



FOR IMMEDIATE RELEASE  
September 25, 2012

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## **Law and Order Committee hears two reports on proposed law changes: strengthen extradition and custody transfer procedures, create detainer policy**

WINDOW ROCK – Two reports were delivered to the Law and Order Committee on Monday that focused on proposed changes as to how Navajo Nation law enforcement should handle matters pertaining to extradition, custody transfer, and detainment of individuals accused of violating Navajo Nation, state, and federal criminal law.

“I believe we are closing in on the legislative loopholes, but more than anything these changes should strengthen our sovereignty when dealing with outside entities,” said Council Delegate Alton Joe Shepherd (Cornfields, Ganado, Jeddito, Kin Dah Łichíí’, Steamboat).

In the first report, five members of the Final Extradition Task Force discussed proposed amendments to sections of Title 7 and 17 in the Navajo Nation Code dealing with extradition procedures. The statute stipulates the process by which custody of a suspected or convicted criminal is handed over to outside law enforcement agencies.

It has been 42 years since the last “substantive changes” have been made to the Nation’s extradition statute, said assistant attorney general Paul Spruhan.

The proposed statutory amendments came as a result of two years of discussions that focused on strengthening the statute while protecting the three concepts of sovereignty, public safety, and due process.

The task force was formed after complications arose a few years ago. Federal authorities tried sidestepping Navajo rules when it asked the Nation to transfer a Navajo murder suspect into federal custody without submitting an official extradition request to the Navajo chief prosecutor.

Among the proposed changes, 7 N.N.C. §607 was revised to state that no Indian adult or juvenile may be removed from the Navajo Nation by state or other tribal nation law enforcement, nor may they be removed from the custody of the Navajo Nation to federal authorities unless the proper procedures are followed.

These extradition and transfer of custody procedures are outlined in Title 17.

Sections 1951-1959 of Title 17 were revised to specifically outline the responsibilities of a state or other tribal nation when requesting extradition, and the responsibilities of the federal government when requesting a transfer of custody from the Navajo Nation.

A new provision added to Title 17 states that any arrested Indian adult or juvenile in custody must be informed of his or her right to legal counsel or a hearing.

In an effort to ensure that Navajo Nation officials are complying with their responsibilities to make sure suspects in custody are only released according to the proper procedures, another new provision was added which states that any Navajo government official who knowingly violates any section of Subchapter 7 in Title 17 may be subject to a civil fine of up to \$2500.

“I know this has been in the works for years,” said Council Delegate Edmund Yazzie (Churchrock, Iyanbito, Mariano Lake, Pinedale, Smith Lake, Thoreau). “All we ask is that you educate the federal and state entities, tell them what they can and cannot do. It sets a solid foundation for our investigating individuals.”

The amendments will enable the Nation to coordinate more uniformly with other tribes, states, and the federal government when dealing with criminal offenses both on and off the reservation.

In the second report, John Tuchi, the tribal liaison from the Arizona District of the U.S. Attorney’s Office, briefed the committee on a proposed detainer policy.

“At present, neither the Navajo Nation Courts, Department of Corrections, Department of Public Safety, or prosecutors have a detainer or ‘hold’ policy in place,” Tuchi said.

This means that the Navajo Nation would not be able to hold a tribal member on federal charges he or she may have in addition to tribal charges, once the tribal charges are dismissed by a Navajo prosecutor.

A detainer policy would ensure that a person in tribal custody who has serious felony charges from another jurisdiction is not released into the community during or at the conclusion of tribal proceedings without first addressing charges from the other jurisdiction.

According to Tuchi, the proposed detainer policy would keep more dangerous offenders out of the communities they have harmed until all of their bad conduct has been addressed. It also reduces the chance of injury to Navajo law enforcement officers who will not have to pursue out-of-custody dangers offenders that might have resisted arrest.

Council Delegate Alton Joe Shepherd (Cornfields, Ganado, Jeddito, Kin Dah Łichíí’, Steamboat) agreed that the main objective of a detainer policy would be to keep violent offenders from coming back into Navajo communities and possibly creating more harm.

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