



## **NAVAJO NATION HUMAN RIGHTS COMMISSION**

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**FOR IMMEDIATE RELEASE**  
**November 30, 2010**

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### **Navajo Human Rights Officials Sought Federal Intervention in Swastika Branding Case**

ST. MICHAELS, Ariz.—The Navajo Nation Human Rights Commission is encouraged that federal prosecutors are pursuing hate crime charges in a case where a Navajo citizen who has a disability, was branded with a heated metal clothes hanger in the shape of a swastika in Farmington, N.M.

Last August, NNHRC made contact with U.S. attorneys face to face to direct their attention to the alleged hate crime and to follow up on a formal request made by NNHRC to intervene in the Farmington case.

Then, Leonard Gorman and Lauren Bernally-Long of NNHRC spoke with panelists at a civil rights conference in Albuquerque, N.M. who were attorneys for the New Mexico U.S. Attorney's office and were on the "Civil Rights and Justice on Tribal Land" panel. Assistant U.S. Attorney Kyle Nayback for the U.S. Department of Justice, New Mexico office, served on the panel.

Assistant U.S. Attorney Roberto Ortega recalls meeting members from NNHRC and their advocacy for federal involvement in a phone interview on November 23, 2010.

"From the outset of the case, the Navajo Nation Human Rights Commission was vocal and adamant that the federal prosecutor pursue the case vigorously and we believe that we have made an impact with our advocacy for this prosecution," said NNHRC Chairperson Duane H. "Chili" Yazzie.

On May 24, 2010, Leonard Gorman, executive director for the Navajo Nation Human Rights Commission initiated correspondence to U.S. Attorney Kenneth J. Gonzales stating, "In conclusion, this letter further serves to request an update on the U.S. Attorney's intervention in the matter described above [about the physical branding] and the rigidity of the punishments between New Mexico and federal laws."

Last week, the three defendants, William Hatch, Paul Beebe and Jesse Sanford, pled not guilty at their arraignment in Farmington, N.M.

NNHRC Executive Director Leonard Gorman said that their plea is part of their due process and part of the procedures; also that the victim has due process.

All defendants face federal hate crime charges. Federal prosecutors will apply for the first time, the 2009 Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, sometimes referred to as the Hate Crimes Prevention Act or HCPA.

NNHRC learned of the hate crime in early May and immediately set a meeting with Farmington city officials in Farmington, N.M., where NNHRC learned that Farmington city officials had not developed a written policy or plan since its awareness of a race relations report written nearly 40 years ago.

In 1975, The New Mexico Advisory Committee developed “The Farmington Report” in response to the brutal murder of three Navajo youths in 1974.

According to the NMAC report, NMAC conducted an intensive study “urging local and county officials in Farmington and San Juan County, in conjunction with Navajo leaders, to take steps to initiate concrete action to improve the treatment of Navajos living in the border areas of northwestern New Mexico.”

When the executive director of NNHRC learned that no written plan existed since the NMAC report, it was then that Gorman re-introduced the agreement to improve race relations, the memorandum of agreement NNHRC sent several months prior to the incident. Later, that day Gorman requested a joint press conference to encourage public awareness about the serious nature about poor race relations in Farmington, N.M., and to approach the matter with as much transparency as possible.

Two months later, NNHRC completed its “Assessing Race Relations between Navajos and Non-Navajos: A Review of Border Town Race Relations” report. The main author of the report was Lauren Bernally-Long, a policy analyst for NNHRC. It was compiled after conducting 25 public hearings and after listening to 173 testimonies. Farmington is part of that report.

On November 12, 2010, the U.S. Department of Justice issued a press release stating that a federal grand jury in Albuquerque indicted the defendants on “federal hate crime charges related to a racially-motivated assault of a 22-year-old man of Navajo descent who has a significant cognitive impairment.”

In the meantime since the meeting on May 13, 2010, NNHRC aggressively negotiated with Farmington City officials about preamble language in the MOA, mediated by Grace Sage Musser, Ph.D., of the U.S. Department of Justice, Denver office, and on November 17, 2010 the MOA was officially signed at a joint press conference in Farmington City Hall in New Mexico by Farmington City officials and the Navajo Nation.

After the press conference on November 17, 2010, reporters interviewed NNHRC commissioner Duane H. Yazzie, Gorman and Bernally-Long about the hate crime.

The following week of November 22, the defendants pled not guilty.

Ortega said that the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. has joined the New Mexico U.S. Department of Justice in the case and named U.S. attorneys Fara Gold and Gerard Hogan.

Hate crime acts are, “Offenses involving actual or perceived race, color, religion, or national origin—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any persons, because of the actual or perceived race, color, religion, or national origin of any person,” according to the Hate Crimes Prevention Act.

In the Act, legislative reference, H.R. 2647, the U.S. reported that “the incidence of violence motivated by actual or perceived race, religion... or disability of the victim poses a serious national problem,” and continued that, “Such violence disrupts the tranquility and safety of communities and is deeply divisive.”

Furthermore, in reference to community concerns, the Hate Crime Prevention Act states, “A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing traits that caused the victim to be selected.” In this particular case, those traits seemingly are being Navajo and having a disability.

Said Yazzie, “The Navajo Nation Human Rights Commission is encouraged with the New Mexico federal grand jury in filing charges in the case. It’s encouraging in light of the history of federal and state authorities pursuing only 50% of violent cases that have occurred in Indian Country and against Native people.”

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*The Navajo Nation Human Rights Commission advocates for the recognition of Navajo human rights on a local, regional, national and international level and addresses discriminatory actions against the citizens of the Navajo Nation. For more information, call the office at (928) 871-7436 or visit their website at its new web address: [www.nnhrc.navajo-nsn.gov](http://www.nnhrc.navajo-nsn.gov).*