized? If they recognize that they would be recognizing us as a distinct People. I don't think they don't do that now. They would recognize this Community as having the Jurisdiction or authority to impose our own Laws." Another asked, "What happens if the Justices of the Peace retire before this process is over?" The response by another Community Member was, "Anything heard here would have to go directly to Longueuil, is this what we want? We could leave Canada and Quebec and say we were here first. Would the MCK be willing to give up all of their jobs of this? What you are contemplating is an absolute state of Sovereignty but it comes at a cost. The reality of life might have different impact on that question. It is a giant leap. None of us know what tomorrow will bring. We can't function without money. It's 2009 we're not all planters. The reality is something else for us. Sovereignty is great but what are we trying to achieve?"

The Community Members discussed, whose "recognition" would be required for Kahnawà:ke's Justice System to function. There was discussion on whether "recognition" would have to be provided by the Federal Government, Provincial Government, or both. Some Members even suggested "recognition" come from, either the United States, or, even internationally.

In regards to whether recognition should come from the Federal or Provincial Government, one Community Member stated, "Kahnawà:ke is technically Federal Jurisdiction; we should not be dealing with the Province." Another stated, "They should start at the top, with Canada. Not with Quebec or Chateaugay. They (outside Governments) want us to be exactly like theirs ... It may take twenty (20) years. The MCK has to deal with the two (2) major Governments." At this point someone stated, "Kahnawà:ke no longer sends their By-Laws to INAC (the Federal Government) since 1982." Alternatively, another Community Member stated, "we have to start 'playing the game' and exercise reciprocity with the Province." The Member continued by stating, "... we should move out of the Indian Act and start working with the Province. We have the resources to start negotiations..." As well, another Community Member stated, "In 1964 they (the Federal Government or Kahnawà:ke??) removed the RCMP, are we falling into the game of what the Federal Government are doing to our People ... we put the Peacekeepers in place, and by doing this it is not giving in. The Province sees them as Provincial Police."

Another Community Member stated, "Other Native Communities have negotiated with the Province." An example provided by a Community Member is Akwesasne, which has "a 'hybrid' System. They have a Court System in (the) U.S. and Ontario." As well, one Community Member asked, "Have other Communities tried to create or do what we are doing?" The response was, "Navajos (New Mexico) and Oneida of Wisconsin. But it is recognized by the State" (which would be equivalent to a Province). One Member asked, "Will our Laws be recognized in other Iroquois Communities?" Another asked, "Other Native Communities that have By-Laws, do they get sent to INAC (the Federal Government)?" There was no response recorded for these two questions. One Community Member suggested, "We could look out West (U.S. or Canada?, probably reference to the U.S.) to see how they were able to have their own Laws recognized."

One Community Member stated, "Looking at the question it seems to be a 'no-brainer', who are we going through to be recognized, should it be recognized through the U.S.?" One response was, "It should be recognized Internationally (everywhere). If we are trying to get Sovereignty as a People, then where are we going with this? We have to be recognized throughout the world. Kahnawà:ke is an independent People, there are no other Nations working with us."

The Community Members discussed who would be responsible for seeking recognition. One Community Member stated, "If we don't ask other Governments to recognize us, then we can't assume that they will. It's up to the players; (MCK) Chiefs would need to agree in the end." Another stated, "Chiefs of the Band Council (MCK) are to go outside and make these Laws recognized." Another Community participant stated, "Council (MCK) (has) to fight in Ottawa to get Jurisdiction respected." One Community Member stated, "With no recognition, you can't abide Peace, Power and Righteousness. We will be fighting amongst ourselves, and then have to take it to an outside Court."

The Community Members compiled a brief outline of the 'pros' and 'cons' of having a Justice System recognized by the outside. The 'pros' are; having a Judgment recognized off Territory; Laws only apply within Territory; Own Justice System own Laws; We (Kahnawà:ke) decide Laws to keep (Provincial) and Laws to develop. The 'cons' are; Tobacco charges on Territory – occurred on Territory; Continued Federal Jurisdiction applies.

### **Decision**

All three (3) Groups formulated a joint position for Question 3, and came to

### **CONSENSUS:**

***YES, WE WANT OUR JUDGEMENTS, ORDERS AND DECISIONS TO BE RECOGNIZED BY EVERY JURISDICTIONAL AUTHORITY.***

The fourth question posed at the Hearing process was:

**4) GIVEN THE COMMUNITY'S RESPONSE TO THE PREVIOUS THREE (3) QUESTIONS, DOES THE JUSTICE COMMISSION HAVE A MANDATE TO DEVELOP A JUSTICE SYSTEM, AND DO YOU HAVE ANY FURTHER CONCERNS OR QUALIFICATIONS? (This question previously read, WOULD YOU PREFER THAT THE KAHNAWA:KE JUSTICE COMMISSION DEVELOP A WORKING DOCUMENT OR WOULD YOU PREFER TO USE THIS FORUM TO DEVELOP THE SYSTEM?)**

All three (3) Groups agreed to a mandate for the development of a Draft document to be presented to the Community. Prior to agreeing to give the mandate, there was discussion on how to get the mandate from the community. There was also discussion on how to ensure Community input once a Draft is developed. Along with a Draft they would like to see the development of a Constitution.

