



LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center

July 7, 2021

9:00 a.m.

This Legislative Operating Committee meeting will be closed to the public due to the Public Health State of Emergency. This is a preventative measure as a result of the COVID-19 pandemic. An audio recording of the meeting will be made available on the Nation's website.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. June 2, 2021 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Public Peace Law (pg. 3)
2. Oneida General Welfare Law (pg. 42)

IV. New Submissions

1. Land Use Regulation Reimbursement Policy Repeal (pg. 56)

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn



LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES
Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
June 2, 2021
9:00 a.m.

Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King

Excused: Marie Summers

Others Present: Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Brooke Doxtator, Justin Nishimoto, Lawrence Barton (Microsoft Teams), Susan House (Microsoft Teams), Matthew Denny (Microsoft Teams), Michelle Myers (Microsoft Teams), Nic Reynolds (Microsoft Teams), Rhiannon Metoxen (Microsoft Teams), Loucinda Conway (Microsoft Teams), Eric Boulanger (Microsoft Teams).

I. Call to Order and Approval of the Agenda

David P. Jordan called the June 2, 2021, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Jennifer Webster to adopt the agenda as is; seconded by Kirby Metoxen. Motion carried unanimously.

II. Minutes to be Approved

1. May 19, 2021 LOC Meeting Minutes

Motion by Kirby Metoxen to approve the May 19, 2021 LOC meeting minutes and forward to the Business Committee for consideration; seconded by Jennifer Webster. Motion carried unanimously.

III. Current Business

1. Petition: L. Elm – Real Property Law Eviction and Termination

Motion by Jennifer Webster to accept the statement of effect for the Petition: L. Elm – Real Property Law Eviction and Termination and forward to the Oneida Business Committee; seconded by Daniel Guzman King. Motion carried unanimously.

IV. New Submissions

V. Additions

VI. Administrative Items

1. Community Support Fund Law Rule Handbook Amendments

Motion by Jennifer Webster to certify the Community Support Fund Law Rule Handbook amendments and forward to the Oneida Business Committee; seconded by Kirby Metoxen. Motion carried unanimously.

VII. Executive Session

VIII. Adjourn

Motion by Daniel Guzman King to adjourn at 9:14 a.m.; seconded by Kirby Metoxen. Motion carried unanimously.





Legislative Operating Committee
July 7, 2021

Public Peace Law

Submission Date: 12/7/16	Public Meeting: Due to the COVID-19 pandemic, public meetings were suspended by declaration of the Nation's COVID-19 Core Decision Making Team. A public comment period was still offered in accordance with the Legislative Procedures Act and held open until 6/9/21.
LOC Sponsor: Jennifer Webster	Emergency Enacted: n/a

Summary: *The item was carried over from the last two terms. On October 26, 2016, the Oneida Police Commission, in its quarterly report to the Oneida Business Committee, made a recommendation to develop a Public Peace law in an effort to exercise the Nation's sovereignty and jurisdiction. This recommendation was made based on input received during a community meeting held in Site 2 by the Oneida Police Department and Oneida Housing Authority due to a homicide investigation. The Oneida Business Committee then forwarded this request to the LOC who placed this item on the Active Files List in December 2016. The purpose of developing a Public Peace law would be to address trespassing, damage to property, noise nuisances, loitering, etc.*

10/7/20 LOC: Motion by Jennifer Webster to add the Public Peace Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

12/16/20: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Joel Maxam, Renita Hernandez, Scott Denny, Brandon Yellowbird Stevens, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to begin discussing issues that are currently affecting neighborhoods in the Nation so that they can be addressed in the Public Peace law.

1/15/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Krystal John, Michelle Hill, Lisa Rauschenbach, Jennifer Garcia, James Petitjean, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the potential relationship between the enforcement of the Public Peace law and the enforcement of leases.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss a plan for moving this item forward through the legislative process.

2/11/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law.

3/17/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Brandon Yellowbird Stevens, Kelly McAndrews, Krystal John, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the first draft of the Public Peace law with the larger work team.

4/7/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Daniel Guzman King, Marie Summers Clorissa N. Santiago, Eric Boulanger, Joel Maxam, Renita Hernandez, Leslie Doxtator, Brandon Yellowbird Stevens, Kelly McAndrews, Michelle Hill, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the updated draft of the Public Peace law with the larger work team so that the law can move forward for a legislative analysis to be completed.

4/21/21 LOC: Motion by Daniel Guzman King to approve the Public Peace law draft and legislative analysis; seconded by Kirby Metoxen. Motion carried unanimously.

5/5/21 LOC: Motion by Jennifer Webster to approve the Public Peace law public comment period packet and forward the Public Peace law to a public comment period to be held open until June 9, 2021; seconded by Marie Summers. Motion carried unanimously.

6/9/21: *Public Comment Period Closed.* The Legislative Operating Committee received written submissions of comments from six (6) individuals.

Next Steps:

- Accept the public comments and public comment review memorandum, and forward to a work session for further consideration.



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: July 7, 2021
RE: Public Peace Law Amendments: Public Comment Review

A public comment period for the proposed Public Peace law (“the Law”) was held open until June 9, 2021. A public meeting for the proposed Law was not held due to the COVID-19 pandemic.

On March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” regarding COVID-19 which declared a Public Health State of Emergency for the Nation until April 12, 2020, and set into place the necessary authority for action to be taken and allowed the Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. The Public Health State of Emergency has since been extended until July 28, 2021, by the Oneida Business Committee through the adoption of resolutions BC-03-28-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, and BC-06-23-21-B.

On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period, but allowed members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

Although the Nation’s COVID-19 Core Decision Making Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration suspended public meetings and therefore no public meeting was scheduled for the proposed Public Peace law, on May 5, 2021, the Legislative Operating Committee direct that a public comment period be held open until June 9, 2021, to allow members of the community an opportunity to provide written submissions of comments or questions to the Legislative Operating Committee through e-mail.

This memorandum is submitted as a review of the written comments received within the public comment period. The public meeting draft and written comments received are attached to this memorandum for review.

Comment 1 – Noise Disruptions:

309.6. Civil Infractions Against the Peace

309.6-1. Disorderly Conduct. A person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or

provoke a disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the following behaviors:

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm and/or air gun that are prohibited;
- (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities;
- (d) abuses or threatens a person on property of the Nation in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other property of the Nation, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in property of the Nation, and the language by its very utterance tends to incite an immediate breach of the peace.

Raeann Skenandore (written): Please include a section in the law that addresses noise as a category of disruption to public peace.

Example 1: a house in the neighborhood is hosting a party where loud music is playing. The party extends into the late night past 11:00 p.m. where the loud noise is affecting neighboring household members' ability to sleep.

Example 2: a house in the neighborhood is igniting fireworks late into the evening on non-holiday dates (i.e. July 4th) and the loud noise is affecting neighboring households members' ability to sleep and disturbing household animals.

Response

The commenter requests that a section be included in the Law which addresses disruptive noise violations. The Law does currently address noise violations. The Law provides that a person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, *unreasonably loud*, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. [3 O.C. 309.6-1]. The Law then goes on to specify that a civil infraction of disorderly conduct may include when a person makes or causes to be made any loud, disturbing, or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities. [3 O.C. 309.6-1(c)].

Due to the fact that noise violations are already addressed by the disorderly conduct civil infraction found in section 309.6-1 of the Law, there is no recommended revision based on this comment.

LOC Consideration

Comment 2 – Use of “and/or” throughout the Law:

Hon. Layatalati Hill (written): I just have one suggestion on the Public Peace Law and that is to not use “and/or” throughout the law. It appears “or” could be used instead.

Response

The commenter requests that “and/or” is not used throughout the Law, and that instead simply “or” is used.

It is recommended that the Law be reviewed to determine if the use of “and/or” could be replaced with “or” throughout the Law to aid in clarifying the interpretation of the Law.

LOC Consideration

Comment 3 – Nuisance:

309.6. Civil Infractions Against the Peace

309.6-6. Nuisance. A person commits the civil infraction of nuisance whenever he or she engages in a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) in any way render the public insecure in life or in the use of property; and/or
- (c) greatly offend the public morals or decency.

Lori Elm (written): Line 243 - You need to have something in this line to protect the people who are a nuisance but they need actual help. Medical conditions, and other chronic illnesses and what about homes where people overdose and die in their (not sure if that is HIPPA protected or not) or people who have overdose (heroin/fentanyl) that need to be narcaned. (NOW THAT is a nuisance, to have them officers going back and back to bring them back, to continue on using)

Response

The commenter provides that the Law should address those individuals who commit the civil infraction of nuisance but have underlying issues that may have caused their nuisance behavior. The Law sets forth the community standard that no individual should engage in a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public; in any way render the public insecure in life or in the use of property; and/or greatly offend the public morals or decency. [3 O.C. 309.6-6]. Although the Law does not provide an exemption to those individuals who may commit the civil infraction of nuisance but have an underlying condition that resulted in the nuisance behavior, the Law does provide flexibility in how the civil infraction is addressed and handled.

An Oneida Police Department officer may issue a citation to any person he or she has reasonable grounds to believe has committed a violation of a law of the Nation that expressly permits the issuance of a citation. [8 O.C. 807.4-2]. Inherently, the Oneida Police Department officer always has discretion to determine if a citation should be issued to address the situation. When a citation is issued to an individual, the individual has the opportunity to come before the Court and the Court is then provided a plethora of penalties to use as deemed appropriate to best address the actions of the individual and connect the individual to resources that may improve their behavior and prevent future civil infractions from occurring. One such resource the Court has available is the Court may order an individual to participate in counseling and/or any other programs relevant and available to the Nation. The goal of this Law is not simply to penalize civil infractions that occur, but to promote peace and order within the boundaries of the Reservation, by setting forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1, 309.1-2].

There is no recommended revision based on this comment.

LOC Consideration

Comment 4 – Drug Use and Addiction Throughout the Reservation:

Lori Elm (written): A major problem within the reservation is addiction. So, one can assume a major goal of this law is to set forth community standards/controls on our facilities such as: Casino, One Stops, CEC and all other business buildings (such as Walmart & Home Depot)? These buildings have a very high area of addicts and drug dealers/dealings in them and I would like to commend you on addressing the issue. We actually have overdoses happening in the facilities, quite frequently, as well as the drug activities overflowing over to the Radisson area. It will also prevent the addicts from dwelling at One Stop outside as well as passing out at the pumps and in the bathrooms. (GREAT JOB)

Response

The commenter commends the Legislative Operating Committee on developing this Law to address community issues such as drug addiction and activities which are occurring throughout the Reservation. The Legislative Operating Committee developed this Law to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation, as well as to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur. [3 O.C. 309.1-1, 309.1-2]. It was the intent of the Legislative Operating Committee that many of the issues that currently are plaguing

neighborhoods throughout the Reservation could be addressed through this Law to build a safe and peaceful community.

There is not recommended revision based on this comment.

LOC Consideration

Comment 5 – Jail of the Nation:

Lori Elm (written): If you are trying to establish our Sovereignty for the tribes itself and in that case, I do hope that means a small jail will be coming.

Response

The commenter states that she hopes that the implementation of this Law would include the development of a jail. It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur under this Law. [3 O.C. 309.1-2]. An individual who violates a provision of this law by committing a civil infraction may be subject to the issuance of a citation by an Oneida Police Department officer. [3 O.C. 309.11-1]. The issuance of a citation commences a civil action in the Judiciary for a violation of a law of the Nation for the purpose of collecting a fine or penalty imposed by the law in the name of the Nation. [8 O.C. 807.4-1]. Due to the fact that the issuance of a citation for a violation of this Law commences a civil action, and not a criminal action, it is not intended that the implementation of this law would include the development of a jail.

