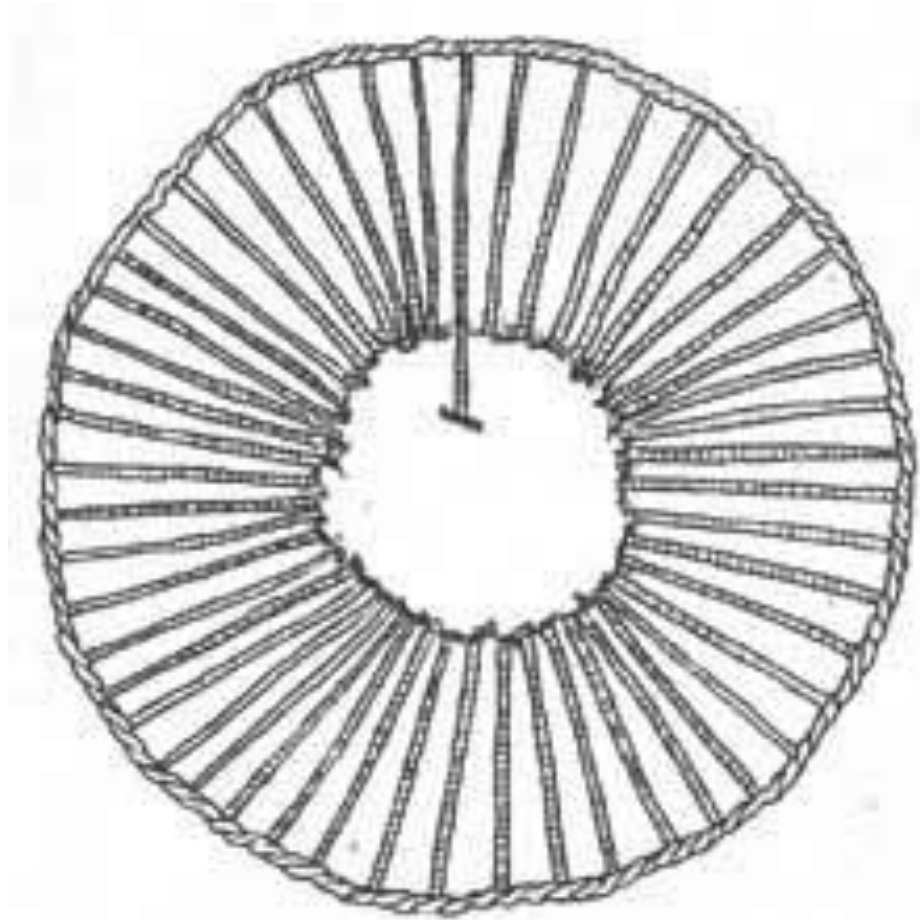


Ongwehonweh Alternative Dispute Resolution



"Peace must prevail in the world, if we are to survive as human race..."

Jake Swamp, 1993

September 2013

(This information is part of a much larger document of the efforts at Six Nations at Grand River used to establish a dispute resolution process in child welfare)

Brief Historical Information

The Circle Wampum on the cover represents one of the foundational symbols of the Haudenosaunee (Iroquois Confederacy). The individual strings represent the 49 clans or extended families of the Haudenosaunee. The one long string represents the title of Tadadaho, the only position in the confederacy that does not have a clan because that position “belongs” to all of the people.

The outer circle is made up of two intertwined strands one representing the political unity of the confederacy and the second, which wraps around the first, representing the spiritual/cultural unity. This intertwining represents the concept held in word Kuyanalogwah – the Great Binding Law of Peace. Each individual string is bound to the two outer strings representing the inseparability of the families from the common bond of being Haudenosaunee.

Every Haudenosaunee citizen belongs to one of the 49 clans/families which are dispersed between the member nations – Mohawk (9), Oneida (9), Onondaga (13), Cayuga (10) and Seneca (8). This family bond crosses nations and territories when you are the citizen of any of the 49 clans you are the brother or sister of the same clan people in other nations.