With regards to, how to get the mandate from the Community, one Community Member suggested, "We should develop some sort of System to develop a mandate, possibly going house to house to try a survey type of achieving every single Kahnawà:keró:n to come to a decision." In response, another Community Member disagreed and stated, "if we go house to house or have surveys completed it won't work, no one wants to come out to these meetings and make their remarks known." Another Community Member added, "If no more than thirty (30) people show up to decide for the whole Community it will not work, but unfortunately that is the way it has been, and always will be unless the Community Members get involved." One

Community Member responded, "Those people who do show up are the ones who will speak up when things don't go their way (no participation)."

The Community Members had some suggestions on how to get more Community input, and on the development of a Constitution. One Member suggested, "Maybe we can start this process back in the spring, let some time pass. Maybe a "confirmation session" for the people who haven't showed up to the last few meetings, this could possibly help in the development of this Constitution. Get the people back in, that attended the very first Hearing, and do a re-assessment of where we are." Another Member suggested, "Include the groups who have participated in the past ensuring an open-development process that we can all agree upon to allow the start of a Draft Judicial System, which should also include the development of the Constitution process as well." One Community Member stated, "Maybe it would be a good idea to bring forth the figures of (how many) people have attended the Visioning Sessions, include with that the figures of (how many have attended) these Justice Sessions, ensuring an open-development process." One Member stated, "Develop a Constitution to house a Justice System."

The Groups agreed that a Constitution is needed, but that is not the mandate in question at this time. As well, it would be up to OCC to bring a Constitution to the ILCC. A suggestion was made to provide a Position Paper to the Community and give thirty (30) days for review, followed by a public meeting to discuss the Paper and possible amendments.

### **Decision**

All three (3) Groups formulated a joint position for Question 4, and came to

### **CONSENSUS:**

***YES, THEY WOULD LIKE TO MANDATE THE COMMITTEE TO COME UP WITH A DRAFT DOCUMENT.***

The fifth item addressed at the Hearing process was:

### **5) CONFIRM QUALIFICATIONS OF THREE (3) COMMUNITY REPRESENTATIVES PARTICIPATING IN PHASE II (Criteria for the Community Representative)**

The Community Members were asked to discuss what criteria would be required for a Community Member to be considered for participation in Phase II, as a Community Representative. Items discussed were: attendance; when the Representative would be chosen; specific criteria for Community Representatives, conflict of interests, Alternate Representatives and Representatives responsibilities/timeframe commitment. The participants also discussed the Groups and how participation should be consistent. Following the discussion a decision was reached by Consensus and three (3) Community Representatives were chosen and asked to sign the Community Representatives Form. To launch the discussion, the participants were asked, "Should a Community Representative be present at all Community Hearings?"

The discussion ranged from one Community Member expressing that, in order to be a Community Representative, a participant had to be present at all the meetings, to, Community Members stating that eighty percent (80%) attendance would suffice. Those in favor of eighty percent (80%) stated that it is not always possible for everyone to make it to absolutely every meeting.

Some participants "discussed whether people that weren't present from the start could participate." One Member suggested that, "The Community Representative position can be open to all Kahnawà:kehró:non ... the reason being that this Process has been inclusive all the way." Another Member stated, "Everyone in the Community has a chance to see everything that has been happening via the website [www.kahnawakemakingdecisions.com](http://www.kahnawakemakingdecisions.com) to have up-to-date information. Should we widen the criteria for those who can be Community Representatives?" One Community Member asked, "Does the Community make the determination of whether a Community Member needs to be present at a Community Hearing, in order to qualify to be a Community representative?" There was no answer provided to this question.

However, most participants wanted Community Members who attended the Hearings to be considered because, "They know what is going on", and, "... they have heard the discussions." One participant stated, "the Community Representative helps develop (the) Draft and ensures that (the) drafting of the document reflects (the) spirit and intent of the Community Hearings." Another stated there is a "Need for someone with a 'corporate memory', who can put forth the concerns." It was agreed upon "... you can't have those intimate details if you weren't present."

Alternatively, one Community Member expressed concern that, "People that were here all along may take the Community Representative position, but only do so by default because there is no one else who has attended these meetings that wants the position." One Member agreed and stated, "... I'd rather have someone who is committed and not someone that feels that they need to do it because they are present today." Another Member countered by stating that someone should be considered, "As long as they've shown an interest in wanting to do it and have been here before."

The Community Members had to decide whether they would choose a Representative, at this particular Hearing, or, at a future date. Some wanted to wait and have a "call out", or discuss choosing a Community Representative "at the next public meeting", or, "... inform the Community and hold a meeting in a week or two to select the Community Representatives." One response by a Community Member was, "Let the Group decide who they want to represent (everyone), period." One Group proposed a compromise of "... including any and all interested Community Members, to be Community Representatives, but only for future Laws. As for the Justice Act ... choose the Community Representatives today from the Groups. Those present or who have expressed interest (and participated), will be chosen to be Representatives." All participants agreed and stated, "The current established Groups will choose Community Representatives, but (there) will be an open invitation for all Community Members for the next Law that goes through the Process."

The participants discussed specific criteria for a Community Representative. The most prevalent criterion, expressed by everyone, was, the Community Representative could not be a Chief on the Mohawk Council of Kahnawà:ke. One Member stated, "A Chief as a Community Representative is a Conflict of Interest. We wouldn't want people to say, 'Chiefs are here to push this process along quicker...'"