LOC Consideration

Comment 6 – Types of Land within the Reservation:

309.1. Purpose and Policy

309.1-1. Purpose. The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation.

309.1-2. Policy. It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur.

Lori Elm (written): Line 3.” Purpose and policy 309.1. Recommend to use the wording from the Zoning and Shoreland Protection somewhere in purpose to ensure the jurisdiction is covered on all properties: “tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the reservation”

Response

The commenter suggests that wording used from the Zoning and Shoreland Protection law to ensure that jurisdiction is covered on all property types. The Zoning and Shoreland Protection law specifically states that the purpose of that law is to “establish a zoning plan for tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the Reservation.” [6 O.C. 605.1-1(a)].

Currently, the Law has been developed to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1]. Reservation is then defined under the Law as ***all land*** within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law. [3 O.C. 309.3-1(t)]. Due to the fact that the definition for Reservation specifically states all land, it would be unnecessary to list out the different categories of land designation that can be found throughout the Reservation.

Additionally, the jurisdiction of the Nation’s Court is generally established through the Judiciary law, which provides that the Nation and the Trial Court have territorial jurisdiction over the Reservation and all lands held in trust by the United States for the benefit of the Nation within the State of Wisconsin. [8 O.C. 801.5-3].

LOC Consideration

Comment 7 – Definition for Public Property:

309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs

309.9-1. Public Intoxication. A person commits the civil infraction of public intoxication if he or she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the Nation to the degree that the person may endanger himself or herself, or another person.

Lori Elm (written): Line 20. Definitions – define “public property” line 338; this should be defined because in the Zoning Law, states “public nuisance” means a thing, act, occupation, condition, or use of property which continues for such length of time as to:.... (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable waters or other public way, or the use of public property. Private

property means owned by private parties, essentially anyone or anything but the government or state. (In this case the government aka Oneida Nation, Brown County or State of WI, etc..) so one would think any property the Oneida Nation owns is public property.

Response

The commenter requests that a definition for “public property” be included in this Law. Under the section regarding public intoxication, it states that a person commits the civil infraction of public intoxication if he or she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the Nation. The commenter questions if all property owned by the Nation is public property of the Nation.

Currently, the term “public property” is undefined in the Law and therefore is used in its everyday and ordinary sense. Whether to add a definition for the term public property is a policy consideration for the Legislative Operating Committee to make. The Legislative Operating Committee can make one of the following determinations:

1. The Law should remain as currently drafted, and the term “public property” should remain undefined and used in its everyday and ordinary sense.
2. The Law should be revised to include a definition for the term “public property. If the Legislative Operating Committee makes this determination, then the following revision to the Law is recommended:

309.3. Definitions

309.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(s) “Public property” means property owned by a government or one of its agencies, divisions, or entities and used by the general public.

LOC Consideration

Comment 8 – Maintaining a Chronic Nuisance House:

309.6. Civil Infractions Against the Peace

309.6-7. *Maintaining a Chronic Nuisance House.* A person commits the civil infraction of maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring during a twelve (12) month period at the premises that he or she owns or occupies through a lease or rental agreement.

Lori Elm (written): You have rental and residential leases in the same category, according to how the DRAFT law reads, is this how you want it to be addressed? I really think, if the laws are going to be the same across the board, anyone who pays taxes should be exempt and the tribe should be responsible for it. Technically we are renting the land and homes on it if you can take it away in 5 days. And if that is the case, you can build your own home, you may be paying taxes if the land is Fee Land, BUT you can’t have a beer in your yard? Clarify property on this.

Response

The commenter references the section of the Law regarding maintaining a chronic nuisance house which addresses individuals who occupy a home through both residential and rental agreements and questions if it was intended that these homes be treated the same.

The provision regarding maintaining a chronic nuisance house applies to any individual who owns a home, occupies a home through a lease, or occupies a home through a rental agreement and has three (3) or more police contacts at his or her home occurring throughout a twelve (12) month period. It was intended that that all these different home occupancy and ownership designations be treated the same under the Law, and that the community standard be set that any individual who either owns a home or occupies a home through a lease agreement bear responsibility for ensuring that his or her home is not a chronic nuisance in his or her neighborhood.

The Nation is sovereign and reserves all sovereign rights, authority, and jurisdiction consistent with being a sovereign nation. [8 O.C. 801.5-2]. Despite the ownership or occupancy designation of a home, the Nation has personal jurisdiction over any individual who is a member of any federally recognized Tribe, and even over non-Indians in certain situations when they have consented to the jurisdiction of the Nation or Trial Court or as otherwise consistent with federal law. [8 O.C. 801.5-4]. Additionally, the Nation and the Trial Court has territorial jurisdiction over the Reservation and all lands held in trust by the United States for the benefit of the Nation within the State of Wisconsin, and subject matter jurisdiction over any issue that a law of the Nation specifically authorizes jurisdiction over. [8 O.C. 801.5-2, 801.5-3]. This Law specifically authorizes the Trial Court to have jurisdiction over any action brought under the Law. [3 O.C. 309.4-1]. Therefore, it is within the purview of the Nation to adopt a law, such as this one, which sets forth community standards and prohibits an individual from maintaining a chronic nuisance house. This does not mean that individuals are not allowed to enjoy their homes and property however they see fit, this means that there is the expectation that the enjoyment of one's property does not substantially annoy, injure or endanger the comfort, health, repose or safety of the public, in any way render the public insecure in life or in the use of property, or greatly offend the public morals or decency. [3 O.C. 309.6-6].

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 9 – Prohibited Drugs and Hemp:

309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs

309.9-8. Possession of Prohibited Drugs. A person commits the civil infraction of possession of prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any drug paraphernalia.

Lori Elm (written): Line 376 309.9-8: You also have prohibited drugs, listed on here; recommend clarification on categories to NOTE: (Marijuana) Police kits which detect the presence of cannabis, that indicates marijuana, may show THC is present, but because hemp and marijuana are both cannabinoids derived from the cannabis sativa plant, police don't have an easy way to tell the difference, unless they are sent out to be tested. CBD treatment is legal in Wisconsin including: THE, Delta 8 and etc.. Which may look and smell very similar to illegal marijuana. Levels of the cannabidiol preparations with 0.3 percent or less of THC, in compliance with USDA hemp standards and authorizes in-state production according to those rules. And if you really want to do your sovereignty rights, you should be following the Federal Law which passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent. "Federal law passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent"

Response

The commenter requested clarification on marijuana being included as a prohibited drug based on the fact that hemp derived CBD products with THC under a certain level are legal. Under the Law, a prohibited drug is defined as marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code, and also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner. [3 O.C. 309.3-1(r)]. Section 812 of Title 21 of the United States Code identifies that the inclusion of tetrahydrocannabinols, or THC, on Schedule I Section (c)(17) does not include those tetrahydrocannabinols found in hemp, as defined under section 1639o of Title 7. Section 1639o of Title 7 defines hemp as the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

The Law provides that an Oneida Police Department officer shall make the determination as to whether a substance is a prohibited drug using standard law enforcement field testing practices. [3 O.C. 309.9-11].

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 10 – Notification of a Citation to the Comprehensive Housing Division:

309.11. Enforcement and Penalties

309.11-1. Issuance of a Citation. An individual who violates a provision of this law may be subject to the issuance of a citation by an Oneida Police Department officer.

(c) *Notice to the Comprehensive Housing Division.* An Oneida Police Department officer shall provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division. Any information or reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department Chief of Police.

Lori Elm (written): LINE 114: “any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division” This should say something like “any citation issued to an individual, whom(s) address is property of the Oneida Nation” Because if Bob Bob is gets caught with a bunch of drugs, not 10 saplings, I am talking Meth, Heroin, rigs loaded and etc. And he lives at 1235 Deer Path, and he gets caught at Oneida One Stop, Comprehensive Housing Division Attorney should be let know about this, because it is they’re job to keep our community safe. We need to stop protecting family, friends and loved ones, and start making a change. And you want to get the Pot dealers have at it too. But you need it to be in the law that citations go for all of the properties, not matter what.

Response

The commenter states that the Comprehensive Housing Division should be notified of a citation issued to any individual who has entered into a rental or lease agreement with the Comprehensive Housing Division, whether or not the citation was issued at a property subject to the rental or lease agreement.

Any person who violates a provision of the Law by committing a civil infraction may be subject to an issuance of a citation by an Oneida Police Department officer – no matter where within the Reservation the civil infraction occurs. [3 O.C. 309.11-1]. The Law then goes on to require that an Oneida Police Department officer provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division. [3 O.C. 309.11-1(c)]. When a person enters into a rental or lease agreement with the Comprehensive Housing Division they are agreeing to abide by a certain set of terms and expectations. For example, under the Leasing law, if a lessee or other party causes or threatens to cause immediate and significant harm to the premises, or undertakes criminal activity thereon, Land Management or another interested party may take appropriate emergency action, which may include cancelling the lease and/or securing judicial relief. [6 O.C. 602.11-2]. While the Eviction and Termination law provides a contract may be terminated prior to the contract term and the occupant may be evicted if the occupant violates the terms of the contract, is alleged to have violated any applicable law or rule, or is alleged to have committed one or more nuisance activities. [6 O.C. 610.5-1]. Notification of a citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division is provided by the Oneida Police Department officer to the Oneida Law Office attorney

assigned to the Comprehensive Housing Division in an effort to ensure that the Comprehensive Housing Division is aware of any civil infractions and police contacts which are occurring on a property rented or leased through the Nation in case those activities implicate further action by the Comprehensive Housing Division in accordance with the terms of the rental or lease agreement.

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comment 11 – Disrupting a Meeting or Government Function:

309.7. Civil Infractions Against Government

309.7-1. *Disrupting a Meeting or Government Function.* A person commits the civil infraction of disrupting a meeting or government function if he or she:

- (a) conducts himself or herself in a manner intended to prevent or disrupt a lawful meeting held in any property owned or controlled by the Nation;
- (b) refuses or fails to leave any property of the Nation upon being requested to do so by any official charged with maintaining order in such property of the Nation;
- (c) willfully denies any official, employee or member of the Nation the lawful right of such person to enter, to use the facilities, or to leave any property of the Nation;
- (d) at or in any property of the Nation willingly impedes any official or employee in the lawful performance of his or her duties or activities through the use of restraint, coercion, intimidation or by force and violence or threat thereof; and/or
- (e) at any meeting or session conducted by any official of the Nation, held in any property of the Nation; through the use of restraint, coercion, intimidation or by force and violence or threat thereof; willfully impedes, disrupts, or hinders the normal proceedings of such a meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official to conduct such a meeting.

Lori Elm (written): Line 262 309.7 -1: Disrupting a Meeting or Governmental Function (REALLY) should say Disrupting a Meeting of a Governmental Function or have clarification/ definition to define this. Add parties who are considered disorderly or obstructed shall be subjected to drug/alcohol testing and restrained and arrested by Police. or something like that.

Response

The commenter requests further clarification on the civil infraction of disrupting a meeting or government function and requests that this provision require those individuals who have disrupted the meeting or government function to be drug or alcohol tested and restrained by Police.

The Law provides that a person commits the civil infraction of disrupting a meeting or government function if he or she:

- conducts himself or herself in a manner intended to prevent or disrupt a lawful meeting held in any property owned or controlled by the Nation;
- refuses or fails to leave any property of the Nation upon being requested to do so by any official charged with maintaining order in such property of the Nation;
- willfully denies any official, employee or member of the Nation the lawful right of such person to enter, to use the facilities, or to leave any property of the Nation;
- at or in any property of the Nation willingly impedes any official or employee in the lawful performance of his or her duties or activities through the use of restraint, coercion, intimidation or by force and violence or threat thereof; and/or
- at any meeting or session conducted by any official of the Nation, held in any property of the Nation; through the use of restraint, coercion, intimidation or by force and violence or threat thereof; willfully impedes, disrupts, or hinders the normal proceedings of such a meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official to conduct such a meeting. [3 O.C. 309.7-1(a)-(e)].

