

## JOURNAL

LAW AND ORDER COMMITTEE OF THE  
23<sup>rd</sup> NAVAJO NATION COUNCIL  
April 3<sup>rd</sup>, 2015  
Work Session  
10:00 a.m.

To'Hajiilee Chapter House, To'Hajiilee, New Mexico

### I. Call Meeting to Order; Roll Call; Invocation; and Announcements.

- Edmund Yazzie called the meeting to order at 10:10 a.m.
- Roll call by Michael Martinez
  - Present: Kee Allen Begay, Edmund Yazzie, Otto Tso,
  - Raymond Smith, Jr. and Jonathan Perry showed up minutes after Roll call
- Invocation by Mr. Willie
- Announcements:
  - Next Meeting LOC - April 13<sup>th</sup> 2015
  - NABI Meeting April 9<sup>th</sup>, 2015
  - NABI Workshop-Twin Arrows, Twin Arrows, Arizona April 14<sup>th</sup>, 2015
  - 23<sup>rd</sup> Navajo Nation Council Spring Session April 20<sup>th</sup> thru 24<sup>th</sup>, 2015
  - Office of Legislative Services is Released at Noon April 3, 2015
  - Table of Contents of the Meeting
  - April 2015 Calendar provided to all LOC members
  - April 10, 2015 Meeting with USDOJ
  - April 10 and April 16, 2015 Justice Day have been approved for travel

### II. Recognizing Guests and Visiting Officials.

Mel Begaye, Norman Begay, Committee Members and Community

### III. Reviewing and Approving the Agenda - Michael Martinez Read into the record

Motion: Otto Tso  
Second: Jonathan Perry  
Vote: 4 - 0

IV. Reviewing and Approving Journal(s) : NONE

V. Receiving Reports:

1. Report on the Intergovernmental Reentry Workshop Acceptance process and selection of representatives from the Law and Order Committee of the 23<sup>rd</sup> Navajo Nation Council. (Presenter; Raquel Chee, Grant Administrator/Navajo Nation Judicial Branch)

**Raquel Chee** introduced herself, Probation and work force to help others that have been incarcerated to prevent them from relapsing and returning back to prison or jail, is to develop a process for behavior health to make our communities safer, keep them from going in and out of the system. Arizona State University also agreed to partake and do research as well. Select a couple of Law and Order Committee Members to attend Intergovernmental Reentry Workshop to be Held from April 27- April 30, 2015 at Albuquerque, New Mexico

**Motion:** Jonathan Perry

**Second:** Otto Tso

**Kee Allen Begay, Jr.** nominated Otto Tso and Raymond Smith, Jr. to attend the Workshop

Also open to Law and Order Committee Member if want to attend

**Vote:** 4 - 0

2. Report and discussion of Legislative 103-15 Sponsored by the Honorable Leonard Tsosie. Presentation of the Hearing Rules of the Law and Order Committee (2010) Recommending Removal of Permanent Justices or Judges from Office. (Presenter; Lavon Henry, Chief Legislative Counsel and Carolyn West, Attorney assign to LOC.)

**Lavon Henry** went over Hearing Rules of Law and Order Committee (2010) Recommending removal of Permanent Justices or Judges from Office - Question regarding legislation 0103-15 pending; previous before this legislation there was a resolution that was passed in the Previous Term in 2010 CJN0910 Judiciary Committee 21<sup>st</sup> Council, amending hearing rules to recommend to remove justices and Judge's November 9, 2010 it passed 4 in favor - 2 opposed,

**Kee Allen Begay, Jr.** for the record this is just a work session no actions will be taken on Legislation 0103-15 we are just here to discuss, we are going over procedure. NO ACTION TODAY.