Each bead on the individual strings can be seen as the nuclear families within the clan. The binding at the end of each string represents the chiefs, clan mothers and faithkeepers who are the persons who have been charged with the responsibilities of teaching, upholding and insuring that our laws and ways continue in perpetuity.

All Haudenosaunee are responsible for ensuring the mandate given to us at the formation of the confederacy: *“Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground – the unborn of the future Nation.”*

PREAMBLE ONGWEHONWEH DISPUTE RESOLUTION

The Haudenosaunee culture is premised on peace and tells us how to help, share and care for one another as related in the Teachings held with our Creation Story, the Great Law of Peace and the Gai wiio (our prophecies). There are different types of alternative dispute resolution which work well, but for Six Nations people and the implementation of culturally based child welfare process, we have designed a dispute resolution consistent with our Teachings. Haudenosaunee nations have always had a dispute resolution process but it has been overshadowed or marginalized by western laws, education and western methods of helping. Since our systems and processes will be utilized in assisting Haudenosaunee and other

Aboriginal people, it has been titled: “Ogwehonweh Dispute Resolution” (ODR). Ogwehonweh means original people. ODR affords the immediate family, extended family, clan, friends and community members the opportunity to:

- i. Address their issues and concerns in a culturally congruent manner;
- ii. hear from the child welfare team and service providers regarding their concerns, about the safety and well-being of the child or children as well as have family Strengths acknowledged;
- iii. the ability to meet and work with family, friends and community members to create a plan of safety for their child or children. The meeting will be free of human service providers and child protection workers during family time (meeting); however they will be in another room to answer questions by the family when needed.
- iv. the ability to present and advocate the family’s plan to the protection agency for approval.
- v. to move forward as a team in the best interest of the child or children/family.

ONGWEHONWEH DISPUTE RESOLUTION DESIGN

The Haudenosaunee confederacy, also known as the Iroquois Confederacy, was formed hundreds of years ago in North America — long before Europeans first arrived here. The principles and structure of the Iroquois Confederacy influenced the United States government and is the same structure they have established today. The confederacy united five, and later six, separate nations. It has clear rules and procedures for making decisions through representatives and consensus. It establishes a foundation of respect for diversity and a belief in the equality of people. The Great Law of Peace brought together five nations: Seneca, Cayuga, Oneida, Onondaga, and Mohawk. The Tuscarora Nation joined the confederacy in 1702, thus making the confederacy comprise of Six Nations.

As a civilization, our Haudenosaunee Way-of-Life has evolved over centuries. That evolution is recounted in our Creation Story; the coming of our ceremonies; The Great Law of Peace; and the

Gai wiiio. From each of these great Teachings we have developed institutions, systems, structures and processes that contribute our unique existence as Indigenous nations and peoples.

The Haudenosaunee have three Dispute Resolution Models that can provide us with processes, principles, and structures for creating a holistic dispute resolution system within our communities and nations. These three models are: Edge of the Woods Ceremony, The Condolence, and Sah go ya te wah.

These three models address the full scope of how a person is impacted by conflict and dispute. In each process the total person is addressed: mentally, physically, emotionally, and spiritually. A conflict or dispute is seen as a total disruption of the person and the environment around them so every effort is taken to restore harmony, rhythm, and balance for everyone and everything involved and affected.

All three address the dysfunctional and dis-spirited behaviors that Ongwehonwe have taken on during the course of our surviving the impacts of the invasion. The challenge for us is: how do we actualize these processes in the context of modern conflicts and disputes, and, the persistent interference of external laws and institutions.

The Edge of the Woods Ceremony

The Indigenous Peoples of the Northeast Woodlands built their villages in clearings in the huge forest. They developed a protocol for approaching the village or encampment that has come to be known amongst the Haudenosaunee as the “Edge of Woods Ceremony”.