Although the Law does not require that an individual who disrupts a meeting of the government, or disrupts a function of the government in action be subjected to drug and/or alcohol testing, if an individual appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the Nation to the degree that the person may endanger himself or herself, or another person, that individual may also be issued a citation for public intoxication. [3 O.C. 309.9-1].

There is no revision to the Law recommended based on this comment.

LOC Consideration

Comments 12 through 13 – Halting the Legislative Process:

GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):
The General Tribal Council-Legal Resource Center (GTC LRC) has been established by the Oneida General Tribal Council (OGTC) pursuant to Resolution BC Resolution #05-24-17-A Legal Resource Center Emergency Law and adopted BC Resolution# 09-13-171 Legal Resource Center for the purpose of assisting Oneida Tribal Members and Employees to address matters arising out of Oneida Nation laws and policies, and which can be addressed in the courts of the Oneida Nation Judiciary. As officials elected by the OGTC this office is obliged to represent, as best we can, the general concerns of the people who elected us. The membership of the Nation will be those most affected by these proposed laws and thus should have the most opportunity to review and comment on them. It is in that capacity we wish to make some cursory comments on the two proposed laws named above.

Those effected by this law are most likely to seek legal assistance when the citations under this law are issued. This will also bring the GTC LRC into a new area of practice within the Judiciary, criminal sanctions being comingled under civil authority. The GTC LRC has not been consulted

in the development of this law notwithstanding the public notice of the comment period. It is understandable that because of COVID-19 Emergency Protocols the usual public hearings have been omitted. However, with the easing of such limitations it is likely that the OBC will soon create a means of having an OGTC meeting at which proposals, such as this can be presented. We believe with the consultation of the OGTC, the law can still be crafted not just to punish violators, but also to understand the affects the law will have on the economically vulnerable families within the Oneida Nation.

GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):
CONCLUSION For the reasons stated above it is recommended that the LOC delay further processing of these proposed laws until such time as the OBC can formally present them, in their totality, to the duly assembled OGTC.

Response

The commenters request that the Legislative Operating Committee delay the processing of this Law until such a time that the Oneida Business Committee can formally present them to the General Tribal Council.

General Tribal Council prescribed the manner in which legislation of the Nation should be drafted, developed, and adopted through the adoption of the Legislative Procedures Act. The Legislative Procedures Act provides a consistent process for the adoption of laws of the Nation. [1 O.C. 109.1-1/]. The Legislative Procedures Act provides:

- The Legislative Operating Committee is the legislative committee of the Nation that is responsible for the development of laws of the Nation. [1 O.C. 109.4-1, 109.4-2].
- The Legislative Operating Committee handles requests for legislation and determines if the request for the development of legislation should be accepted or denied. [1 O.C. 109.5].
- The Legislative Operating Committee will direct an agency of the Nation to complete a fiscal impact statement for all legislation. [1 O.C. 109.6].
- A legislative analysis shall be completed by the Legislative Reference Office and provided to the Legislative Operating Committee. [1 O.C. 109.7].
- The Legislative Operating Committee will hold open a public comment period with a public meeting, and then consider fully all comments received. [1 O.C. 109.8].
- The Legislative Operating Committee shall forward the legislation, legislative analysis and fiscal impact statement to the Oneida Business Committee when legislation is ready for consideration. [1 O.C. 109.9-1].
- The Oneida Business Committee shall consider the adoption of the legislation, or forward the legislation to the General Tribal Council for consideration. [1 O.C. 109.9-1].

The adoption of the Legislative Procedures Act demonstrates General Tribal Council's intention to have the members of the Legislative Operating Committee draft and develop legislation of the Nation, and then the members of the Oneida Business Committee adopt legislation, or forward legislation to the General Tribal Council for adoption. The Legislative Operating Committee has developed this Law in accordance with the Legislative Procedures Act, as it has been modified by the COVID-19 Team's "*Suspension of Public Meetings under the Legislative Procedures Act*" declaration.

As a result of the COVID-19 pandemic, in accordance with the authority granted to the Oneida Business Committee through the Emergency Management law, on March 12, 2020, Chairman Tehassi Hill signed a “*Declaration of Public Health State of Emergency*” which sets into place the necessary authority should action need to be taken, and allows the Oneida Nation to seek reimbursement of emergency management actions that may result in unexpected expenses. [3 O.C. 302.8-1]. The Oneida Business Committee has extended this Public Health State of Emergency until July 28, 2021, through the adoption of the following resolutions: BC-03-26-20-A, BC-05-06-20-A, BC-06-10-20-A, BC-07-08-20-A, BC-08-06-20-A, BC-09-09-20-A, BC-10-08-20-A, BC-11-10-20-A, BC-12-09-20-D, BC-01-07-21-A, BC-02-10-21-A, BC-03-10-21-D, BC-05-12-21-A, and BC-06-23-21-B. [3 O.C. 302.8-2].

On March 17, 2020, the Oneida Business Committee adopted emergency amendments to the Emergency Management law (formally known as the Emergency Management and Homeland Security law) through resolution BC-03-17-20-E to create and delegate authority to a COVID-19 Core Decision Making Team so that upon the declaration of a public health emergency, the COVID-19 Core Decision Making Team would have the authority to declare exceptions to the Nation’s laws, policies, procedures, regulations, or standard operating procedures during the emergency period which will be of immediate impact for the purposes of protecting the health, safety, and general welfare of the Nation’s community, members, and employees. [3 O.C. 302.9-2]. These declarations remain in effect for the duration of the Public Health State of Emergency, unless identified to be effective for a shorter period of time. [3 O.C. 302.9-4]. The Oneida Business Committee then permanently adopted amendments to the Emergency Management law through resolution BC-03-10-21-A which incorporated the authority of an Emergency Core Decision Making Team to make declarations.

On March 27, 2020, the Nation’s COVID-19 Core Decision Making Team issued a “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration which suspended the Legislative Procedures Act's requirement to hold a public meeting during the public comment period, but allows members of the community to still participate in the legislative process by submitting written comments, questions, data, or input on proposed legislation to the Legislative Operating Committee via e-mail during the public comment period.

Although an in person public meeting for the proposed Law was not held, the public comment period was still held open until June 9, 2021, allowing members of the Nation the opportunity to comment and input on this proposed law.

Since the Legislative Operating Committee is developing this Law in accordance with the Legislative Procedures Act, as it has been modified by the COVID-19 Team’s “*Suspension of Public Meetings under the Legislative Procedures Act*” declaration, it is not recommended that processing of this Law be halted since members of the community were indeed provided an opportunity to participate in the legislative process on comment on the Law.

LOC Consideration

Comment 14 – Economic Impacts of Fines:

GTC Legal Resource Center – Gerald Hill, Wesley Martin, and Tsyolake House (written):

The lowest income citizens of our Nation will be even more at risk of being double fined by not only our court system. This will put these citizens in a worse off position. This will lead to more evictions of those lower income families. Under the Chapter 610, Eviction and Termination, (610.5-3(c)), when a tenant allegedly violates an "applicable law", the owner, in this case the Nation, may terminate the contract or lease, which they now do. This means any alleged violation of any portion of this law would put a tenant in violation of their lease or contract with the Nation. Not only would the tenant face eviction, but in the same breath, double fines, and possible jail time for the violation of applicable State law. This would cause an undue burden, not only to the person committing a violation, but also hardship to the family of the individual. Depending on how each case is prosecuted, the discretion and investigation by the Oneida police department, we can see problems for the citizens of the Nation who cannot afford them. Based on past cases involving evictions, there is a lack of Due Process afforded to tenants who were only alleged to have violated an applicable law, and this law would exacerbate that issue.

Response

The commenters express concern that individuals of the Nation risk being double fined by our Court, and then risk eviction due to the economic effects of being fined for violations of the Law.

The intent of the Law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation. [3 O.C. 309.1-1]. One such way to ensure that the community standards are met by all individuals within the Reservation is to allow for citations and penalties to be issued to those individuals who violate the Law and commit a civil infraction in an effort to deter civil infractions from being committed. When an Oneida Police Officer reasonably believes that an individual violated this Law and committed a civil infraction, the Oneida Police Officer may issue that individual a citation. [3 O.C. 309.11-1]. It is not the intent of the Oneida Police Department that its officers would issue a citation under this Law and simultaneously issue a citation under the laws of another municipality or the State of Wisconsin. Upon the adoption of this Law, the Nation would be assuming jurisdiction over these issues, unless it was determined that it was better suited that jurisdiction of a specific issue remain with the State of Wisconsin, in which a citation under this Law would not be issued.

Additionally, the use of fines is not the only penalty available to the Trial Court. Upon a finding by the Trial Court that a violation of this law has occurred, the individual may be subject to fines, community service, participation in counseling or other programs, restitution, and any other penalty as deemed appropriate by the Trial Court. [3 O.C. 309.11-2(a)-(e)]. When an individual is ordered to perform community service, that community service may be used in lieu of, or in addition to, a fine issued by the Trial Court. [3 O.C. 309.11-2(b)]. The Law also recognizes that the Oneida Law Office may negotiate an alternative payment plan with an individual for the

payment of fines that is approved by the Trial Court. [3 O.C. 309.11-2(a)(2)(A)]. The variety of penalties allowed under the Law will provide the Trial Court with flexibility to utilize its discretion to best address each individual who comes before the Court in an effort to ensure that the individual will not commit another civil infraction in the future.

In regard to the due process concerns about the Eviction and Termination law, although violations of this Law may trigger action under the Eviction and Termination law, the development and discussion of this Law is separate than any discussions of the Eviction and Termination law and therefore will not be discussed in this public comment memo.

LOC Consideration

Comment 15 – Miscellaneous:

Lori Elm (written): yes, you all think I am some big gangster drug dealer, but I still don't want drugs on the reservation, even though you tossed me off. I never had a drug house nor was I a dealer, and sorry I called the cops for help, Sorry I had black eyes, and was scared for my life, but is what it is. YOU NEED A HUMANITY LAW, SAFE HOUSES AS WELL, NOT GIVING THEM ADDICTS FREE ROOMS TO MAKE THEM KNOW MORE ADDICTS. CRAZY PEOPLE TRYING TO BE CLEAN AND YOU FORCED THEM TO LIVE WITH PEOPLE USING AT HOTELS ... BUT DO WHAT YOU GOTTA DO... it still not right, but do it right then stop the favoritism and do the right thing.

Response

This comment is unrelated to the consideration of the proposed Law.

LOC Consideration

From: [Raeann Skenandore](#)
To: [LOC](#)
Subject: Public Comment on Public Peace Law
Date: Thursday, May 6, 2021 10:42:32 AM

Please include a section in the law that addresses noise as a category of disruption to public peace. Example 1: a house in the neighborhood is hosting a party where loud music is playing. The party extends into the late night past 11:00 p.m. where the loud noise is affecting neighboring household members' ability to sleep.

Example 2: a house in the neighborhood is igniting fireworks late into the evening on non-holiday dates (i.e. July 4th) and the loud noise is affecting neighboring households members' ability to sleep and disturbing household animals.

Thank you.

Raeann Skenandore

From: [Layatalati Hill](#)
To: [Clorissa N. Santiago](#)
Subject: RE: Public Comment Period: Public Peace Law & Oneida General Welfare Law: Garnishment and Attachment
Date: Thursday, May 6, 2021 3:22:49 PM

Clorissa,

I just have one suggestion on the Public Peace Law and that is to not use “and/or” throughout the law. It appears “or” could be used instead.

