

**COMMUNITY DECISION MAKING PROCESS
PHASE 1 – COMMUNITY HEARING (2)**

REQUEST FOR LEGISLATION: KAHNAWAKE JUSTICE ACT

KARONHIANONHNHA TSI IONTERIWAIENSTAHKHA GYMNASIUM

Ahsénhaton/Wednesday, 07 Kenténha/October 2009

6:30 pm – 9:00 pm

RECORD OF DISCUSSION

FACILITATORS:

Sha'karontakéhte Jeffrey Diabo (Lead)
Karonhiénhawe Linda Delormier (Group 1)
Konwén:ni Melanie Gilbert (Group 2)
Tekanetontie Joe Delaronde (Group 3)

RESOURCE PEOPLE:

Shakoshennakéhte Ron Skye (Lead)
Tekara'tén:sere Davis Montour (Group 1)
Karonhí:io Mike Bush (Group 2)
Vicky Jocks (Group 3)

RECORDERS:

Kawén:nes Melissa Curotte (Lead)
Kahentinehshon Brandi Meloche (Group 1)
Teiokahié:shon Melanie Mayo (Group 2)
Courtney Montour (Group 3)

Kawennákwas Brittany Diabo (Program Assistant/Logistics)

6:40 PM Opening:

Kahsennénhawe Sky-Deer

Kahsennénhawe opened the hearing with the Ohén:ton Karihwatéhkwen.

6:45 PM Welcome/Opening Remarks:

Karonhiénhawe Linda Delormier

Linda welcomed and thanked everyone for his or her attendance. She then reviewed some of the documentation handouts.

Linda then introduced each of the support team members assigned to each of the three groups. She provided a short explanation as to their role in the Community Hearing.

Introduction to Evening's Topic: Karonhiénhawe Linda Delormier and Shakoshennakéhte Ron Skye

Facilitate Hearing Sha'karontakéhte Jeffrey Diabo

In attaining a community mandate, four questions were developed. The second of these four questions was posed to the all in attendance.

The following are the discussion points, questions and concerns, posed from within each group.

**Question 2: What issues or concerns should the justice system address?
Group 1**

Facilitator: Karonhiénhawe Linda Delormier
Resource Person: Tekara'tén:sere Davis Montour
Recorder: Kahentinehshon Brandi Meloche
Group Speaker: Jeremiah Johnson

Discussion Points

- Ensure the system addresses the whole community.
- Look at the Longhouse Traditional system and modernize some of the laws
- Traditional laws applied in a modern sense.
- Compare Traditional and Modern legislation. Use this to develop system.
- Justice system should address the community laws. We have many community laws and we can't hear them, we can't use them. Use our existing and future community laws.
- Update old laws. Fix the flaws.
- A system should be developed for the creation of laws.
- Banishment / Penalties have to be enforceable.
- Community forum established in certain circumstances such as banishment.
- Family Law.
- Youth Law.
- Define types of problems/ issues then process to resolve.
- Any laws that affect the integrity of the family are something that Kahnawà:ke should consider and the justice system. i.e. Youth protection, health, safety, environment, divorce, custody, environment(al), recycling, illegal dumping, Language law.

- Look at what has already been developed what we want then compare, improve and fill in the blanks.
- Recognition inside first then outside.
- Business law/ small claims.
- Labor Law.
- Manage conflict re: existing law/ Quebec licensing/ etc. with future Kahnawà:ke law – i.e. taxation, transition period.
- Judges should elected by the public not appointed. Ensure proper training - checks and balances.
- Should remain in the hands of the people.
- Community oversight committee.
- Have to acknowledge that we will have to deal with Feds/Prov. And tell them our laws are just as good/ better.
- Traditional community and legally trained both.
- QKR contrary to original 1988 position.

Questions/Concerns:

Q: What are the variances in the judicial system? – i.e. Mediation, Arbitration, Restoration, Court. Who will be hearing this?

Q: Parking Lot - What affects do the QKR agreements have on this process?

Q: Can we have our system recognized and still ask the outside for assistance with things we cannot handle?

Question 2: What issues or concerns should the justice system address? Group 2

Facilitator:	Konwén:ni Melanie Gilbert
Resource Person:	Karonhí:io Mike Bush
Recorder:	Teiokahié:shon Melanie Mayo
Group Speaker:	Jesse Deer

Discussion Points

- Tobacco industry (rules & regulations).
- Child safety issues (car seats, ATV's, enforcement).
- Should address all issues.
- Be able to accommodate each section as we go.
- Allow it to grow.
- Family law (rights & responsibilities act).
- Assault, murder, violent acts.
- Criminal law.
- Child support.
- Property law.