Whenever someone approached a village, or encampment, they would stop at the edge of the woods and build a smoky fire. This smoke would let the people of the village know that someone had approached that wanted to meet with them. The people would then pick a delegate, or delegates, to go to site of the smoke and determine what the visitor wanted. The delegate(s) would then report back to the people and they would decide if they would let the person come into the village, or send people out to meet with them.

Whether the person came into the village, or was met at their camp site, the first thing done was to clean them off. Words were extended to them acknowledging their journey and that dust and burrs that had accumulated on their body and clothes. The “..dust and burrs” were not meant literally, they were metaphors for possible negatives the person could have acquired simply because of the rigours of their journey. They were also offered food and water before any business was conducted. All of this was done so that they would be in the best possible mind, body, feelings, and spirit.

Another use for this Ceremony was to clean off the men when they returned from hunting or war. When the men prepared for either activity they went through ceremonies that helped them shift their personality into a state of being capable of killing. While they were gone they would be engaged in days of killing, and other hardships, that would ultimately affect them.

When they returned to their village clearing they would also set up camp and build a smoky fire to signal their return. The women of the village would then go to the camp site and conduct the process of warming the breath of the men. They washed their faces; cleared their ears and eyes; combed their hair; and did a process of acupressure at key pressure points that would “warm the breath”. They were given water and food and prepared to re-enter the village.

In order for a person to get in a killing mode they have to become very cold inside and when they returned they would have to be re-warmed. This Ceremony is the process of assisting the men to revert back to their real personalities.

The ability to shift out of our real personality, or everyday personality, has long been recognized by our Way of Life. There are many instances in which we are asked to make such shifts, such as when we are preparing to participate in Ceremonies, or when we are part of a healing process, or when we are engaged in governance activities. We also recognized that a person cannot be allowed to remain in such an altered state. The Edge of the Woods and similar ways of cleaning off are all part of assisting a person in resuming their real personality.

When this process was completed the men would approach the village singing the Standing Quiver Dance. As they entered the village they would stack their weapons by the entrance and then dance through the village. After one complete round then the women, children and older people would all join in the dance and welcome the men home.

When we are involved in a dispute or conflict we must shift our personality to one that can engage in the dispute or conflict. While in this state we are making decisions and forming positions from a place that is fuelled by the dispute or conflict. Unless we deliberately seek to be in another state, we are not in the best state for making decisions concerning peace and future.

Within our structures there is a deliberate separation between the Peace Chiefs and the Warriors. The Warriors are required to go out and engage the conflict and they must be in a state of existence that allows them to do whatever is necessary to win that conflict. When it becomes time to establish peace and reconciliation the Peace Chiefs take over the process. At this point the Warriors must engage in the process of Edge of the Woods to reclaim their real selves and be in a place where they can become contributors to the peace process developed by the Peace Chiefs.

The model of Edge of the Woods provides us with an understanding of the steps that need to be taken to de-fuse a conflict/dispute. Interveners are required that are of the state of being that will seek the path to peace, healing and reconciliation.

The disputants need to be cleaned off, they have taken on all of the necessary attitudes, behaviours, and actions that will defend them and hopefully produce a victory. At that moment they are not in the best frame of existence to achieve peace, healing and reconciliation on their own.

The Condolence

The Great Law of Peace is the founding constitution and is the underlying basis for Haudenosaunee society. Originally it outlined the path to harmony and unity among the warring nations and set out a proper form of government which allowed for the ideas of peace, power and righteousness.

Throughout the Great Law verses it explains the function of the Grand Council and outlines a plan for nations to resolve disputes and uphold the peace. It outlines all processes which may face the Haudenosaunee as explained by the Peacemaker. Leadership within the system is from the ground up making the leaders truly accountable to their people. It outlines the responsibilities of all Chiefs as well as the method of impeachment in the event that a Chief does not perform his duties to the satisfaction of his people.