From: LOC <LOC@oneidanation.org>
Sent: Thursday, May 6, 2021 10:14 AM
Subject: Public Comment Period: Public Peace Law & Oneida General Welfare Law: Garnishment and Attachment

Good Morning,

The Legislative Operating Committee (LOC) will be holding open a public comment period for written submissions of comments or questions regarding the following:

- **Public Peace Law.**
 - The Public Peace law is a proposed new law which serves the purpose of setting forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation.
 - The Legislative Operating Committee is holding open a public comment period to receive input on the proposed Public Peace law.
- **Oneida General Welfare Law: Garnishment or Attachment.**
 - The Oneida Business Committee adopted the Oneida General Welfare law to set forth a framework and provide guidelines for the Nation to establish and operate approved programs to provide assistance on a non-taxable basis to eligible members of the Nation which promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.
 - The Legislative Operating Committee is holding open a public comment period to receive input on the following question in regard to the Oneida General Welfare law: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

The public comment period for the Public Peace law and Oneida General Welfare Law: Garnishment or Attachment will be held open until **Wednesday, June 9, 2021.**

The Nation’s COVID-19 Core Decision Making Team issued a declaration on March 27, 2020, titled “*Suspension of Public Meetings under the Legislative Procedures Act.*” This declaration provides that the Legislative Procedures Act’s requirement to hold a public meeting during the public comment period is suspended due to the COVID-19 Public Health State of Emergency. Although there will be no public meeting for the proposed Public Peace law or the Oneida General Welfare law:

Garnishment or Attachment question, the public comment period for both of these items will still occur and be held open until Wednesday, June 9, 2021. Individuals can participate in the legislative process by submitting written comments, questions, or other input via e-mail to LOC@oneidanation.org by the close of business on June 9, 2021.

The public comment period packet for the Public Peace law, and the public comment period notice for the Oneida General Welfare law: Garnishment or Attachment will also be available on the Nation's website at <https://oneida-nsn.gov/government/register/public-meetings/>.

The Legislative Procedures Act requires that all managers or directors be electronically provided notice at least ten (10) business days prior to a public meeting. The Legislative Procedures Act also requires all appropriate managers or directors direct comments to be provided by employees who have special knowledge or expertise on this legislative issue during the public meeting and/or public comment period. [1 O.C. 109.8-2(b) and 109.8-4(a)]. Please share this appointment with any employees or individuals who may have expertise in these areas.

If you have any questions regarding these public comment periods please contact Attorney Clorissa N. Santiago at csantia1@oneidanation.org or (920) 869-4417.

Sincerely,

The Legislative Operating Committee
<https://oneida-nsn.gov/register/>



A good mind. A good heart. A strong fire.

From: [Lori Elm](#)
 To: [LOC](#)
 Subject: PUBLIC PEACE LAW
 Date: Sunday, May 16, 2021 10:03:44 PM

I would like to submit my comments regarding the Peace Law.

Line 243 - You need to have something in this line to protect the people who are a nuisance but they need actual help. Medical conditions, and other chronic illnesses and what about homes where people overdose and die in their (not sure if that is HIPPA protected or not) or people who have overdose (heroin/fentanyl) that need to be narchaned.

(NOW THAT is a nuisance, to have them officers going back and back to bring them back, to continue on using)

A major problem within the reservation is addiction. So, one can assume a major goal of this law is to set forth community standards/controls on our facilities such as: **Casino, One Stops, CEC and all other business buildings (such as Walmart & Home Depot)?**

These buildings have a very high area of addicts and drug dealers/dealings in them and I would like to commend you on addressing the issue. We actually have overdoses happening in the facilities, quite frequently, as well as the drug activities overflowing over to the Radisson area.

It will also prevent the addicts from dwelling at One Stop outside as well as passing out at the pumps and in the bathrooms. (GREAT JOB)

If you are trying to establish our **Sovereignty for the tribes itself and in that case, I do hope that means a small jail will be coming.**

Line 3.” Purpose and policy 309.1. Recommend to use the wording from the Zoning and Shoreland Protection somewhere in purpose to ensure the jurisdiction is covered on all properties: “tribal lands held in trust and fee, heirship lands, and individual trust and fee lands within the reservation”

Line 20. Definitions – define “public property” line 338; this should be defined because in the Zoning Law, states “public nuisance” means a thing, act, occupation, condition, or use of property which continues for such length of time as to:.... (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable waters or other public way, or the use of public property.

Private property means owned by private parties, essentially anyone or anything but the government or state. (In this case the government aka Oneida Nation, Brown County or State of WI, etc..) so one would think any property the Oneida Nation owns is public property.

You have rental and residential leases in the same category, according to how the DRAFT law reads, is this how you want it to be addressed?

I really think, if the laws are going to be the same across the board, anyone who pays taxes should be exempt and the tribe should be responsible for it. Technically we are renting the land and homes on it if you can take it away in 5 days.

And if that is the case, you can build your own home, you may be paying taxes if the land is Fee Land, BUT you can't have a beer in your yard? *clarify property on this.*

Line 376 309.9-8: You also have prohibited drugs, listed on here; recommend clarification on categories to NOTE: (Marijuana) Police kits which detect the presence of cannabis, that indicates marijuana, may show THC is present, but because hemp and marijuana are both cannabinoids derived from the cannabis sativa plant, police don't have an easy way to tell the difference, unless they are sent out to be tested.

CBD treatment is legal in Wisconsin including: THE, Delta 8 and etc.. Which may look and smell very similar to illegal marijuana. Levels of the cannabidiol preparations with 0.3 percent or less of THC, in compliance with USDA hemp standards and authorizes in-state production according to those rules.

And if you really want to do your sovereignty rights, you should be following the Federal Law which passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent.

"Federal law passed to allow for hemp-derived CBD products with THC no greater than 0.3 percent"

LINE 114: *"any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division" This should say something like "any citation issued to an individual, whom(s) address is property of the Oneida Nation"*

Because if Bob Bob is gets caught with a bunch of drugs, not 10 saplings, I am talking Meth, Heroin, rigs loaded and etc. And he lives at 1235 Deer Path, and he gets caught at Oneida One Stop, Comprehensive Housing Division Attorney should be let know about this, because it is they're job to keep our community safe. We need to stop protecting family, friends and loved ones, and start making a change. And you want to get the Pot dealers have at it too. But you need it to be in the law that citations go for all of the properties, not matter what.

Line 262 309.7 -1: Disrupting a Meeting or Governmental Function (REALLY) should say Disrupting a Meeting of a Governmental Function or have clarification/ definition to define this.

Add parties who are considered disorderly or obstructed shall be subjected to drug/alcohol testing and restrained and arrested by Police. or something like that.

yes, you all think I am some big gangster drug dealer, but I still don't want drugs on the reservation, even though you tossed me off. I never had a drug house nor was I a dealer, and sorry I called the cops for help, Sorry I had black eyes, and was scared for my life, but is what it is.

YOU NEED A **HUMANITY LAW, SAFE HOUSES** AS WELL, NOT GIVING THEM ADDICTS FREE ROOMS TO MAKE THEM KNOW MORE ADDICTS. CRAZY PEOPLE TRYING TO BE CLEAN AND YOU FORCED THEM TO LIVE WITH PEOPLE USING AT HOTELS ... BUT DO WHAT YOU GOTTA DO... it still not right, but do it right then stop the favoritism and do the right thing.



Memorandum

TO: Legislative Operating Committee
LOC@oneidanation.org

FROM: Bridget A. Mendolla-Cornelius, Legal Assistant *BMC*
GTC Legal Resource Center

DATE: June 9, 2021

RE: Written Comments on the Public Peace Law and Oneida General Welfare Law

Attached is the submission of the GTC Legal Resource Center written commentary of the Public Peace Law and the Oneida General Welfare Law by Attorney Gerald L. Hill and Advocates Wesley Martin, Jr. and Tsyoslake House for your consideration.

GTC Legal Resource Center
Ridgeview Plaza, Suite 8
3759 West Mason Street
Oneida, WI 54155
(920) 496-5320
Email: GTC-LRC@oneidanation.org



WRITTEN COMMENTARY of the GTC Legal Resource Center on the Proposed
June 9, 2021

PUBLIC PEACE LAW and ONEIDA GENERAL WELFARE LAW

The General Tribal Council-Legal Resource Center (GTC LRC) has been established by the Oneida General Tribal Council (OGTC) pursuant to Resolution BC Resolution #05-24-17A Legal Resource Center Emergency Law and adopted BC Resolution # 09-13-17L Legal Resource Center for the purpose of assisting Oneida Tribal Members and Employees to address matters arising out of Oneida Nation laws and policies, and which can be addressed in the courts of the Oneida Nation Judiciary. As officials elected by the OGTC this office is obliged to represent, as best we can, the general concerns of the people who elected us. The membership of the Nation will be those most affected by these proposed laws and thus should have the most opportunity to review and comment on them.

It is in that capacity we wish to make some cursory comments on the two proposed laws named above.

PUBLIC PEACE LAW

Those effected by this law are most likely to seek legal assistance when the citations under this law are issued. This will also bring the GTC LRC into a new area of practice within the Judiciary, criminal sanctions being comingled under civil authority. The GTC LRC has not been consulted in the development of this law notwithstanding the public notice of the comment period. It is understandable that because of COVID-19 Emergency Protocols the usual public hearings have been omitted. However, with the easing of such limitations it is likely that the OBC will soon create a means of having an OGTC meeting at which proposals, such as this can be presented. We believe with the consultation of the OGTC, the law can still be crafted not just to punish violators, but also to understand the affects the law will have on the economically vulnerable families within the Oneida Nation.

The lowest income citizens of our Nation will be even more at risk of being double fined by not only our court system. This will put these citizens in a worse off position. This will lead to more evictions of those lower income families. Under the *Chapter 610, Eviction and Termination, (610.5-3(c))*, when a tenant allegedly violates an “applicable law”, the owner, in this case the Nation, may terminate the contract or lease, which they now do. This means any *alleged* violation of any portion of this law would put a tenant in violation of their lease or contract with the Nation. Not only would the tenant face eviction, but in the same breath, double fines, and possible jail time for the violation of applicable State law. This would cause an undue burden, not only to the person committing a violation, but also hardship to the family of the individual. Depending on how each case is prosecuted, the discretion and investigation by the Oneida police department, we can see problems for the citizens of the Nation who cannot afford them. Based on past cases involving evictions, there is a lack of Due Process afforded to tenants who were only *alleged* to have violated an applicable law, and this law would exacerbate that issue.

ONEIDA GENERAL WELFARE LAW

The Garnishment and Attachment provisions of this law are too stringent to be considered as benefitting the most vulnerable segment of the Nation’s membership. For example, consider the likely following outcomes

1. Any more attachment of Garnishment of any kind right now would be not advisable. Many of the Oneida Membership have been financially devastated by COVID-19, loss of income, behind in bills, rent. This Law should be put on hold for at least two (2) years.
2. If the law should move forward, Garnishment should be on income only, not SS, SSI, Veteran Pension, etc.
3. Tribal Garnishment should not include any grants, subsidized money from the Oneida Nation.
4. Any foreign Garnishment must be refiled in the Oneida Judiciary and signed by the Oneida Judiciary Judge.

5. Any Garnishment needs to go through the Oneida Judiciary, except debts to the Oneida Nation from Per Capita.
6. Any funds to be Garnished at Bay Bank must be approved by the Oneida Judiciary Court Order.

CONCLUSION

For the reasons stated above it is recommended that the LOC delay further processing of these proposed laws until such time as the OBC can formally present them, in their totality, to the duly assembled OGTC.