Other criteria discussed were, "A Community Representative needs to be a neutral person", "They cannot hold a Management Position at the Mohawk Council of Kahnawà:ke", "Background (Criminal) checks have to be done", "People working on the process shouldn't be considered for the Community Representative position", and lastly, they must show "commitment" and "determination." One Member asked, "Who defines who (is) a respectable Community Member?" No one responded.

Other participants identified, who else may have potential Conflicts of Interest, besides Chiefs. They identified journalists and someone with an interest in the law. One Member asked, "Can a person have a dual role – newspaper/community person, or an entrepreneur, or someone with interest in Law?" Another Member responded, "No, because there would be a potential conflict. The criteria would include potential Conflict of Interest." Regarding journalists, the perceived conflict is that they would be a Representative solely "... to get information." There was no further discussion regarding an entrepreneur, and there was only one other comment regarding someone with an interest in Law. A Community Member asked, "What if we had someone with expertise in a legal area that wasn't part of the Process but was interested in being the Community Representative?" Another Community Member responded, "They could be a Resource person."

During the discussions participants asked, if a person becomes a Community Representative, "How many meetings can be missed?" At that point the discussion turned to the possibility of Alternates (Members who would be replacements). One Member stated, "There is a need to have an Alternate (replacement) in the event that the Community Representative cannot make a meeting, with a valid reason." Another participant asked, "What if a person changes their mind about being committed?" This was another reason to consider an Alternate. It was stated that the Community Representative would be "responsible for keeping this person (Alternate) informed."

There was discussion on what some of the responsibilities might be, as well as, timeframe/commitment, on the part of the Community Representatives. As mentioned above, some of the responsibilities would include reporting information to the Alternate, ensuring that the drafted document reflects the spirit and intent of these Community Hearings, and acting as a "corporate memory" to put forth the concerns expressed at these Hearings. In regard to timeframe/commitment, it was asked, "Would the extent of the commitment be, weekly, monthly, or bi-monthly? How much of a commitment are we looking for?" The response was, "There would have to be a three to six (3-6) month commitment from the Community Representative." As well, it was asked, "What time of day and how often do they need to be available?", and, "If these meetings were held during the day, will the Community Representative be able to get time off of work?" The response was, "...there will be a per diem for the Community Representative who needs to leave work."

During the discussions the Groups decided that the present Group, in which a Community Member is currently taking part in, should remain consistent for any future Hearings. One Member stated, "Since the Groups change from meeting to meeting, and in future meetings it may be Clan Groups created to make decisions ... the Community Groups, stay together (remain the same) for the duration of the Hearings." Therefore, all participants agreed that for all future Hearings the Groups will remain the same.

## **Decision**

All three (3) Groups formulated a joint position for Question 5, and came to

### **CONSENSUS:**

***THE CRITERIA FOR THE COMMUNITY REPRESENTATIVES ARE THE FOLLOWING:***

***THEY CANNOT BE AN EMPLOYEE IN A MANAGEMENT POSITION OF THE MCK OR A CHIEF TO ELIMINATE CONFLICT OF INTEREST.***

***SHOWED A COMMITMENT TO THE COMMUNITY DECISION-MAKING PROCESS AND HAS ATTENDED A MAJORITY OF THE SESSION(S).***

***ENSURE THAT ALTERNATE REPRESENTATIVE IS AVAILABLE.***

***THE GROUPS ARE TO REMAIN CONSISTENT.***

Following the decision on the Criteria for the Community Representatives, the three (3) Groups had the task of choosing their respective Community Representatives. One Group submitted the name of a Community Representative who was not present at this particular Hearing, but had attended a "majority of the Session(s)". As well, she held a Management position at the MCK, but was retiring before the next Phase (II) would begin. Everyone agreed that she could be a Community Representative.

The other two (2) Groups submitted the names of their Community Representatives. Some of the Groups had names of Alternates and some did not. The names of the possible Alternates were listed and it was decided that the Process of choosing Alternates would occur at a future session.

The three (3) Community Representatives chosen were:

**GROUP 1:** Jeremiah Johnson

**GROUP 2:** Chris Bush-Diabo

**GROUP 3:** Dale Dione

The possible Alternates listed were:

Richard Nolan, Kenneth Diabo, Andrew Delisle Sr., Dodie Gilbert and Miles Deer.

## **V. Conclusion**

The Community Decision Making Process, Phase I – Community Hearings on Justice, held between 30 Seskehkó:wa/September 2009 and 3 Enníska/February 2010, is an historic event. It is an example of a Native Community taking responsibility and control of its own Justice System. Kahnawà:ke's present Justice System is an Indian Act creation and is limited to a

Court with Justices of the Peace, both of which have limited powers. The Justices of the Peace will eventually retire and will not be replaced. The Community of Kahnawà:ke has often expressed a desire to act on its own and do away with the non-Native Indian Act. By creating its own Justice System, the Community has the opportunity to move towards a more Traditional System while breaking away from the Indian Act. At present, the Mohawk Council of Kahnawà:ke (MCK) is the governing body of the Community.