The telling of the Great Law highlights many of the symbols of peace such as the Great Tree of Peace, where all the Chiefs stand around it in a circle, arms linked, to support it and prevent it from falling over. Atop the tree sits an eagle to see far and wide and warn of danger. Other symbols of peace include the Hiawatha Belt which represents the unity of the five nations: Seneca, Cayuga, Oneida, Onondaga, and Mohawks; and the five arrows which represents strength in unity.

One of our powerful healing ways is the Condolence. The Condolence was developed by Ayanwatha during his time of tremendous grief and suffering caused by the murders of his seven daughters. When he left the Onondaga territory he wandered in a lost state for some period of time. As he wandered, words came into his consciousness that helped ease the burden of the pain he was carrying. Because these words helped he wanted to be able to remember them, so he first strung together various reeds in patterns that allowed him to remember and recount these words.

He was concerned that these reeds would wear out and fall apart in time so he began looking for something with more lasting qualities. One day he came to small lake that was filled with

thousands of water birds. His sudden appearance startled the birds and they flew off en mass. As they lifted up they pulled the water away from the shore exposing quahog clams lying in the sand. Ayanwatha reached down and examined these shells and realized that they were the material he was looking for to replace the reeds.

He patiently cut, drilled and polished the shells into wampum beads of white and purple. He then constructed strings of wampum in various colour formations that would allow him to remember each set of words that had come to him and eased his pain.

While the Peacemaker was amongst the Oneida, and preparing to journey into the Onondaga territory, he was told of Ayanwatha and that he might be a man who could assist the Peacemaker. The Peacemaker went to where Ayanwatha was living to meet him and see if he could be of assistance.

As the Peacemaker approached Ayanwatha's lodge he could hear Ayanwatha speaking, so he stopped to listen. As he listened he heard Ayanwatha say:

"If I found or met anyone burdened with grief as I am, I would console them. I would extend the words of condolence which have come to me, and these beads will hold the word with which I would address them.

If I should see anyone in deep grief, I would take these shell strings from the pole and console them. These strings would become words that would lift away the darkness with which they are covered..." He then continued on to recite the rest of Condolence.

The Peacemaker had never heard such beautiful and meaningful words before, and realized that they contained a healing that was needed in the work of bringing about the Great Peace. The years of civil war and blood feuds had left deep hurts in all of the people. The Peacemaker knew that these hurts had to be lifted off the people or the propensity for revenge would stay in place.

After Ayanwatha stopped speaking the Peacemaker approached and introduced himself. He told Ayanwatha that he had over heard the words he had been reciting. He explained the work he was doing and told Ayanwatha that the words he had heard were needed to bring about the Great Peace that this land, and its nations and peoples needed. He asked Ayanwatha to join with him in going to the other nations. Ayanwatha accepted this invitation and the two joined their efforts to bring peace and healing to the territories of the Haudenosaunee.

Dispute and conflict create the conditions addressed in the Condolence. This is not a ceremony limited only to use at the funerals of the leadership as has become the practice. In his opening words Ayanwatha states: "If I found or met anyone.." and "If I should see anyone..." this says nothing about funerals or burying. He had just gone through a very traumatic dispute and conflict with Tadadaho that has caused the deaths of his seven daughters, the destruction of his family life, and his exile from his homelands. He knows and understands firsthand how devastating grief can be. He has also learned what it takes to lift off that grief and begin to resume one's life again.

The spectra of death and destruction are inherently present in a dispute or conflict. What may be threatened is the relationship; the loss of achieving harmony; the death of the integrity of the individual or the collective -and these are all conditions within which the Condolence is an appropriate response.

Ayanwatha's words speak to the grief, hurt, and potentially deep despair that disputes and conflicts can cause and must be addressed. The addressing of these realities needs to occur before implementation of a dispute/conflict resolution process, and, throughout the process of resolving the dispute/conflict.