Title 3. Health & Public Safety - Chapter 309

PUBLIC PEACE

309.1. Purpose and Policy
309.2. Adoption, Amendment, Repeal
309.3. Definitions
309.4. Jurisdiction and Authority
309.5. Civil Infractions Against Property
309.6. Civil Infractions Against the Peace

309.7. Civil Infractions Against Government
309.8. Civil Infractions Against the Person
309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs
309.10. Civil Infractions Affecting Health and Safety
309.11. Enforcement and Penalties

309.1. Purpose and Policy

309.1-1. *Purpose.* The purpose of this law is to set forth community standards and expectations which preserve the peace, harmony, safety, health, and general welfare of individuals who live within the boundaries of the Reservation.

309.1-2. *Policy.* It is the policy of the Nation to promote peace and order within the boundaries of the Reservation while also providing an orderly process for addressing civil infractions that occur.

309.2. Adoption, Amendment, Repeal

309.2-1. This law was adopted by the Oneida Business Committee by resolution BC-__-__-__.

309.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

309.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

309.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

309.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

309.3. Definitions

309.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Adult at risk” means any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(b) “Alcohol beverage” means a fermented malt beverage and any intoxicating liquor.

(c) “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

(d) “Child” means a person who has not attained the age of eighteen (18) years.

(e) “Cigarette” means any roll for smoking made wholly or in part of tobacco, irrespective of size, shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

(f) “Drug paraphernalia” means any equipment, product, object or container used or intended for use to cultivate, plant, maintain, manufacture, package or store a prohibited

drug or inject, ingest, inhale or otherwise introduce an prohibited drug into the human body, regardless of the material composition of the instrument used for such purposes.

(g) “Elder at risk” means any person age fifty-five (55) or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

(h) “Electronic cigarette” means device that enables a person to ingest nicotine, or other chemicals or substances, by inhaling a vaporized liquid and shall include the cartridges and other products used to refill the device. “Electronic cigarette” shall not include any device that is prescribed by a healthcare professional.

(i) “Fleet vehicle” means a vehicle owned or leased by the Nation.

(j) “Gang” means an association of three (3) or more individuals whose members collectively identify themselves by adopting a group identity which they use to create an atmosphere of fear or intimidation frequently by employing one (1) or more of the following: a common name, slogan, identifying sign, symbol, tattoo, or other physical marking, style or color of clothing, hairstyle, hand sign or graffiti.

(k) “Intoxication” means not having the normal use of mental or physical faculties by reason of the introduction of an alcohol beverage or a prohibited drug, or any other substance into the body.

(l) “Judiciary” means the Oneida Nation Judiciary, which is the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B, and then later authorized to administer the judicial authorities and responsibilities of the Nation by Oneida General Tribal Council resolution GTC-03-19-17-A.

(m) “Liter” means all rubbish, waste materials refuse, garbage, trash debris, or other foreign substances, solid, liquid, or every form, size, and kind.

(n) “Merchant” means a person who deals in goods of the kind or otherwise by his or her occupation holds himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill.

(o) “Nation” means the Oneida Nation.

(p) “Official” means any person who is elected or appointed to serve a position for the Nation, including, but not limited to, a position on a board, committee, commission, or office of the Nation, including the Oneida Business Committee and Judiciary.

(q) “Pecuniary loss” means a loss of money, or of something by which money or of value may be acquired.

(r) “Prohibited drug” means marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), hallucinogens, methaqualone, barbiturates, narcotics, and any other substance included in Schedules I through V, as defined by Section 812 of Title 21 of the United States Code. Prohibited drugs also includes prescription medication or over-the-counter medicine used in an unauthorized or unlawful manner.

(s) “Recklessly” mean a person acts recklessly, or is reckless, with respect to circumstance surrounding his or her conduct, or the result of his or her conduct when he or she is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the person’s standpoint.

(t) "Reservation" means all land within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.

(u) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

(v) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(w) "Theft detection device remover" means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(x) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(y) "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(z) "Trial Court" means the Trial Court of the Oneida Nation Judiciary.

(aa) "Weapon" means guns, switchblade knives, knives with blades longer than three (3) inches that are not being used for food preparation, electric weapons, billy clubs, and any other similar instrument or device.

309.4. Jurisdiction and Authority

309.4-1. *Jurisdiction of the Court.* The Trial Court shall have jurisdiction over any action brought under this law.

309.4-2. *Standard of Proof.* All matters to be decided by the Trial Court shall be proven by clear and convincing evidence.

309.4-3. *Authority of the Oneida Police Department.* The Oneida Police Department shall have the authority to:

(a) investigate complaints involving civil infractions under this law; and

(b) issue citations for violations of this law.

309.4-4. *General Prohibition of Civil Infractions.* No person shall commit a civil infraction under this law.

309.5. Civil Infractions Against Property

309.5-1. *Damage to Property.* A person commits the civil infraction of damage to property if he or she, without the consent of the owner:

(a) damages or destroys the property of the owner;

(b) tampers with property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person;

(c) makes markings, including inscriptions, slogans, drawings, or paintings on the property of the owner; and/or

- 131 (d) alters, defaces, or damages in any way property owned by the Nation.
- 132 309.5-2. *Reckless Damage or Destruction*. A person commits the civil infraction of reckless
133 damage or destruction if without the consent of the owner he or she recklessly damages or destroys
134 the property of the owner.
- 135 309.5-3. *Trespass*. A person commits the civil infraction of trespass if he or she:
136 (a) enters or remains on private property or property of the Nation without consent and he
137 or she:
138 (1) had notice that the entry was forbidden; or
139 (2) received notice or order to depart but failed to do so.
- 140 (b) *Notice*. Notice or an order to depart may be given by:
141 (1) written or verbal communication given to the intruder by an Oneida Police
142 Department officer, the owner of the property, or a person authorized to act on
143 behalf of the owner;
144 (2) written notice posted on or about the property in a manner reasonably likely to
145 come to the attention of potential intruders; or
146 (3) fences, barricades, or other devices manifestly designed to enclose the property
147 and to exclude potential intruders.
- 148 309.5-4. *Theft*. A person commits the civil infraction of theft is he or she:
149 (a) obtains, exercises control over, or conceals anything of value of another without the
150 consent of the owner; or
151 (b) having lawfully obtained possession for temporary use of the property, deliberately
152 and without consent, fails to return or reveal the whereabouts of said property to the owner,
153 his or her representative or the person from which he or she has received it with the intent
154 to permanently deprive the owner of its use and benefit.
- 155 309.5-5. *Retail Theft*. A person commits the civil infraction of retail theft if he or she without the
156 merchant's consent and with intent to deprive the merchant permanently of possession or the full
157 purchase price of the merchandise or property:
158 (a) intentionally alters indicia of price or value of merchandise held for resale by a
159 merchant or property of a merchant;
160 (b) intentionally takes and carries away merchandise held for resale by a merchant or
161 property of a merchant;
162 (c) intentionally transfers merchandise held for resale by a merchant or property of a
163 merchant;
164 (d) intentionally conceals merchandise held for resale by a merchant or property of a
165 merchant;
166 (e) intentionally retains possession of merchandise held for resale by a merchant or
167 property of a merchant;
168 (f) while anywhere in the merchant's premises, intentionally removes a theft detection
169 device from merchandise held for resale by a merchant or property of a merchant;
170 (g) uses, or possesses with intent to use, a theft detection shielding device to shield
171 merchandise held for resale by a merchant or property of merchant from being detected by
172 an electronic or magnetic theft alarm sensor; and/or
173 (h) uses, or possesses with intent to use, a theft detection device remover to remove a theft
174 detection device from merchandise held for resale by a merchant or property of a merchant.
- 175 309.5-6. *Loitering*. A person commits the civil infraction of loitering if he or she loiters or prowls
176 in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that
177 warrant alarm for the safety of persons or property in the vicinity.

(a) Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person:

- (1) takes flight upon appearance of an Oneida Police Department Officer;
- (2) refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object; or
- (3) refuses to leave the premises after being requested to move by an Oneida Police Department officer or by any person in authority at such place.

309.5-7. *Fraud*. A person commits the civil infraction of fraud if, to obtain property, money, gain, advantage, interest, asset, or services for himself or herself or another he or she:

- (a) makes a materially false or misleading statement which he or she knows to be untrue or makes a remark with reckless disregard to the accuracy of the statement;
- (b) withholds information by misrepresentation or deceit; or
- (c) with intent to defraud or harm another, he or she destroys, removes, conceals, alters, substitutes or otherwise impairs the verity, legibility, or availability of a writing.

309.5-8. *Negligent Handling of Burning Material*. A person commits the civil infraction of negligent handling of burning material if he or she handles burning material in a highly negligent manner in which the person should realize that a substantial and unreasonable risk of serious damage to another person or another's property is created.

309.6. Civil Infractions Against the Peace

309.6-1. *Disorderly Conduct*. A person commits the civil infraction of disorderly conduct if he or she engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A civil infraction of disorderly conduct may include, but is not limited to, the following behaviors:

- (a) fights with another person within the boundaries of the Reservation;
- (b) discharges a firearm and/or air gun that are prohibited;
- (c) makes or causes to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities;
- (d) abuses or threatens a person on property of the Nation in an obviously offensive manner;
- (e) lies or sleeps on any street, alley or sidewalk, or in any other property of the Nation, or upon private property that he or she has no right to occupy; or
- (f) uses abusive, indecent, profane, or vulgar language in property of the Nation, and the language by its very utterance tends to incite an immediate breach of the peace.

309.6-2. *Carrying a Prohibited Weapon*. A person commits the civil infraction of carrying a prohibited weapon if he or she bears or carries on or about his or her person, whether in the open or concealed, a weapon on any public property of the Nation, including any buildings, gaming or retail business, facility, construction site, fleet vehicle, or at any event sponsored by the Nation.

- (a) *Exceptions*. An individual shall not be considered to have committed the civil infraction of carrying a prohibited weapon if he or she is actively engaged in:
 - (1) the performance of the duties of his or her employment which requires a weapon to be carried, including sworn law enforcement officers or vendors who transport and/or distribute cash;
 - (2) hunting, fishing, or trapping in accordance with the Nation's laws and rules governing hunting, fishing, and trapping; or
 - (3) cultural activities or ceremonies.

309.6-3. *Gang Related Activity*. A person commits the civil infraction of gang activity if he or she participates in any activity with a gang which:

- (a) creates an atmosphere of fear and intimidation in the community;
- (b) engages in acts injurious to the public health, safety, or morals of the Nation; and/or
- (c) engages in gang-focused illegal activity either individually or collectively.

309.6-4. *Throwing or Shooting Projectiles*. A person commits the civil infraction of throwing or shooting projectiles if he or she throws or shoots any object, stone, snowball, or other projectile by hand or by any other means, at any person, or at or into any building, street, sidewalk, alley, highway, park, playground or other public place.

309.6-5. *Obstructing Streets and Sidewalks*. A person commits the civil infraction of obstructing streets and sidewalks if he or she stands, sits, loafs, loiters, engages in any sport of exercise, or uses or maintains a motor vehicle on any public street, sidewalk, bridge, or public ground within the Reservation in such manner as to:

- (a) prevent or obstruct the free passage of pedestrian or vehicular traffic;
- (b) prevent or hinder free ingress to or egress from any place of business or amusement or any church, public building or meeting place; or
- (c) prevent the Nation from utilizing a snowplow or other maintenance equipment or vehicles.

309.6-6. *Nuisance*. A person commits the civil infraction of nuisance whenever he or she engages in a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) in any way render the public insecure in life or in the use of property; and/or
- (c) greatly offend the public morals or decency.