Up until now, the MCK, as the governing body, has been responsible for making decisions for the Community. However, the MCK has not always had the full support of the Community in many of its decisions. In fact, they had been criticized for the way decisions have been made, mainly due to lack of Community input and support. Therefore, in an effort to move away from the Indian Act and to have more Community input, support and participation, the MCK mandated the Office of the Council of Chiefs (OCC) to draft a Decision Making model, which took all of this into consideration. The OCC drafted the 'Community Decision Making Process', which is a form of direct Democracy, based on consensus building and direct Community involvement and participation. To address the issue of whether Kahnawà:ke should have its own Justice System, the MCK established the Interim Legislative Coordinating Committee (ILCC) as the body responsible for the legislative process, and, testing the Community Decision Making Process.

The ILCC tested the Community Decision Making Process by conducting Community Mock Sessions to inform the Community of the new Process, and to obtain Values and Principles held in common by the Community. A Draft Preamble was created from the Values and Principles expressed by the Community Members who participated in the Mock Session. Following the Mock Sessions, the ILCC conducted Community Consultations and a Survey regarding Justice. The ILCC then coordinated the Community Hearings on Justice. The results of the Mock Sessions, the Community Consultations, and the Survey, were presented to the Community Member participants at the first real Hearing to help launch the discussions.

The Community Members who participated responded to the four (4) Questions posed to them and confirmed the Qualifications required of the three (3) Community Representatives. For the first Question, "Should Kahnawà:ke have a Justice System?", the Consensus was "Yes, we want a unique System of Justice ...". For the second Question, "What Issues or Concerns should the Justice System address?" the Consensus was, "It must address Issues of Individual and Collective Rights and Responsibilities and/or concerning all existing and future Laws to be discussed and/or decided in different Forums appropriate to the Offense." For the third Question, "Should Judgments, Orders and Decisions from the Kahnawà:ke Justice System be recognized outside of the Territory", the Consensus was, "Yes, we want our Judgments, Orders and Decisions to be recognized by every Jurisdictional Authority." For the fourth Question, "...does the Justice Commission have the mandate to develop a Justice System, and do you have any further concerns or qualifications?", the Consensus was, "Yes, they would like to mandate the Committee to come up with a draft document."

In regards to the Community Representative(s) Qualifications, the Consensus was, "They cannot be an employee in a Management position of the MCK or a Chief to eliminate Conflict of Interest"; "Showed a Commitment to the Community Decision-Making Process and has attended a majority of the Session(s)"; "Ensure that Alternate Representative is available"; and, "The Groups are to remain consistent."

The Hearings had many Community Member participants for the first two sessions, but attendance went down as each session went on. The sessions were held at different times and



on different days, which may have been a factor. However, the more likely reason is the difficulty in getting the Community to participate, due to either complacency, frustration or simply refusing to get involved in anything which is MCK generated. This is a challenge and will continue to be one until the Community feels it can trust the Community Decision Making Process. There has to be an understanding that the Process is meant for the entire Community and that each Community Member has the right and duty to voice their opinion.

For this Process to succeed there will have to be more proactive methods of reaching out to the Community. The Process has great potential but will require a lot of effort to gather as much Community input as possible. There has to be some form of Team Building to get the Community to learn to help and trust one another. This Process will only succeed if the majority of Community Members support it. To support it they must take ownership of it.

Once recognition is achieved inside the Community, the next step will be to obtain outside recognition. There will have to be a strong stance by the Community that they have a Justice System that is their own and that it is the "Law of the land" within the Territory of Kahnawà:ke. There is acknowledgement that there will have to be some form of dialogue and negotiation with the outside Governments to achieve reciprocal recognition of each other's Justice Systems to avoid Conflicts of Law and Jurisdiction.

The issues that will fall under the Kahnawà:ke Justice System will cover almost every Law imaginable. The following is a list of examples of specific areas of Law that could fall under the Kahnawà:ke Justice System. The list includes, but is not limited to, Criminal Law, Civil Law, Alternative Dispute Resolution, Business Law, Labor Law and Environmental Law. In the area of Criminal Law, everyone agreed that major Crimes, such as, Murder and Sexual Assault should be handled by the outside. As well, no one wanted a jail within the Territory.

The Community will have to come together and be of one mind for this System to succeed. The Community can move towards a more Traditional way of resolving disputes and move away from the adversarial non-Native System. This is an opportunity to bridge a lot of divides that exist within the Community. It is also an opportunity for the Community to take back control of a very important subject, Justice, and create history by reversing a negative effect of the Indian Act.

## **VI. Recommendations**

One of the main contentions expressed by the Community participants, during the Community Hearings - Phase 1, is they want more Community input. Therefore, other ways of reaching out to the Community will have to be explored. The whole process will be more credible with more Community participation. People are viewing this as an MCK initiative and event. Even though it has been explained on numerous occasions that the MCK is merely acting as a conduit or tool through which the process can take place.

People still have a huge lack of trust when it comes to anything the MCK does. Olive branches will have to be extended if there is to be more Community participation. This will go a long way in gaining credibility. If people see that the whole process is based on inclusiveness, transparency and accountability it will help get the process on the right track.

The problem with getting Community Members to participate may be complacency, as expressed by some of the Community participants. Only a few people from the Community are always involved in the Community, the rest either sit and watch or only become involved if there is controversy. It was commented that some people only come forward to complain that decisions are being made for them without their consent. Some of the participants replied that these people who complain have been provided the opportunity to participate through this process but chose not to, so how can they still complain?

Even though the Process is supposed to be voluntary and not meant to target specific groups directly, it may become necessary in order to get input from all demographic within the Community. Some of the Community Members expressed that they wanted more input from the Elders. There exists the possibility that there may have to be a session at the Elder's Lodge, the Hospital, or the Golden Agers when their Members are present.