When we have been called upon to assist in resolving a dispute/conflict we must be vigilant over the state of the participants. As they engage in the process there will be times when they will be filled with the thoughts, actions, emotions and spirit that are integral to the situation. At this point you must use your best judgment as to whether the process can continue, or, does a "time out" need to be called during which the participants will have the opportunity to express and release the negatives they are feeling.

Haudenosaunee history is an oral history, and there have been many versions of the Great Law written. No one version of the Great Law is preferred over another as the same themes still exist to emphasize its main principles of peace, power and righteousness.

Sah goya te wah – Making it Right With Creation

The prophecies recounted in the reciting of the Gai wiio provide us with two messages. The first is a series a warning of how we and the world around us will change because of the invasion and colonization of our country. The second message provides us with a process for achieving healing and wellness. This process was introduced to our people during the visions and revelations that Handsome Lake was receiving from the Four Messengers.

Dispute resolution in our system calls on us to first see and understand what has happened and what has been done that has created this state of conflict. We are then called to account for the impacts we have had during the course of the conflict. This is called Sa-go-ya-te-wah - making it right between yourself and Creation. At the end of each day of Gaiwiio the Speaker addresses the people and says, "Now that you have heard this part of the message now is the time for you to look and see if you have been a part of any of this that has been told to you. If you see and understand that you have been part of something that has been described, then it is up to you to make it right with Creation."

We are given two options for how we can carry this out. One is very private where you take tobacco and go into the forest and ask the trees to help you. The other is public where you go to the centre of the Long House and hold the white strings of wampum and make a public accounting.

But simply saying you understand and that you are sorry is not enough. You must also engage in creating personal change, so that you never engage in this activity again, for the rest of your life. This is the challenge many people miss today.

We recognize that making deep personal change can be very difficult, and the people are encouraged to support a person who has done such an accounting of themselves as they struggle to change. We are encouraged to be available to them, to help them as they make these changes. A very important thing we are told is: Once a person has made such an accounting of themselves you are to never bring that subject up again. "They are making a new start and from this day forward you are not to throw it in their face again."

All too often this part of the message is forgotten because the healing associated with the event has not involved everyone who was affected. Everyone has not had their time to release themselves from the burdens of the hurts associated with the event, or similar events.

Everyone involved in a dispute/conflict has contributed to its energy and dynamics. There are the circumstances that started the situation, but once it got going each person added to that initial start-up. To bring about resolution each person is going to have to acknowledge their part in the process as it unfolded, and, each person needs to address their role in the resolution of the dispute/conflict.

The contribution of each of these three elements of our Way of Life provide us with a framework for addressing dispute/conflict within any context - inter-personal, family, work related, in our external relations, etc.

Taken all together we see that we have inherited a system and process through which we can actively insure the peace, now and into the future. It is of utmost importance that these gifts are seen as the elements of a system and a process that requires time, commitment and dedication of the restoration of peace and well being.

The Haudenosaunee philosophy and teachings of the Great Law convey human beings have the ability to participate, and have the capacity in resolving conflict through peaceful methods even in what would appear to be the worst cases. An example of this is the forming of the league of five nations. The five nations battled against one another as there was disharmony within and among the nations.

The Great Law of Peace reveals that the path to dispute resolution and peace is a process that is led by individuals who genuinely care such as Dekanawidah also known as the Peace Maker. The Peace Maker worked toward creating a process that provided recognition on the life conditions of people having personal and community dispute. For example, the Peacemaker found a way for Tadadaho to relinquish his malevolent ways and recruited the community to assist him in his journey toward change.

Fundamental to the forming of the five nations is dispute resolution. The responsibility of upholding the peace in families, clans and nations was and still is the role of the Clan Mother.