309.6-7. *Maintaining a Chronic Nuisance House*. A person commits the civil infraction of maintaining a chronic nuisance house if he or she has three (3) or more police contacts occurring during a twelve (12) month period at the premises that he or she owns or occupies through a lease or rental agreement.

309.6-8. *Interfering with Lawful Arrest or Resisting Arrest*. A person commits the civil infraction of interfering with lawful arrest or resisting arrest if by force, violence or other means, he or she:

- (a) interferes, hinders or resists any Oneida Police Department officer in the performance of his or her official duties;
- (b) flees from any Oneida Police Department officer who is attempting to lawfully arrest or detain him or her; or
- (c) assists another to avoid a lawful arrest or harbors a fugitive.

309.7. Civil Infractions Against Government

309.7-1. *Disrupting a Meeting or Government Function*. A person commits the civil infraction of disrupting a meeting or government function if he or she:

- (a) conducts himself or herself in a manner intended to prevent or disrupt a lawful meeting held in any property owned or controlled by the Nation;
- (b) refuses or fails to leave any property of the Nation upon being requested to do so by any official charged with maintaining order in such property of the Nation;
- (c) willfully denies any official, employee or member of the Nation the lawful right of such person to enter, to use the facilities, or to leave any property of the Nation;

(d) at or in any property of the Nation willingly impedes any official or employee in the lawful performance of his or her duties or activities through the use of restraint, coercion, intimidation or by force and violence or threat thereof; and/or

(e) at any meeting or session conducted by any official of the Nation, held in any property of the Nation; through the use of restraint, coercion, intimidation or by force and violence or threat thereof; willfully impedes, disrupts, or hinders the normal proceedings of such a meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official to conduct such a meeting.

309.7-2. *Breach of Confidentiality.* A person commits the civil infraction of breach of confidentiality if he or she;

(a) makes or disseminates any unauthorized audio or video recording within the designated meeting area of a General Tribal Council meeting, or executive session portion of a meeting of the Oneida Business Committee or any other board, committee, or commission of the Nation; or

(b) disseminates any confidential meeting materials of the General Tribal Council, Oneida Business Committee, or any other board, committee, or commission of the Nation, including but not limited to, meeting packets and meeting minutes, to any individual not authorized to access the materials.

309.7-3. *Threatening an Official.* A person commits the civil infraction of threatening an official if he or she threatens to inflict serious injury against an official, a member of the official's family, or the official's property as a result of any action taken by the official in the course of his or her duties.

309.8. Civil Infractions Against the Person

309.8-1. *Assault.* A person commits the civil infraction of assault if he or she:

(a) causes bodily harm to another;

(b) threatens another with imminent bodily harm;

(c) causes physical contact with another when the person knows or should reasonably believe that the other person will regard the contact as offensive or provocative;

(d) uses or exhibits a weapon during the commission of the assault; or

(e) forcibly assaults or intimidates any authorized law enforcement official lawfully discharging an official duty.

309.8-2. *Harassment.* A person commits the civil infraction of harassment if, with intent to harass, alarm, abuse, or torment another he or she:

(a) initiates communication in person, by telephone, in writing, or through any means of electronic communication and in the course of the communication makes a comment, request, suggestion or proposal that is obscene or false;

(b) threatens, in person, by telephone, in writing, or through any means of electronic communication in a manner reasonably likely to alarm the person receiving the threat, to inflict serious injury against the person, a member of his or her family, or his or her property;

(c) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyer to be false, that another person has suffered death or serious bodily harm;

(d) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, alarm, abuse, torment, or offend another;

(e) knowingly permits a telephone or electronic device under his or her control to be used by a person to commit an infraction under this section; or

(f) intentionally subjects another to sexual harassment.

309.8-3. *Abuse of Individuals at Risk.* A person commits the civil infraction of abuse of individuals at risk if he or she subjects an adult at risk or elder at risk to any of the following:

(a) physical abuse;

(b) emotional abuse;

(c) sexual abuse;

(d) unreasonable confinement or restraint;

(e) financial exploitation; and/or

(f) deprivation of a basic need for food, shelter, clothing, or personal or health care, including deprivation resulting from the failure to provide or arrange for a basic need by a person who has assumed responsibility for meeting the need voluntarily or by contract, agreement, or court order.

309.8-4. *Truancy.* A person commits the civil infraction of truancy if he or she fails without good cause to ensure that a child he or she is responsible for the care of attends school in accordance with the rules of the school district in which the child is enrolled.

309.9. Civil Infractions Involving Alcohol, Tobacco, and Drugs

309.9-1. *Public Intoxication.* A person commits the civil infraction of public intoxication if he or she appears intoxicated by alcohol beverages and/or prohibited drugs on public property of the Nation to the degree that the person may endanger himself or herself, or another person.

309.9-2. *Unauthorized Alcohol Beverage.* A person commits the civil infraction of unauthorized alcohol beverage if he or she consumes or possesses any open or unsealed container containing an alcohol beverage on any public way, in any parking lot held for public use, or on or within the premises of a public place or on or in any motor vehicle on a public way or in parking lot held out for public use, unless such person is on the premises of an establishment holding a valid license for the on premises consumption of alcoholic beverages. No person may possess or consume an alcohol beverage on school premises or while participating in a school-sponsored activity.

309.9-3. *Underage Possession of Alcohol.* A person commits the civil infraction of underage possession of alcohol if he or she purchases, attempts to purchase, possesses, or consumes an alcohol beverage prior to reaching the age of twenty-one (21) years unless accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

309.9-4. *Furnishing Alcohol Beverages to Minors.* A person commits the civil infraction of furnishing alcohol beverages to minors if he or she procures for, sells, dispenses or gives away any alcohol beverages to any person under the age of twenty-one (21) years who is not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

309.9-5. *Underage Possession of Tobacco.* A person commits the civil infraction of underage possession of tobacco if he or she purchases, attempts to purchase, possesses, or consumes a cigarette, electronic cigarette, or other tobacco product prior to reaching the age of twenty-one (21) years.

309.9-6. *Furnishing Tobacco to Minors.* A person commits the civil infraction of furnishing tobacco to minors if he or she procures for, sells, dispenses or gives away a cigarette, electronic cigarette, or other tobacco product to any person under the age of twenty-one (21) years.

309.9-7. *Misrepresentation of Identification Card.* A person commits the civil infraction of misrepresentation of identification card if he or she:

(a) intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information;

(b) makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal age to purchase and consume alcohol beverages or cigarettes, electronic cigarettes, or other tobacco products;

(c) presents false information to an issuing officer in applying for an official identification card; and/or

(d) intentionally carries an official identification card or other documentation showing that the person has attained the legal age to purchase and consume alcohol beverages or cigarettes, electronic cigarettes, or other tobacco products, with knowledge that the official identification card or documentation is false.

309.9-8. *Possession of Prohibited Drugs.* A person commits the civil infraction of possession of prohibited drugs if he or she possesses or consumes a prohibited drug or is in possession of any drug paraphernalia.

309.9-9. *Manufacturing Prohibited Drugs.* A person commits the civil infraction of manufacturing prohibited drugs if he or she manufactures, sells, or distributes any prohibited drug or drug paraphernalia.

309.9-10. *Maintaining a Drug House.* A person commits the civil infraction of maintaining a drug house if he or she owns or occupies any premise that is used to facilitate the use, delivery, distribution or manufacture of a prohibited drug.

309.9-11. *Determination of Prohibited Drugs.* An Oneida Police Department officer shall make the determination as to whether a substance is a prohibited drug using standard law enforcement field testing practices.

309.10. Civil Infractions Affecting Health and Safety

309.10-1. *Littering.* A person commits the civil infraction of littering if he or she deposits, throws, dumps, discards, abandons, leaves any litter on any private property or property of the Nation.

309.10-2. *Unsanitary Areas.* A person commits the civil infraction of unsightly areas if he or she allows any scrap, refuse, junk, salvage, rubbish or property within the exterior boundaries of the Reservation that creates unsightly areas and/or contributes to health and safety hazards.

309.10-3. *Depositing Human Waste.* A person commits the civil infraction of depositing human waste if he or she urinates or defecates upon any public or private property other than into a toilet or other device designed and intended to be used to ultimately deposit such human waste products into a septic or sanitary sewer system.

309.10-4. *Exposure of a Communicable or Infectious Disease.* A person commits the civil infraction of exposure of a communicable or infectious disease if he or she is knowingly infected with a communicable or infectious disease and willfully exposes himself or herself to another person, which puts that person in danger of contracting the communicable or infectious disease.

309.11. Enforcement and Penalties

309.11-1. *Issuance of a Citation.* An individual who violates a provision of this law may be subject to the issuance of a citation by an Oneida Police Department officer.

(a) A citation for a violation of this law and/or any orders issued pursuant to this law may include fines and other penalties, as well as conditional orders made by the Trial Court.

(b) A citation for a violation of this law shall be processed in accordance with the procedure contained in the Nation's laws and policies governing citations.

(c) *Notice to the Comprehensive Housing Division.* An Oneida Police Department officer shall provide notice to the Oneida Law Office attorney assigned to the Comprehensive Housing Division of any citation issued to an individual located at a property rented or leased through the Comprehensive Housing Division. Any information or reports shared by the Oneida Police Department officer with the Oneida Law Office attorney shall remain confidential as agreed upon between the Oneida Law Office and the Oneida Police Department Chief of Police.

(1) Notwithstanding constraints imposed by any rules promulgated under any laws of the Nation governing leases, eviction, and/or termination, the Oneida Law Office attorney is vested with the discretion to resolve any housing related enforcement occurring in accordance with this law to the mutual benefit of all involved parties.

309.11-2. *Penalties.* Upon a finding by the Trial Court that a violation of this law has occurred, the individual may be subject to the following penalties:

(a) *Fines.* An individual may be ordered to pay a fine as a result of a violation of this law. The Oneida Business Committee shall adopt through resolution a citation schedule which sets forth specific fine amounts for violations of this law.

(1) All fines shall be paid to the Judiciary.

(2) Fines shall be paid within ninety (90) days after the order is issued or upheld on final appeal, whichever is later.

(A) The ninety (90) day deadline for payment of fines may be extended if an alternative payment plan is negotiated by the Oneida Law Office and approved by the Trial Court.

(3) If an individual does not pay his or her fine the Trial Court may seek to collect the money owed through the Nation's garnishment and/or per capita attachment process or any other collection process available to the Trial Court.

(4) Community service may be substituted for part or all of any fine at the minimum wage rate of the Nation for each hour of community service.

(b) *Community Service.* An individual may be ordered to perform community service. Community service can be used in lieu of, or in addition to, a fine.

(1) All community service assignments shall be approved by the Trial Court. The Trial Court shall give preference to culturally relevant community service assignments and/or community service assignments that focus on the betterment of the individual's community.

(2) The Trial Court shall provide the individual a written statement of the terms of the community service order, and a statement that the community service order is monitored.

(3) The Trial Court's community service order shall specify:

(A) how many hours of community service the individual is required to complete;

(B) the time frame in which the hours shall be completed;

(C) how the individual shall obtain approval for his or her community service assignment;

(D) how the individual shall report his or her hours; and

(E) any other information the Trial Court determines is relevant.

(c) *Counseling and/or other Programs.* An individual may be ordered to participate in counseling and/or any other program relevant and available to the Nation.

- (d) *Restitution*. An individual may be ordered to pay restitution, which may include the repayment of any improperly received benefit, or any other payment which is intended to make another whole after suffering losses as a result of the actions of the individual.
- (e) Any other penalty as deemed appropriate by the Trial Court.

End.