- Lands (people being buried in yards) (think of future land use).
- Empowering court to enforce, adjudicate existing laws.
- Laws that enforce and respect culture & tradition (language law).
- Election law.
- Business law.
- Traffic, highway safety code.
- Disturbance of the peace (fireworks, noise, public nuisance, dogs, zoning).
- Zoning.
- Birth & death certificates (marriages, drivers' license, SIN).
- Environmental law (dumping).
- ADR (mediation, arbitration, justice forums).

Questions/Concerns:

Q: Is labor code and civil code respected? Able to hear it?

Q: Kahnawà:ke constitution? Not under a justice system, over and above it. What are the pros and cons of developing under a constitution? There has been no discussion of this at this forum. Can this body utilize the Great Law? Do we need to have a Kahnawà:ke Charter?

A: This would have to be addressed at another hearing by Justice Commission. They could then put in writing what the authority of court would be within the charter or constitution. At this time we are looking at what amounts to an unwritten constitution for this forum.

Q: What are powers & authority of court? Political question - division/conflict (draft charter).

Q: Would we be able to address big crimes (murder, rape)? How would we enforce them, what would the penalty be? Can we afford prisons? How do we sentence people? Fines/punishments/sentences?

Q: Will people still challenge on outside if they don't get the answer they want?

Q: What is there to say that outside governments will recognize this? If not, where do we go from there?

Q: Why do we have to go through this process if we want to follow the Great Law? 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?"

A: In the modern world, is the Great Law going to cover our realities? Will it work for traditional and non-traditional? Will they apply to real world issues happening now? Meet the needs of the moment i.e.: child support?

**Question 2: What issues or concerns should the Justice System address?
Group 3**

Facilitator: Tekanetontie Joe Delaronde
Resource Person: Vicky Jocks
Recorder: Courtney Montour
Group Speaker: Ahrírhon Mike Delisle

Discussion Points

- Child support, family issues, family violence, sexual abusers.
- What resources do we have to deal with those issues?
- The justice system should address the laws on the books already (ATV, dog laws). We get complaints about this on a daily basis.
- Properties and estates.
- Labor laws, criminal and civil.
- We should be discussing what kind of justice we want, a duplicate of the outside, traditional, etc.? We need to talk about this first. What kind of justice we want to head towards.
- Will we define the responsibilities of the Peacekeepers and law enforcement?
- Recommend a review of the Gilbert case (election laws).
- We have to go back to square one and look at addressing these issues from the standpoint of law enforcement and the cultural being of our community. As well as the inclusion of elders in this process, not just one.
- If we do get a mandate, how do we appoint a justice (currently appointed by Quebec)? We have to replace them with something but what?
- Going back to that Gilbert case, people want an appeal process because there was no place for that person to appeal his case.
- We said that we wanted to respond to community needs, all kinds of community needs. Example: land that was willed to me, land that my parents said was going to be mine but now it's not recognized, collecting child support. It can be regular outside law needs that we can deal with here. We have all kinds of community and we have to be able to provide the services to them.
- Youth protection and young offenders. We are forced to go to outside courts. That is something that we should be able to handle ourselves.
- What happens when we do have it (justice system) and how does it get respected outside? Will it be challenged out there? Why replicate what is already there? I don't know if we are going to have a prison within the community.
- Take for example the Peacekeepers, every step of the way it 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.

- We need to determine as a community what our collective rights are. We had that issue with people selling drugs, smearing our name. They go to an outside court, pay a fine, whatever. A lot of these people have purchased lots of land. Maybe there should be a cap on how much land you can buy. That is a collective right. If you have money, it doesn't matter where it came from. When they come back to the community they don't give back. No local restitution. People right now say, "I can do what I want, who is going to stop me?"
- We need to think about a charter or constitution.
- We need to review all of the laws and their relevance, where did they come from?
- We need to look at restitution. What principles of restitution are there?
- Conflict resolution.
- Restorative justice.
- A concern that attendance dropped this week.
- There are large amounts of people present (working and/or participating) at the meeting who work at MCK.
- Can we have it televised?

Questions/Concerns:

Q: How did the justice commission come into affect? It is flawed the most important group in this process is the Elders

A: People were appointed.

Q: What is our justice system modeled after right now? We are losing our rights to a court system.