Another group that may be pursued is the Youth, perhaps by having a session when the Youth Forum meets. There may have to be a session at the Survival School, whereby all the teenage Youth of Kahnawà:ke could be invited. The Youth will someday be the leaders of the Community, if they are given a chance to speak their minds and participate now, they will now what is expected of them in the future.

Another obvious group is the Longhouse factions. A direct relationship may be required. A suggestion is to ask them to appoint a Representative to participate to create a Communication link. There was reference to Workshops and Surveys done by the 207 Longhouse, involving the same questions, in the late 1980's. Someone asked, "Should we dig up those old records?" It would be very worthwhile to see what information those documents contain, it could possibly provide valuable insight into the Community's opinion and if it has changed since that time. (see page 50 (this document/Comprehensive Report).

The Justice System that is to be created will affect everyone in the Community, finding methods to reach as many people as possible is imperative for it to succeed. A suggestion is to have some form of Team Building exercises, based on trust and cooperation. If this Process has interactive components, which keep Community Members interested and participating it might make the Process go more smoothly.

Another contentious issue was whether or not the word "Kaianere'kó:wa" should be used. All participants agreed that the Principles and Values found in the Kaianere'kó:wa, were important to include in a Justice System. Everyone agreed to include the Principles and Values of, Peace, Power and Righteousness, Harmony, Good Mind and Respect.

With reference to the Kaianere'kó:wa, there may be protest from Community Members who are part one of the Longhouse factions within the Community. Some Community participants stated that we are all Mohawk and the Kaianere'kó:wa is for everyone. It was also stated that if the word was used then the entire System should return to a Traditional System.

Any System of Justice should have strong Principles and Values as its foundation. The Kaianere'kó:wa Principles and Values are no different from most Systems of Justice. Every Democratic Society has basic Principles and Values along the same lines. However, there may be a need to defend the use of these specific Principles and Values if there is some form of backlash.

Other Native Communities have existing Justice Systems, which have had to adapt to modern realities. It might be worthwhile to look into visiting these other Native Communities to see how they have adapted their respective Systems. Examples of other Native Systems are the Navajo Court in the U.S., the traveling Circuit Court up North, Akwesasne, which has to deal with three (3) different Jurisdictions, etc.

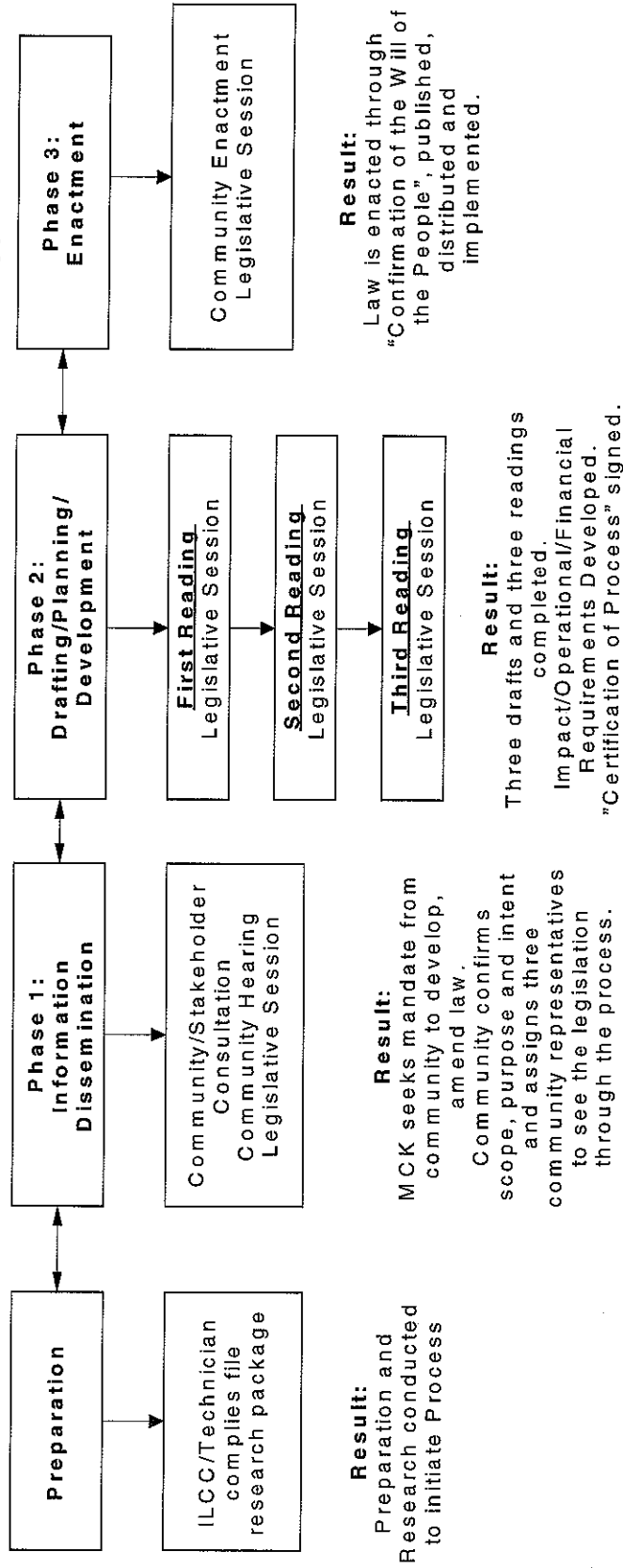
With regards to the Process and the amount of time it will take to achieve results, nearly everyone participating stated that the Process is going to be time consuming because it is such an important matter. At times participants expressed frustration at feeling rushed through some of the Process. Everyone agreed that the Process should take as much time is needed to get the job done. Since this Process is all very new there will be some trial and error, it will take time to get the Community used to a new way of dealing with issues. The Process has to be better explained and made more user friendly.