Adopted – BC-__-__-__-__



Legislative Operating Committee
July 7, 2021

Oneida General Welfare Law Amendments

Submission Date: 12/18/18	Public Meeting: N/A
LOC Sponsor: Jennifer Webster	Emergency Enacted: 8/12/20, 2/10/21

Summary: *This item was carried over from last term. The Oneida Business Committee directed IGAC, Self-Governance and the Law Office to develop a plan of action to create rules for exempting income per the Tribal General Welfare Exclusion Act. At the December 18, 2018 Business Committee Work Meeting, the Oneida Business Committee requested that the General Welfare Exclusions Act – Income Exemptions item be sent over to the LOC for consideration to develop a law/code/ordinance that would define the income exemptions under the General Welfare Exclusion Act. As a result of the COVID-19 pandemic, emergency adoption of an Oneida General Welfare law was sought to create a law that provides a mechanism to address the economic needs of members of the Nation during the COVID-19 pandemic. The purpose of this Law is to provide assistance, on a non-taxable basis, to eligible Tribal members through approved programs that promote the general welfare of the Nation. The Law sets a framework and provides guidelines for the Nation to establish and operate approved programs which provide assistance to eligible Tribal members to promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment. The Oneida Business Committee adopted the Oneida General Welfare law on an emergency basis through the adoption of resolution BC-08-12-20-D. The emergency adoption of the Law will expire on February 12, 2021. The Oneida Business Committee then adopted emergency amendments to the Oneida General Welfare law on February 10, 2021, through resolution BC-02-10-21-B for the purpose of addressing the means in which the Oneida Business Committee may adopt an approved program – the emergency amendment would allow the Oneida Business Committee to adopt an approved program through resolution in addition to through the adoption of a law. The emergency adoption of the Law will expire on August 10, 2021.*

10/7/20 LOC: Motion by Kirby Metoxen to add the Oneida General Welfare Law to the Active Files List with Jennifer Webster as the sponsor; seconded by Marie Summers. Motion carried unanimously.

1/14/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Lawrence Barton, Rae Skenandore, Carl Artman, Susan House, Kristal Hill, James Petitjean. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to discuss the Oneida General Welfare law, the Oneida Higher Education Pandemic Relief Fund law, the Pandemic Relief Assistance law, and the FY21 Budget Directive found in resolution BC-11-24-20-F and determine a plan for meeting these directives and addressing these items on a permanent basis.

1/28/21: *Work Meeting.* Present: David P. Jordan, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. This was a work meeting held

through Microsoft Teams. The purpose of this work meeting was to review the proposed emergency amendments to the Law and emergency adoption packet materials.

2/3/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law emergency adoption packet and forward to the Oneida Business Committee for consideration; seconded by Marie Summers. Motion carried unanimously.

2/9/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Carl Artman, JoAnne House, Lawrence Barton, Ralinda Ninham-Lamberies, Rae Skenandore, Keith Doxtator, Susan House, Kristal Hill, Rhiannon Metoxen. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to touch base and discuss the progress that was being made in bringing forward emergency amendments to the Oneida General Welfare law and developing the approved programs – through adoption of a resolution – to meet the FY21 budget directive in resolution BC-11-24-20-F.

2/10/21 OBC: Motion by Lisa Liggins to adopt resolution 02-10-21-B Emergency Amendments to the Oneida General Welfare Law with two (2) changes [1) in line 16, correct date to March 13, 2021; and 2) in line 18, insert the appropriate resolution number], seconded by Jennifer Webster. Motion carried.

Motion by Lisa Liggins to request the Legislative Operating Committee and Legislative Reference Office to bring forward a BC SOP to an upcoming BC Work Session regarding how laws and resolutions are submitted to the Business Committee in accordance with this resolution, seconded by Jennifer Webster. Motion carried.

4/14/21 OBC: Motion by Lisa Liggins to defer this item [*Oneida Nation Assistance Fund Resolution*] until after executive session noting the resolution will be brought back with three (3) additional considerations, [1) the correction to line 45 [change from, "...between 18 to 61 years of...", change to, "...age 18 or older..."]; 2) noting the LOC's considerations for possible garnishments moving forward; 3) CFO's comments regarding Treasury guidance for the 65 and over payment.], seconded by Marie Summers. Motion carried.

Motion by Lisa Liggins to adopt the Oneida Business Committee standard operating procedure entitled Oneida General Welfare Law - Adoption of an Approved Program and direct the Secretary to finalize the SOP and publish, seconded by David P. Jordan. Motion carried.

4/21/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristen Hooker, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to discuss a plan for how to address the Oneida Business Committee directive contained in resolution BC-04-14-21-D that the LOC consider how garnishments will be handled for general welfare exclusion payments moving forward.

4/29/21: *Work Meeting.* Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Daniel Guzman King, Clorissa N. Santiago, Kristal Hill, Rhiannon Metoxen. The purpose of this work meeting was to review and discuss the public comment period notice for the question of "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?"

5/5/21 LOC: Motion by Jennifer Webster to approve the Oneida General Welfare law amendments public comment period notice for the question, "Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?" and

forward this question to a public comment period to be held open until June 9, 2021; seconded by Marie Summers. Motion carried unanimously.

6/24/21:

Work Meeting. Present: David P. Jordan, Kirby Metoxen, Jennifer Webster, Marie Summers, Clorissa N. Santiago, Kristal Hill, Kristen Hooker. This was a work meeting held through Microsoft Teams. The purpose of this work meeting was to review and discuss the public comments that were received regarding the question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”

Next Steps:

- Accept the public comments that were received for the Oneida General Welfare law amendments question, “*Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?*”



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Senior Staff Attorney *CNS*
DATE: July 7, 2021
RE: Oneida General Welfare Law: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

Background

The purpose of the Oneida General Welfare law is to set forth a framework and provide guidelines for the Nation to establish and operate approved programs to provide assistance on a non-taxable basis to eligible members of the Nation which promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.

Approved programs must be adopted by the Oneida Business Committee through either law or resolution of the Nation, and provide the specific eligibility rules and limitations applied to that program. Examples of approved programs adopted by the Nation include the Pandemic Relief Assistance Program, Oneida Higher Education Pandemic Relief Fund, and the Oneida Nation Assistance Fund. Any assistance received from an approved program under the Oneida General Welfare law is required to be used only for the purpose stated in the approved program description. Currently, the Oneida General Welfare law provides that assistance received by a person from an approved program is not subject to attachment or garnishment by creditors. Assistance received by a person from an approved program is not a per capita payment or income. Assistance provided for through approved programs is not attached or garnished for debt or child support owed due to the fact that any assistance provided through an approved program is provided on a needs-based basis for the purpose of promoting the general welfare of the individual and the Nation.

On May 5, 2021, the Legislative Operating Committee directed that a public comment period be held open until June 9, 2021, to allow for the community to provide input as to the following question: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

Comments Received

The Legislative Operating Committee received the following comments regarding this question:

Comment 1 – Lisa Liggins:

Garnishment or attachment of General Welfare Payments are against public policy. The purpose of General Welfare Payments, as identified in the notice, are payments “which promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.”

A member receiving this payment is receiving public support necessary to improve their health, housing, safety through educational benefits to improve employment opportunities, assistance in making utility payments to maintain healthy living conditions, day care assistance so a parent can find and be employed for wages to support a family, assistance in starting up a business that provides income and wages for owners and employees and benefits the Reservation economy.

To attach or garnish a benefit provided to a person in need simply drives up the cost of the benefit to the Nation, or provides a disincentive for a member to improve his or her life after which they can pay debt or child support, etc. The opportunity to take advantage of General Welfare Payments is a positive impact on families and children, as well as the individual obtaining the support. It is not immediate, but long term impacts are equally important in providing self-sustaining member lifestyles and reducing government programming needs overall.

In short, a garnishment or attachment is a one-time action and is not repeatable. It accomplishes two negative goals. First, it removes benefits from a member intended to provide improvements to their lives which allows them to be responsible for their debt or child support payments, etc. Second, it drives two families further into governmental support services – the member who would have received the benefit to improve their lives, and the member who would have received full debt relief or full support payments owed.

Comment 2 – Raeann Skenandore:

In response to the question: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

Other than where an attachment would benefit the needs of children, a general welfare distribution attached for debts owed to the Nation. Wages can be garnished for debts owed, but a “per capita” distribution should not be used or considered a source of payment for debts owed.

In the scenario where a general welfare distribution payment to a member who owes a debt, both the individual debtor and the Nation Entity often see those distributions as a means to collect the debt. It is already happening. A individual will know or expect to receive a payment. They stop taking personal responsibility for their expenses and allow the debt to grow knowing that the general welfare of per capita payment will cover it. I’ve seen departments also hold off on sending invoices to individuals in the pandemic because the per capita distribution was eliminated. They will wait until a payment distribution is announced before resuming collection activity. That type of mentality is detrimental and promotes the idea of government dependency instead of personal accountability. If I owe a debt, I need to pay it or make arrangements to pay. I shouldn’t wait for a payment distribution to cover it for me. Further, I don’t believe that tribal debt is reported to general collection agencies either. Even that effort may deter individuals from accumulating debt to the Nation. There is no mechanism in place to hold individuals accountable financially when it comes to purchasing tribal goods or services.

Comment 3 – Jolene Hensberger:

Hello – thank you for requesting community input on the General Welfare law and whether programs under it should be subject to garnishment or attachment. With the information provided, my input is to not have any programs under the general welfare assistance be subject to attachments or garnishments. The main reason for my response, per the information, is that the welfare assistance programs are not considered income. From my understanding, a writ of attachment or garnishment is to stop or withhold income or earnings; therefore, they should not be considered subject to garnishments or attachments. Thank you!

Comment 4 – Legal Resource Center (Gerald Hill, Tsyolake House, Wes Martin):

The General Tribal Council-Legal Resource Center (GTC LRC) has been established by the Oneida General Tribal Council (OGTC) pursuant to Resolution BC Resolution #05-24-17 A Legal Resource Center Emergency Law and adopted BC Resolution# 09-13-171 Legal Resource Center for the purpose of assisting Oneida Tribal Members and Employees to address matters arising out of Oneida Nation laws and policies, and which can be addressed in the courts of the Oneida Nation Judiciary. As officials elected by the OGTC this office is obliged to represent, as best we can, the general concerns of the people who elected us. The membership of the Nation will be those most affected by these proposed laws and thus should have the most opportunity to review and comment on them.

It is in that capacity we wish to make some cursory comments on the two proposed laws named above.

ONEIDA GENERAL WELFARE LAW

The Garnishment and Attachment provisions of this law are too stringent to be considered as benefitting the most vulnerable segment of the Nation's membership. For example, consider the likely following outcomes

1. Any more attachment of Garnishment of any kind right now would be not advisable. Many of the Oneida Membership have been financially devastated by COVID-19, loss of income, behind in bills, rent. This Law should be put on hold for at least two (2) years.
2. If the law should move forward, Garnishment should be on income only, not SS, SSI, Veteran Pension, etc.
3. Tribal Garnishment should not include any grants, subsidized money forms the Oneida Nation.
4. Any foreign Garnishment must be refiled in the Oneida Judiciary and signed by the Oneida Judiciary Judge.
5. Any Garnishment needs to go through the Oneida Judiciary, except debts to the Oneida Nation from Per Capita.
6. Any funds to be Garnished at Bay Bank must be approved by the Oneida Judiciary Court Order.

CONCLUSION

For the reasons stated above it is recommended that the LOC delay further processing of these proposed laws until such time as the OBC can formally present them, in their totality, to the duly assembled OGTC.

Review and Determination by the Legislative Operating Committee

On June 24, 2021, the Legislative Operating Committee held a work meeting to review and consider the comments that were received from members of the community regarding the question: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

The Legislative Operating Committee determined that the Oneida General Welfare law should remain as currently drafted and provide that assistance received by a person from an approved program is not subject to attachment or garnishment by creditors.

