



## The 21<sup>st</sup> Navajo Nation Council

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## Judiciary Committee hears report from former US Attorney regarding Navajo extradition laws

**WINDOW ROCK, Ariz.** – The Judiciary Committee of the 21<sup>st</sup> Navajo Nation Council met on March 4, during a regular scheduled meeting and heard a report from former United States Attorney, Troy A. Eid, of Colorado.

Mr. Eid, who was invited by the Judiciary Committee and a member to the Navajo Nation Bar Association, reported on issues relating to Navajo extradition laws, the Tribal Law and Order Act and other federal criminal law issues affecting Indian Country.

He praised the Judiciary Committee's efforts on Navajo judicial affairs especially the work Chief Prosecutor, Bernadine Martin, has addressed regarding Navajo sovereignty and its extradition laws.

"I am honored to be in front of this committee and I really respect this committee greatly," Eid said. "I am also very honored to be here with Bernadine Martin, the Chief Prosecutor. I think she's the model chief prosecutor for any Indian Nation in Indian Country."

On the topic of extradition, Eid said over the years some jurisdictions particularly the federal government had become sloppy in honoring the Navajo or tribal extradition process, which is a major part in defining any sovereign nation.

Extradition is the process where one sovereign holds a person in custody because of a crime committed or allegedly committed and where another sovereign wants to take custody of that offender to their jurisdiction to face charges.

"What I learned as a federal official, we usually didn't know what was going on," Eid said. "It is not the Navajo Nation's fault. The US Constitution doesn't say Indian tribes don't matter. The US Constitution says there are three sovereigns: federal, state, and tribal governments. The federal government stopped following that process."

In the recent case of Reehalio Carroll, who is charged for the murder of Sister Marguerite Bartz, Carroll was badged out and taken into custody by the FBI while he was held in Navajo jails pursuant to the court order issued by Judge Carol Perry.

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In the Carroll case, the federal government did not honor the Navajo Nation extradition laws and process as federal agents badged out the offender without following proper protocol.

"My interpretation is that Navajo laws don't matter," Eid said. "All Ms. Martin did was stand up and say, 'This is not right, you have to follow our Navajo Nation laws. We have a treaty and you have to follow our laws to respect our sovereignty and it's in the US Constitution.'"

"All that was needed was for the federal agents to go to the judge and say, 'Here is an arrest warrant and here's the complaint of what the person did,'" added Eid. "The federal agents have that, it's not like they didn't have that. They knew what he did. 'And here's the affidavit, a piece of evidence that says here's some evidence, he murdered somebody, we think.'"

"All that they had to do is take that to the court and the judge would have looked at it and said, 'Okay let's have a hearing' and probably that person would have been released right-a-way into federal custody, is my guess," Eid concluded.

"The New Mexico US Attorney's Office can't just send some FBI agent to badge the defendant," Eid further explained. "They have to go to the Navajo judge and say 'Here is my permission and I'm respecting the sovereignty of the Navajo Nation...'"

He also said the Navajo Nation's territory size, the different jurisdictions and the three US attorneys in the three different states not coordinating with each other and acting separately are matters that could explain the federal sloppiness on extradition.

Recently, US Attorney Dennis Burke in the district of Arizona affirmed the state of Arizona's stance on honoring Navajo Nation laws and its extradition process, which is an important development to the Navajo Nation.

Given the good news from Arizona, Eid still said to continue pressuring the United States Attorneys particularly New Mexico's US Attorney's Office on extradition and said, "I don't think legally there is an alternative form. I think they have to follow the US Constitution."

Eid also stressed the importance of pressuring senators and representatives of their state legislatures to support and pass the Tribal Law and Order Act, which would "bring greater local control to tribal law enforcement agencies to combat reservation crime, and establish accountability measures for federal agencies responsible for public safety in Indian Country."

In an effort to resolve the extradition issue the Navajo Nation is currently facing, Council Delegate Harold Wauneka (Fort Defiance) recommended the committee to take the approach of possibly creating a four-state agreement with Arizona, New Mexico, Utah and Colorado, which would create one process when dealing with the Navajo Nation and its laws, extradition process.

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"I always saw Navajo to be in a unique situation with the three states plus Colorado," Wauneka said. "Maybe it is time we make a four state agreement on extradition instead of having four different meanings on extradition? I think it's necessary for a four-state agreement."

"The agreement would take care of our issues," added Wauneka. "At that time, if an agreement is solidified, we will address how to take care of the Navajo Nation extradition process with all four states."

"Your work really matters a lot," Eid said in reminding the Judiciary Committee's important role on the extradition process. "If you take a position like extradition, people speak out."

The Judiciary Committee accepted Mr. Eid's report on a 7-0 vote.

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