One area that might help make the Process more accessible would be televising the Sessions. Many people over the course of the six (6) Hearings expressed the desire to have the whole process taped for television. Some participants stated that if people saw how the process worked firsthand, then maybe there would be more Community participation next time. As with any new process there is fear of the unknown. Seeing the Hearings and how they are carried out may take away some of that fear.

## VII. APPENDICES

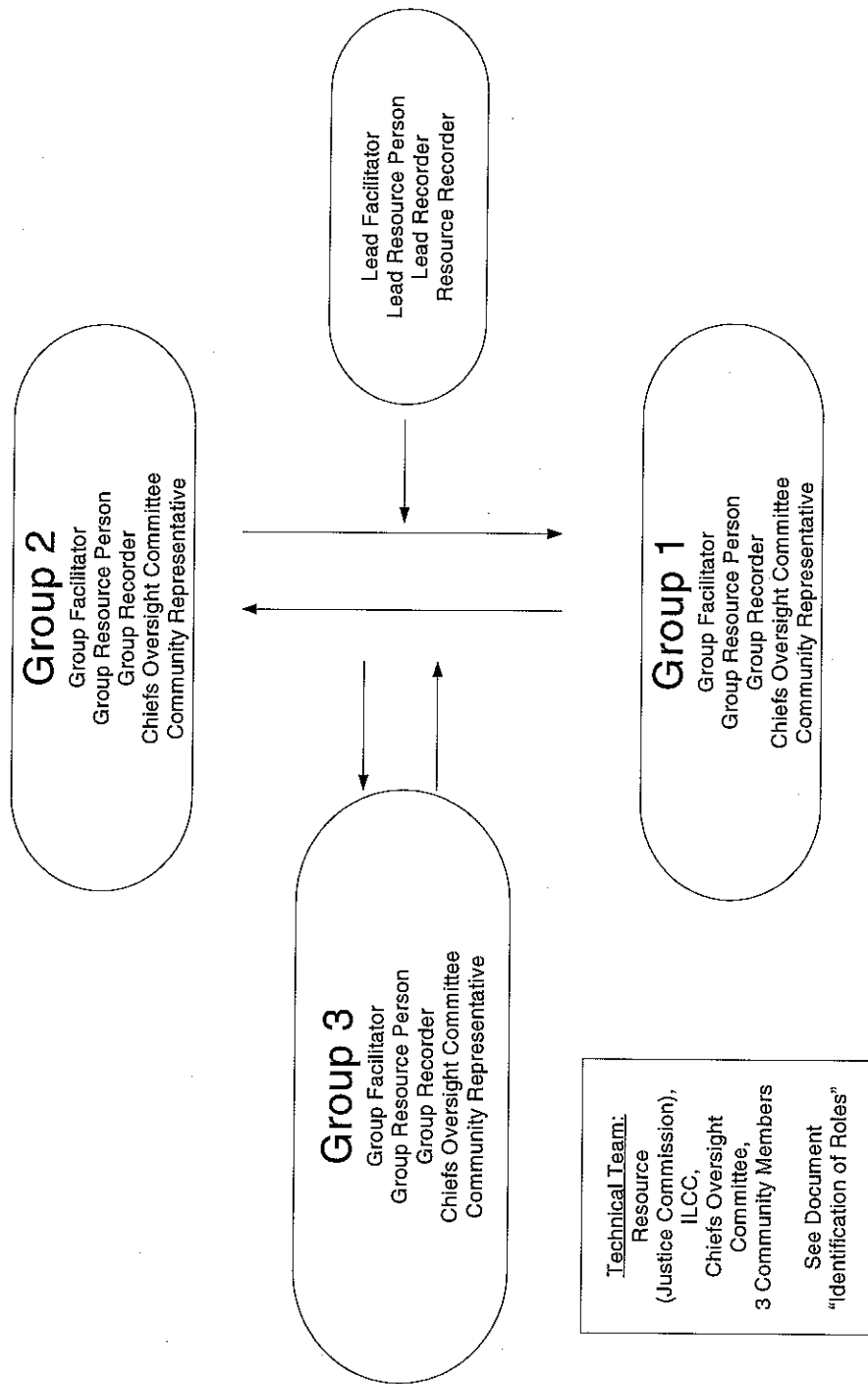
### APPENDIX 1:

#### COMMUNITY DECISION-MAKING MODEL PROCESS FLOWCHART - Type I



## APPENDIX 2:

Community Hearing - Meeting Format



## **APPENDIX 3: Roles & Responsibilities of Support Personnel**

### **ILCC**

The ILCC is responsible to facilitate and coordinate legislation through the process from inception through to ratification. The committee representation is as follows: MCK Office of the Council of Chiefs, Justice and Related Services, MCK Legal Services, MCK Finance and Administrative Services, MCK Communications. These individuals act as the link to MCK Operations in the development of the administrative, operational and implementation aspects of the legislation.