From: [Jolene D. Hensberger](#)
To: [LOC](#)
Subject: Input on Public Comment re General Welfare law
Date: Monday, May 24, 2021 9:23:13 AM

Hello – thank you for requesting community input on the General Welfare law and whether programs under it should be subject to garnishment or attachment.

With the information provided, my input is to not have any programs under the general welfare assistance be subject to attachments or garnishments.

The main reason for my response, per the information, is that the welfare assistance programs are not considered income. From my understanding, a writ of attachment or garnishment is to stop or withhold income or earnings; therefore, they should not be considered subject to garnishments or attachments.

Thank you!

Jolene D. Hensberger

The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

From: [Lisa A. Liggins](#)
To: [LOC](#)
Subject: Public Comment - Oneida General Welfare Law: Garnishment and Attachment
Date: Thursday, May 6, 2021 11:31:58 AM

Garnishment or attachment of General Welfare Payments are against public policy. The purpose of General Welfare Payments, as identified in the notice, are payments “which promote the general welfare of the Nation, including programs designed to enhance the promotion of health, education, self-sufficiency, self-determination, and the maintenance of culture and tradition, entrepreneurship, and employment.”

A member receiving this payment is receiving public support necessary to improve their health, housing, safety through educational benefits to improve employment opportunities, assistance in making utility payments to maintain healthy living conditions, day care assistance so a parent can find and be employed for wages to support a family, assistance in starting up a business that provides income and wages for owners and employees and benefits the Reservation economy.

To attach or garnish a benefit provided to a person in need simply drives up the cost of the benefit to the Nation, or provides a disincentive for a member to improve his or her life after which they can pay debt or child support, etc. The opportunity to take advantage of General Welfare Payments is a positive impact on families and children, as well as the individual obtaining the support. It is not immediate, but long term impacts are equally important in providing self-sustaining member lifestyles and reducing government programming needs overall.

In short, a garnishment or attachment is a one-time action and is not repeatable. It accomplishes two negative goals. First, it removes benefits from a member intended to provide improvements to their lives which allows them to be responsible for their debt or child support payments, etc. Second, it drives two families further into governmental support services – the member who would have received the benefit to improve their lives, and the member who would have received full debt relief or full support payments owed.

Lisa Liggins
Secretary
Business Committee



A good mind. A good heart. A strong fire.

P.O. Box 365
Oneida, WI 54155-0365
oneida-nsn.gov

From: [Raeann Skenandore](#)
To: [LOC](#)
Subject: Public Comment on Oneida General Welfare Law
Date: Thursday, May 6, 2021 10:58:09 AM

In response to the question: Should assistance provided by an approved program under the Oneida General Welfare law be subject to attachment or garnishment?

Other than where an attachment would benefit the needs of children, a general welfare distribution attached for debts owed to the Nation. Wages can be garnished for debts owed, but a “per capita” distribution should not be used or considered a source of payment for debts owed.

In the scenario where a general welfare distribution payment to a member who owes a debt, both the individual debtor and the Nation Entity often see those distributions as a means to collect the debt. It is already happening. A individual will know or expect to receive a payment. They stop taking personal responsibility for their expenses and allow the debt to grow knowing that the general welfare of per capita payment will cover it. I’ve seen departments also hold off on sending invoices to individuals in the pandemic because the per capita distribution was eliminated. They will wait until a payment distribution is announced before resuming collection activity. That type of mentality is detrimental and promotes the idea of government dependency instead of personal accountability. If I owe a debt, I need to pay it or make arrangements to pay. I shouldn’t wait for a payment distribution to cover it for me. Further, I don’t believe that tribal debt is reported to general collection agencies either. Even that effort may deter individuals from accumulating debt to the Nation. There is no mechanism in place to hold individuals accountable financially when it comes to purchasing tribal goods or services.

Raeann Skenandore



Memorandum

TO: Legislative Operating Committee
LOC@oneidanation.org

FROM: Bridget A. Mendolla-Cornelius, Legal Assistant *BMC*
GTC Legal Resource Center

DATE: June 9, 2021

RE: Written Comments on the Public Peace Law and Oneida General Welfare Law

Attached is the submission of the GTC Legal Resource Center written commentary of the Public Peace Law and the Oneida General Welfare Law by Attorney Gerald L. Hill and Advocates Wesley Martin, Jr. and Tsyoslake House for your consideration.

GTC Legal Resource Center
Ridgeview Plaza, Suite 8
3759 West Mason Street
Oneida, WI 54155
(920) 496-5320
Email: GTC-LRC@oneidanation.org



WRITTEN COMMENTARY of the GTC Legal Resource Center on the Proposed
June 9, 2021

PUBLIC PEACE LAW and ONEIDA GENERAL WELFARE LAW

The General Tribal Council-Legal Resource Center (GTC LRC) has been established by the Oneida General Tribal Council (OGTC) pursuant to Resolution BC Resolution #05-24-17A Legal Resource Center Emergency Law and adopted BC Resolution # 09-13-17L Legal Resource Center for the purpose of assisting Oneida Tribal Members and Employees to address matters arising out of Oneida Nation laws and policies, and which can be addressed in the courts of the Oneida Nation Judiciary. As officials elected by the OGTC this office is obliged to represent, as best we can, the general concerns of the people who elected us. The membership of the Nation will be those most affected by these proposed laws and thus should have the most opportunity to review and comment on them.

It is in that capacity we wish to make some cursory comments on the two proposed laws named above.

PUBLIC PEACE LAW

Those effected by this law are most likely to seek legal assistance when the citations under this law are issued. This will also bring the GTC LRC into a new area of practice within the Judiciary, criminal sanctions being comingled under civil authority. The GTC LRC has not been consulted in the development of this law notwithstanding the public notice of the comment period. It is understandable that because of COVID-19 Emergency Protocols the usual public hearings have been omitted. However, with the easing of such limitations it is likely that the OBC will soon create a means of having an OGTC meeting at which proposals, such as this can be presented. We believe with the consultation of the OGTC, the law can still be crafted not just to punish violators, but also to understand the affects the law will have on the economically vulnerable families within the Oneida Nation.

The lowest income citizens of our Nation will be even more at risk of being double fined by not only our court system. This will put these citizens in a worse off position. This will lead to more evictions of those lower income families. Under the *Chapter 610, Eviction and Termination, (610.5-3(c))*, when a tenant allegedly violates an “applicable law”, the owner, in this case the Nation, may terminate the contract or lease, which they now do. This means any *alleged* violation of any portion of this law would put a tenant in violation of their lease or contract with the Nation. Not only would the tenant face eviction, but in the same breath, double fines, and possible jail time for the violation of applicable State law. This would cause an undue burden, not only to the person committing a violation, but also hardship to the family of the individual. Depending on how each case is prosecuted, the discretion and investigation by the Oneida police department, we can see problems for the citizens of the Nation who cannot afford them. Based on past cases involving evictions, there is a lack of Due Process afforded to tenants who were only *alleged* to have violated an applicable law, and this law would exacerbate that issue.

ONEIDA GENERAL WELFARE LAW

The Garnishment and Attachment provisions of this law are too stringent to be considered as benefitting the most vulnerable segment of the Nation’s membership. For example, consider the likely following outcomes

1. Anymore attachment of Garnishment of any kind right now would be not advisable. Many of the Oneida Membership have been financially devastated by COVID-19, loss of income, behind in bills, rent. This Law should be put on hold for at least two (2) years.
2. If the law should move forward, Garnishment should be on income only, not SS, SSI, Veteran Pension, etc.
3. Tribal Garnishment should not include any grants, subsidized money forms the Oneida Nation.
4. Any foreign Garnishment must be refiled in the Oneida Judiciary and signed by the Oneida Judiciary Judge.

5. Any Garnishment needs to go through the Oneida Judiciary, except debts to the Oneida Nation from Per Capita.
6. Any funds to be Garnished at Bay Bank must be approved by the Oneida Judiciary Court Order.

CONCLUSION

For the reasons stated above it is recommended that the LOC delay further processing of these proposed laws until such time as the OBC can formally present them, in their totality, to the duly assembled OGTC.



Oneida Nation
 Oneida Business Committee
 Legislative Operating Committee
 PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov



AGENDA REQUEST FORM

- 1) Request Date: June 4, 2021
- 2) Contact Person(s): Krystal John
 Dept: Oneida Law Office
 Phone Number: (920) 869-4327 Email: kjohn4@oneidanation.org
- 3) Agenda Title: Land Use Regulation Reimbursement Policy Repeal
- 4) Detailed description of the item and the reason/justification it is being brought before the LOC:
See attached memorandum

List any supporting materials included and submitted with the Agenda Request Form

- 1) Memo
- 2) _____
- 3) _____
- 4) _____
- 5) Please list any laws, policies or resolutions that might be affected:
LURRP
- 6) Please list all other departments or person(s) you have brought your concern to:
-
- 7) Do you consider this request urgent? ☐ Yes ☐ No
 If yes, please indicate why:

I, the undersigned, have reviewed the attached materials, and understand that they are subject to action by the Legislative Operating Committee.

Signature of Requester:

Please send this form and all supporting materials to:

LOC@oneidanation.org
or
Legislative Operating Committee (LOC)
 P.O. Box 365
 Oneida, WI 54155
 Phone 920-869-4376



MEMORANDUM

TO: Legislative Operating Committee

FROM: Krystal L. John, Staff Attorney **Krystal L. John** Digitally signed by Krystal L. John
Date: 2021.06.04 15:54:48 -05'00'

DATE: June 4, 2021

SUBJECT: Request to Repeal Land Use Regulation Reimbursement Policy (LURRP)

The Nation has maintained jurisdiction over all lands owned by the Nation and tribal members within the reservation boundaries, and over its own activities and the activities of tribal members on the Reservation. In response to Hobart's repeated assertions that it has jurisdiction on all fee land on the Reservation, the Nation adopted the Local Land Use Regulation Reimbursement Policy (LURRP). LURRP directed tribal members and nonmembers subject to tribal regulation to obtain permits from a municipality under protest if the municipality asserts it has jurisdiction. Obtaining permits under protest maintained project timelines and avoided undue hardship, threatened legal enforcement and repetitive litigation. The Nation neither condoned the acts of local governments asserting jurisdiction nor conceded that local governments possess jurisdiction.

Based on the Big Apple Fest decision that confirmed that municipalities have very limited jurisdiction over the Nation and tribal members on the Reservation, the Oneida Law Office has advised that Tribal business units can move forward with projects with tribal permits only. Due to the definitive ruling we received in the Big Apple Fest case, the policy considerations supporting LURRP no longer exist, so it should be repealed. Repealing LURRP will be consistent with the Oneida Law Office's advice that Tribal business units can move forward with projects with tribal permits only.

The Oneida Law Office is requesting that the Legislative Operating Committee consider repealing LURRP.

July 2021

July 2021							August 2021						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3	1	2	3	4	5	6	7
4	5	6	7	8	9	10	8	9	10	11	12	13	14
11	12	13	14	15	16	17	15	16	17	18	19	20	21
18	19	20	21	22	23	24	22	23	24	25	26	27	28
25	26	27	28	29	30	31	29	30	31				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jun 27	28	29	30	Jul 1	2	3
4	5	6	7 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - LOC	8	9	10
11	12	13 9:00am 7-13-21 EHN Covid 19 Update (Microsoft) 1:30pm LOC Work Session (Microsoft Teams)	14	15	16	17
18	19	20	21 8:30am LOC Prep (BC_Conf_Room) - Clorissa N. Santiago 9:00am LOC Meeting (BC_Conf_Room) - Clorissa	22	23	24
25	26	27	28	29 1:30pm LOC Work Session (Microsoft Teams Meeting) - Clorissa N. Santiago	30	31