A: Adversarial. The court system is a creation of 107 of the Indian act. We took on the Quebec laws, highway traffic laws and made them Kahnawà:ke. Some were under the mandate of 107.

Q: How are we supposed to get more elders to participate?

A: (not addressed)

Q: How do we keep the justice system from crossing the line into our cultural system?

A: I disagree; I'm looking at it from a macro level and not individual laws. My major concern is how is this culturally relevant when it comes to the end of the day? It needs to be an integration of what we have. We have one but it's not respected in the community. Justices of the Peace are not (respected) but how do we maintain all of that in this system of justice? I don't think there is a line to be drawn between justice and cultural relevance. I think there needs to be integration. My major concern is that whatever that is produced by this community upholds culturally.

Q: Who is going to sit there to pass judgment? How do we go further? Do we hire someone else from the outside or do we train someone from here? There may be a

case from outside of someone getting traffic ticket here but Kahnawà:ke law not recognized. We have to think ahead.

A: This has happened before with tickets. People went to outside courts but were told to go back to Kahnawà:ke and settle it in Kahnawà:ke court.

RESPONSES

GROUP 1

Facilitator: Karonhiénhawe Linda Delormier
Resource Person: Tekara'tén:sere Davis Montour
Recorder: Kahentinehshon Brandi Meloche
Group Speaker: Jeremiah Johnson

Discussion/Clarification:

- Start with the laws we can handle. Start small, Custody, marriage, divorce, environment, health.
- Maybe test us and start bigger.
- We need to start globally.
- No Jails in our community.
- Place major crimes on hold.
- Everybody defines major crimes differently. What are major crimes?
- Major Crimes are linked to certain laws.
- Not everyone knows how to define what a major crime is.
- There are varying degrees on major crimes.
- Have a court system that's able to sentence people and send them outside to be jailed.
- Peacekeepers work with outside forces to handle situations they do not have the resources for.
- Capacity building.
- Table agrees with group 2 on the following:
 - Regulate tobacco industry
 - Start with small issues and grow
 - Family Law, custody, marriage, divorce, environmental law, health, property
 - Remove Murder and change to Major Crimes
 - Burial Laws
 - Empower court to adjudicate & enforce existing laws
 - Parking Lot – If justice goes thru what if outside does not accept it?
 - Election Law, Zoning,
 - Births & Deaths, Licenses, SIN# - Central Registry – Admin. Issue/Public Records
 - Fines Punishment sentences
 - Add Restorative Justice & Banishment
 - No Jails in our Community

Response:

The following is Group 1's bulleted list:

- Address the entire community;
- Apply traditional laws and principles in a modern sense;
- Compare traditional and modern "legislation" in order to combine/improve and develop the system;
- Establish a community forum in certain circumstances;
- Be "enforceable";
- Identify variances in Justice System i.e.: restorative, mediation, arbitration, court, traditional;
- Define types of issues/problems, and then methods/processes to resolve;
- Look at what's already been developed, then what we want, and then improve and fill in the blanks;
- Be recognized from within first and then from the outside;
- Be able to manage the conflict created when existing law or practices are inconsistent with future laws i.e.: Quebec Licensing, taxation, etc.;
- Remain in the hands of the people i.e.: Elected judges, Community Oversight Committee, etc.;
- Acknowledge that we will have to deal with federal/provincial governments and let them know our laws are just as important.

Group 1 agreed to change murder and sexual abuse to major crimes.

GROUP 2

Facilitator:	Konwén:ni Melanie Gilbert
Resource Person:	Karonhí:io Mike Bush
Recorder:	Teiokahí:shon Melanie Mayo
Group Speaker:	Jesse Deer

Discussion/Clarification:

- Took out word Kaianere'kó:wa, but kept values of it (from last session) some not comfortable with using it (built upon values & principles). If using it, then revert to traditional system completely. PK example of enforcing our own system, through negotiation took years to get recognized.
- Task of MCK political body to get recognition from outside governments.
- "We the people", A constitution empowers institutions to make decisions, actions, direction.
- Reciprocal arrangements may need to be made to relate with governments.
- Law should be made internally, applicable to us. Do what we think we can do.
- People should be obliged to learn traditions if we design a system based on reflection our culture (Understand who we are).

- Has to be solid, sound basis, purpose, and objective. Have to be skilled and educated on the matters before making laws. Technical expertise has to be there.