1. Participate as a member of the Technical Team in the information dissemination, consultation, deliberation, development, and drafting of the legislation;
2. Act as the link to MCK Operations in the development of all administrative, operational and implementation aspects of the legislation;
3. Sign off the "Legislative Tracker" and "Certification of Process" at the end of each phase, indicating the Technical Team adherence to the process.

### **CHIEFS OVERSIGHT COMMITTEE**

The Chiefs Oversight Committee is responsible to oversees the;

1. participation as a member of the Technical Team in the information dissemination, consultation, deliberation, development and drafting of the legislation;
2. ensure the ILCC is performing it's due diligence in that all administrative, operational and implementation aspects are developed in conjunction with the legislation;
3. sign off on the "Legislative Tracker" and "Certification of Process" at the end of each phase, indicating the Technical Tea adherence to the process.

### **ORIGINATOR: KAHNAWÀ:KE JUSTICE COMMISSION**

The Originator personnel or project technicians are responsible to provide the expertise on the development of the legislations. They are the "experts" on the subject matter. They are usually the individuals working with the information on a daily basis. They are responsible to participate as members of the Technical Team in Phase II: deliberation, development and drafting of the legislation.

### **COMMUNITY REPRESENTATIVES (& ALTERNATES)**

The Community Representatives, and Alternates are chosen by their Group at the Phase I Community Hearing. They are responsible to:

1. participate as a member of the Technical Team in Phase 2; deliberation, development and drafting of the legislation;
2. ensure that the integrity of the Community Mandate provided in Phase 1 is adhered to;
3. sign off on the "Legislative Tracker" and "Certification of Process" at the end of each phase, indicating the Technical Team adherence to the process.

**APPENDIX 4: Community Decision-Making Process Preamble**

We the people of Kahnawà:ke, as part of the  
Hotinonhson:ni Confederacy, we are, and have always  
been  
a Sovereign People; we have our own Laws, Government,  
Culture and Spirituality. Our lives are governed by the  
Principles of the Kaianere'kó:wa, the Great Law of Peace,  
a  
Covenant made in ancient times. We respect the  
Covenant  
for it describes our Right and Responsibility to govern our  
own affairs in our own way. We consider this Covenant to  
be a precious inheritance of our children and future  
generations, with which no one can interfere.

*NOTE: excerpt - taken from Community Decision Making Process Summary Report Aug 15/08.*

BD/ILCC/Preamble 9-24-2009

## **APPENDIX 5: General Meeting Guidelines**

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### **Respect.**

Always be respectful to all participants and hosts.

It costs time and resources to attend and time is valuable.

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### **Cell Phones.**

Keep calls to a minimum, and cell phones on low, or on the vibrate feature only.

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### **Commitment.**

All community members have made a commitment to this process.

Please be on time, and stay for the entire meeting.

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### **Participation.**

Participate in the discussion. Your input is valuable and may be helpful to other participants.

---

### **Focus.**

Focus on the issue, not the person. Sometimes people do not express themselves initially, and be misunderstood or misinterpreted. Discussion may be required to obtain full understanding.

---

### **Stick to the issue.**

Make all statements and comments relevant to the issue. Straying off topic wastes time and energy.

---

### **One speaker at a time.**

Respect the speaker by not interrupting. Focus on the point the speaker is trying to make.

Try to understand the speakers' perspective.

---

### **Be Brief.**

Long-windedness causes boredom. Be as brief as possible and get to the point.

---

### **Speak in low tones.**

If a side discussion is necessary, speak in low tones so as not to disrupt the general discussion or interrupt the speaker.

---

### **Build Consensus.**

Work toward a solution or a position that everyone can support. Address people's concerns.



## **APPENDIX 6: Community Hearing Guiding Values and Principles**

### **DEFINITIONS**

**Value:** A belief that people have about what is right and wrong and what is most important in life, which control their behavior.

**Principle:** A basic assumption; an important underlying law or assumption required in a system of thought.

**Ethical Standard:** A basic idea or rule that explains or controls how something happens or works; a fundamental truth or proposition serving as the foundation for belief or action.

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### **GUIDING VALUES**

Caring, sharing, cooperation/collaboration, compassion, *respect*, individuality and collectivity, balance, responsibility, honesty, pride, *equality*, *fairness*, unity, *peace*, harmony and honor.

### **GUIDING PRINCIPLES**

**Respect:** We will respect each other as human beings, and our right to individual freedom and the basic necessities of life.

**Equality:** We will treat each other equally as we wish to be treated.

**Unity:** We, as individuals, will act in a unified manner so that an individual benefit will also be a collective benefit, and vice versa.

**Fairness:** We will treat each other fairly as we wish to be treated.

**Peace:** We will employ these principles in a continual effort to establish, maintain, or re-establish peace.

## **APPENDIX 7: Selection of Community Representatives Form and a Certification of Process Form**

The three (3) Community Representatives are selected at the Community Hearing as representation for each of the three (3) Groups.

The Community Representatives are responsible to:

1. participate as a member of the Technical Team in Phase 2; deliberation, development and drafting of the legislation;
2. ensure the integrity of the Community Mandate provided in Phase 1 is adhered to;
3. sign off on the "Community Decision-Making Process Legislative Tracker" and the "Certification of Process" at the end of Phase 2, indicating the Technical Team adherence to the process.