It is the responsibility of the Clan Mother to look out for the well-being of the clan by overseeing the actions of the Chief and ensuring that he is performing his duties in accordance with the Great Law. As Clan Mother she has her own wampum of two strings, one white and one purple, signifying her title within the Haudenosaunee confederacy. Should she pass on, the string will then be passed on to the next woman to be chosen as Clan Mother.

If a Chief acted improperly or was not living up to his responsibilities his Clan Mother and Faith Keepers would warn him about his actions. If he continued to act selfishly the Clan Mother, after consultation with members of her clan had the ability to resolve the issue by symbolically removing his antlers, thus removing his authority as Chief.

In addition, if a couple were in dispute, it was the Clan Mother, Chief and Faith Keeper that went to the couple to help them to achieve resolution.

The fundamental difference in our healing ways from those of the West is that ours are holistic – addressing the impacts that occur to the Mind, Body, Heart, Spirit, Environment, Society and Fundamental Relations, all together rather than in the fragmented, compartmentalized approach of the West.

The goal of our healing ways is the restoration of the following:

Yukwatsiste skenon – our fire, our spirit. Life is not taken for granted but understood to be a gift from the beginning endowed with a sense of humility as each person takes their place as a small part of Creation. The truth is that the Haudenosaunee serve Creation. It is a cultural obligation to be Haudenosaunee in the service of others. Our spirit will remind us to reconcile life and our relationships with other human beings and Creation. A part of the teaching comes from the story of Ayanwatha who lost his whole family and had to learn reconciliation to fulfill his role in life. In the same way we look at the message of Gawiiio, when Handsome Lake shows us of how devastating the long lasting effects of the invasion would be and how we had to use our ancient teachings to find our place in the world without compromise.

Otanit[^]t?sla – compassion and innocence. Born out of the innocence of life one of our first teachings is compassion for another human being. That new spirit of life is totally helpless and survival is subject to the gift from others. As that spirit journeys to the new human being born into this world the compassion of mother is the doorway. Creation gives us this teaching. Human being is totally dependent on the natural world our E'tinoha (mother earth). Each life that enters this world reminds us of the twin-ness of life. Just like the story of the twins in the Creation story we are told of the two energies that exist within ourselves that teaches us the difference from right and wrong.

Kanolukhwasla – love and caring. In the Haudenosaunee world the awareness of the spiritual connection is the sign of love. How one spirit connects with another that is most evident between mother and child. The connection and flow of energy is the medicine – what we feel from another – the spiritual-ness of connecting. Again this is the relationship the culture teaches us to have with E'tinoha. To know what that connection is gives one insight into how love feels and affects others. When one sees a mother nursing a baby it is love that is both a spiritual and physical connection.

Kahletsyalusla – words of encouragement. The capacity for encouragement is one of the primary traits most expressed in the culture. It is connected to this time period of gaining one's voice and entering the period of basic responsibilities of being a man or woman in society. Compassion and love are the foundational teachings of encouragement. It is within those teachings comes the good mind. It is a voice and action that is both supportive and inclusive of others.

Kna?shatst^sla – inner strength. This teaching is about the inner power each person has to combine with the energy of the natural world to carry out life's responsibilities. It is not just a physical strength but includes the spiritual energy that works together in fulfilling one's obligations in life. For example a star lacrosse player is not only physically strong but has an equal spiritual energy of love for the game. It is the same for a good hunter and gardener to find the strengths needed to bring balance within the role one has to fulfill.

Kalihwi:yo – kind caring words. Celebrating life and creation is a voice of kindness and caring. It is the sounds of these words that brought peace among the Haudenosaunee. The Peacemaker fulfilled his obligations through the act of kindness. As he journeyed throughout the confederacy he mended the families, the clans of the Haudenosaunee. When our nations had their family clans again they were able to return to the original instructions of spiritual teachings.

We often look at this story only through the restructuring of the chiefs and grand council. The critical long term impact of the Peacemaker was the rebuilding of the clan family as the central cultural, political, spiritual, economic, educational and social institution of our world. The Peacemaker was a clan counselor who had the gift of helping people live with peace and justice in their hearts.