Response:

The following is Group 2's bulleted list:

The Justice System should address the following:

- Regulate Tobacco Industry;
- Child Safety Issues;
- Safety Laws;
- All issues that start outside – start small (with what we can handle) and grow
- Family Law – Right and Responsibility Act;
- Assault;
- Violent Acts;
- Major Crimes (Sexual Abuse, Murder, etc.)
- Child Support;
- Property;
- Empower court to adjudicate and enforce existing laws;
- Respect – enforce culture and traditions;
- Labor laws;
- Powers and authority of court;
- Election Law;
- Business Law;
- Traffic/Highway Safety Code;
- Public Nuisance;
- Zoning;
- Birth and Death Certificates/License/SIN #;
- Fines/Punishments/Sentences;
- Environment i.e.: Dumping;
- Make our own laws;
- Laws that reflect culture.

Group 2 agreed with everything group 1 stated, adding that they start small and then expand to also address modern issues.

Group 1 and 2 will compile their positions, eliminate duplication, and ensure that everyone in the community is included in the judicial system; one system for all!

The combined bulleted list is as follows, which incorporates Group 1 and 2's response and that it will start small and then expand to also address modern issues.

- Address the entire community;
- Apply traditional laws and principles in a modern sense;
- Compare traditional and modern "legislation" in order to combine/improve and develop the system;

- Establish a community forum in certain circumstances;
- Be "enforceable";
- Identify variances in Justice System i.e.: restorative, mediation, arbitration, court, traditional;
- Define types of issues/problems, and then methods/processes to resolve;
- Be recognized from within first and then from the outside;
- Be able to manage the conflict created when existing law or practices are inconsistent with future laws i.e.: Quebec Licensing, taxation, etc.;
- Remain in the hands of the people i.e.: Elected judges, Community Oversight Committee, etc.;
- Acknowledge that we will have to deal with federal/provincial governments and let them know our laws are just as important;
- Regulate Tobacco Industry;
- Child Safety Issues;
- Safety Laws;
- All issues that start outside – start small (with what we can handle) and grow;
- Family Law – Right and Responsibility Act;
- Assault;
- Violent Acts;
- Major Crimes (Sexual Abuse, Murder, etc.)
- Child Support;
- Property;
- Empower court to adjudicate and enforce existing laws;
- Respect – enforce culture and traditions;
- Labor laws;
- Powers and authority of court;
- Election Law;
- Business Law;
- Traffic/Highway Safety Code;
- Public Nuisance;
- Zoning;
- Birth and Death Certificates/License/SIN #;
- Fines/Punishments/Sentences;
- Environment i.e.: Dumping;
- Make our own laws;
- Laws that reflect culture.

Sent as a joint position to Group 3.

GROUP 3

Facilitator:	Tekanetontie Joe Delaronde
Resource Person:	Vicky Jocks
Recorder:	Courtney Montour
Group Speaker:	Ahrírhon Mike Delisle

Discussion/Clarification (of position below):

- o What do we mean by recognized?
- o Some don't agree with outside recognition (removed). That will come later.
- o It has to be a concrete statement beginning with 'a' or 'the'.
- o It has to be respected by all people who live in Kahnawà:ke.

A suggestion was made that group 3 read a prepared statement for all to consider and address at the next community hearing.

Response:

(1) A Kahnawà:ke justice system should address issues concerning individual, family, community, land and property, and offences against any of the above in a forum appropriate to the demands of these matters (arbitration, appeals, etc.) and sanctioned by Kahnawà:ke through a method accepted by the community and recognized/respected within ~~and outside~~ of the community.

(2) We are striving for a system of justice built, sanctioned and respected by Kahnawà:ke that must address issues of rights and responsibilities including/concerning offences against family, lands and community to be discussed/decided in different forms appropriate to the offense.

FINAL RESPONSE: The justice system should be built, sanctioned and respected by Kahnawake that must address issues of individual and collective rights and responsibilities including/concerning offences against family, lands and community to be discussed/decided in different forms appropriate to the offense.

9:30 PM Kahsennéhawe Sky Deer Closes

CONCLUSION/NEXT STEPS:

Consensus of Groups was not reached. Continuation of Question 2 discussion will continue at the next Justice Community Hearing. Date/location will be established soon.

Kate Sko
Oversight Chief

11-25-09
Date:

Oszy Keep Standing
Oversight Chief

12-01-09
Date:

[Signature]
Oversight Chief

12-01-09
Date:

Community Feedback/Comments:

FINAL