Legislation: \_\_\_\_\_

### **Community Representatives**

Group 1 Representative:

Name: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
P.O Box: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Group 2 Representative:

Name: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
P.O Box: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

Group 3 Representative:

Name: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
P.O Box: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Signature: \_\_\_\_\_

\_\_\_\_\_  
Chairperson, ILCC

## Appendix 8: Community Survey Results

### Results of Completed Surveys: 425

September 30, 2009

**PART # 1** How strongly are you in favor or against the following statements,  
please check one box only

1. Kahnawa:ke should have its own Justice and Court System.		
Strongly agree	294	68%
Somewhat agree	92	22%
Somewhat disagree	13	3%
Strongly disagree	16	4%
I don't understand the question	3	1%
No answer entered	7	2%

2. Mediation services should be available within a Kahnawa:ke Justice System.		
Mediation is defined as a cooperative solving process, using impartial mediators, to assist in reaching an agreement on the issues dividing them.		
Strongly agree	286	68%
Somewhat agree	107	25%
Somewhat disagree	14	3%
Strongly disagree	6	1%
Not enough information	7	2%

No answer entered	5	1%
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**3. Arbitration services should be available within a Kahnawa:ke Justice System.**

Arbitration is defined as submission of a private dispute to an impartial person or persons, called Arbitrators, for a decision or award based on evidence and arguments presented by the disputants.

Strongly agree	239	57%
Somewhat agree	120	28%
Somewhat disagree	31	7%
Strongly disagree	22	5%
Not enough information	8	2%
No answer entered	5	1%

**4. Administrative Tribunals should be available within a Kahnawa:ke Justice System.**

An Administrative Tribunal is defined as a public body appointed to adjudicate or arbitrate on a disputed question or matter, for example, lands tribunal or rent tribunal.

Strongly agree	213	51%
Somewhat agree	125	29%
Somewhat disagree	36	8%
Strongly disagree	19	4%
Not enough information	25	6%
No answer entered	7	2%

<b>5. An Appeal Court should be available within a Kahnawa:ke Justice System.</b>		
Strongly agree	277	65%
Somewhat agree	89	21%
Somewhat disagree	16	4%
Strongly disagree	9	2%
Not enough information	16	4%
No answer entered	18	4%

<b>6. Once developed, a Kahnawa:ke Justice System should be the recognized Justice Forum/Process within our Territory displacing all foreign Courts.</b>		
Strongly agree	240	57%
Somewhat agree	90	21%
Somewhat disagree	42	10%
Strongly disagree	16	4%
Not enough information	18	4%
No answer entered	19	4%

<b>7. Development of a Kahnawa:ke Justice System should include recognition from other Governments.</b>		
Strongly agree	279	66%
Somewhat agree	69	16%
Somewhat disagree	22	5%
Strongly disagree	21	5%
Not enough information	10	2%

No answer entered	24	6%
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<b>PART # 2 Please rate the priority, 1 being the most important and 4 being least important</b>				
<b>8. What types of cases should a Kahnawa:ke Justice System handle?</b>	Most Important  1	Quite Important  2	Somewhat Important  3	Not Important  4
Criminal law (assaults, impaired driving, murder)	180	52	91	33
Civil law (small claims, property disputes, employment/labor issues)	181	100	85	18
Family law (child custody & support payments, division of property)	231	98	36	17
Other Types: Public Curatorship; Youth Protection; Zoning; Business Law; Youth, Elder & Disabled;  Young Offenders	24	3	4	193

**9. If you agree that a Kahnawa:ke Justice System should be based on the Principles and Values of our People, identify one or more of these.**

**Principles & Values:**

common sense, honesty, respect, integrity, personal responsibility, fairness, dignity, responsibility of self, family and community, restoration of harmony in community, love, protection of the rights of the collective, truth, compensation/restoration, trust, consensus, peace, unity, good mind, compromise, fairness, righteousness, respect, good-mindedness, mutual respect, responsibility, good mind in coming to righteous decisions, civil authority, peace, consensus, respect, decision-making, making choices, equality, identity, sovereignty, language, culture, ethics, honor, tradition collectivity, clanship.

**PART # 3 Please answer yes or no to the following questions**

	Yes	No	No answer entered
10. Do you believe that Collective Rights should supersede Individual Rights in a Kahnawa:ke Justice System?	234 56%	87 20%	104 24%

	Yes	No	No answer entered
11. Should non-Kahnawa'kehro:non be subject to the Kahnawa:ke Justice System when on the Territory?	358 84%	45 11%	22 5%

	Yes	No	No answer entered
12. The Kahnawa:ke Justice Commission's mandate is to integrate Traditional Mohawk Principles into the Kahnawa:ke Justice System; assure fair and just resolution of conflict through the creation or modification of justice services; plan and implement prevention of conflict, violence and crime by developing relevant programs and to educate the public on justice initiatives and administer the Justice System of Kahnawa:ke. Do you agree with the current mandate?	342 80%	33 8%	50 12%



	Yes	No	No answer Entered
13. Would you provide the Justice Commission with the mandate to draft a working document on a Kahnawa:ke Justice System which will then be submitted to the Community for further development?	339 80%	48 11%	38 9%