Ska:non – a state of peace. From laotnikula – the mind of peace – come the words encouraging others. The goal of “words of encouragement” is to bring peace among the people. The Peacemaker accomplished much with the sound of his voice that filled the world with positiveness – peace and justice. When one is positive about life it encourages others to face their realities in the same vein.

It must be kept in mind that what we are describing is not only a ceremony, but a systematic approach and process that occurs in stages over a period of time and doesn't conclude until we have re-established the conditions we describe above.

Inherent and significant to Haudenosaunee cultural philosophy is peace, as it is the underlying condition that healed families and brought five nations together. The elements of our system and process consist of:

Edge of the Woods – the beginning of the process. This consists of initial meetings to identify all of the parties and to obtain agreement and consent from all of the parties to participate in the process.

Condolence – assisting the participants in achieving a state of peace which will allow them to participate in the process. This may require the assistance of medicine people, healers or other helpers.

Sah goya te wah – achieving reconciliation and resolution.

Conducive to bringing peace as per the Great Law, and for our particular focus in child welfare disputes and disagreements there are several important social factors to consider when undertaking a peace or alternative dispute resolution process; and they are:

- i. A need for a neutral facilitator (s) – to assist the disagreeing parties
- ii. All parties respect each other's ritual in regards to the spiritual.

For example: common ground is found on having a good mind.

- iii. All parties agree to a common goal --- wellbeing of the child or children.
- iv. All parties value family.
- v. All parties value community.
- vi. All parties are respectful and caring.
- vii. All parties participate in healthy communication or respecting each other's thoughts, opinions and recommendations.
- viii. All parties agree to reach a consensus in resolving the problem for the wellbeing of the child or children.

Alternative Dispute Resolution (ADR) is a process used by child welfare agencies as an alternative to the court process for children in care or for children at risk of being placed in care. Currently the courts are overwhelmed with the inordinate number of Aboriginal caseloads; and ADR processes are seen as a way to alleviate some of the pressure on the court system. The three ADR processes to choose from in child welfare are: Family Group Decision Making, Child Mediation and the Aboriginal Approach. The Aboriginal Approach is defined as:

Aboriginal Approaches

Traditional methods of dispute resolution, including circle processes, have been established by First Nations communities or Aboriginal organizations. Impartial facilitators who have no decision-making power and who are skilled in First Nation traditional methods assist the participants in developing a plan that is supported by the participants and/or the First Nation community and addresses the protection concerns identified.

For greater certainty, the government of Ontario has undertaken an effort to establishing a “new approach” in working with Indigenous nations and governments. Through its policy statements, Ontario has adopted a set of principles, three of which have a direct bearing on this issue:

- “Ontario recognizes that First Nations have existing governments and is committed to dealing with First Nations' governments in a co-operative and respectful manner that is consistent with their status as governments. Many aspects of Ontario's evolving relationship with First Nations will take shape from important policy decisions to come. Until this work is completed, Ontario's recognition of a government-to-government relationship with First Nations does not include jurisdictional or fiscal changes, or reflect a position related to the nature of First Nations' governments or rights.
- Aboriginal peoples will have greater involvement in matters that directly affect their communities, including where applicable in programs and service delivery.
- Ontario respects Aboriginal and treaty rights protected by Section 35 of the Constitution Act, 1982, and is committed to meeting the province's constitutional and other legal obligations in respect of Aboriginal peoples.”

As we have shown, the Haudenosaunee have a dispute resolution process based on a traditional peace process established culturally hundreds of years ago. It is believed that our own process will generate better outcomes for disputes. This process is an integral part of our “Aboriginal and treaty rights protected by Section 35 of the Constitution Act, 1982”. Therefore, it is fully expected that Ontario and the Children’s Aid Society will fully respect these rights.