**Lavon Henry:** the rules that were adopted in 2010, broken Into 4 different sections: one is preliminary, purpose, definition,

initiation and how process gets started, Second is how Notice is to be made, Third is conduct the Hearing and fourth is Order of Hearing. Committee has two choices to recommend to the council the justice be removed or to decline, **Part 1** paragraph D. the role of the committee is investigative, page 2 is the definitions session two important parts: Malfeasance and Misfeasance. The first part how the process is done (side note these were done in 2010 and it changed on how the process is introduced as a legislation) **3A:** on how and who can introduce removal. **3B:** when the committee reaches its decision and legislative advisors and legislative counsel prepares the documents for removal. **3C:** council delegate introduces legislation for removal of justices and judges. **3D:** may recommend removal. **3E** may file a written a recommendation through the legislative advisor to the Law and Order Committee, the respondent may file a written answer through the Legislative advisor pertaining to the legislation; any witnesses must submit a written testimony, prior to the hearing

**Part 3f:** Respondent may have an attorney, attorney and respondent cannot communicate to the Committee, except for settlement discussions. **Part 3G:** the Committee shall be provided with outside legal counsel.

The Second Part is the Notice within the hearing and Rules.

**Part 4** notice of Date of hearing, no later than 10 working days after the decision to hold the hearing, chairperson shall set a date for the hearing, written notice of date, place, and time of hearing to the chief justice and respondent.

**Part 5** notice to the President, no later than 10 working days of decision to hold hearing.

**Part 6** notice to the Navajo Nation Bar Association, no later than 10 working days after the decision to hold hearing, NNBAR Administrative Associate shall be requested to distribute to NNBA Officers and Commissioners a timely manner, indicate its open to public and that NNBA members are invited to testify in accordance with the Rules governing public testimony indicated in rules 7B and 7C.

**Part 7A:** notice to the public and the extension of time, no later than 10 working days of decision to hold hearing. Notice of the hearing shall be posted, in a conspicuous place, at the Navajo Nation Supreme Court, each district court of the Navajo Nation, and at the NNBA Office. Notice shall be published in the Navajo Times, of the Navajo Nation's website, the Navajo Nation Council's Website, and the Navajo Nation Court's website. Notice shall also be broadcast in Navajo and English on KTNN.

**7B.** to participate in the hearing and give oral testimony shall first submit written testimony to the Legislative Advisor to the Judiciary Committee not less than fifteen (15) working days prior to the date of the hearing. The legislative advisor shall provide copies of the written testimony to the Chief justice and respondent no later than one (1) working day after receiving such written testimony. Under no

circumstance shall such written testimony be accepted fewer than fifteen (15) working days prior to the hearing absent good cause.

**7C:** members of the general public shall not be allowed to submit evidence or oral testimony to the Judiciary Committee in any manner other than as described in Rule 7(B), and their testimony shall be limited to that contained in the written testimony unless the Committee inquires into other matters.

**Part 8:** extension of time may be granted by chairperson by a written request by the Chief Justice, Committee members must have good cause, and hearing shall not be extended more than ten (10) working days beyond the originally scheduled hearing date. **Part 9A:** Conduct of hearing - **9A:** The Chairperson of the committee shall preside at the hearing at which a quorum of the Committee shall be present. **9B:** Chairperson of the Committee shall regulate the course and conduct of the hearing according with these rules and in fair and orderly manner. **9C:** Office of Legislative Counsel and outside counsel shall provide legal assistance and advice to the Committee before, during and/or after the hearing. **9D:** the hearing shall be open to the public and shall be recorded. **9E:** formal rules of evidence shall not apply. **9F:** All committee members may ask question including the presiding chairperson, presenters, respond and offer comments into the record, chief legislative counsel, outside counsel, Office of Legislative Counsel and office of the office of legislative counsel staff may ask question at the request of the committee. **9G:** testimony provided to the committee shall not include matters which are currently in litigation before the respondent or in a grievance process involving the respondent. **9H:** the committee may review respondent off and on the bench. Form the basis for a charge of malfeasance or misfeasance. Questions can be asked if directed to malfeasance or misfeasance only if tied to it. **9I:** Evidence shall be accepted on a continual basis as described in Rules 7B, but in no case shall evidence be accepted less than fifteen (15) days prior to the hearing absent good cause. **9J:** If Evidence if withheld to protect a witness or to prevent retaliation, the respondent shall be informed that evidence is being withheld. **9K:** Committee may close the hearing if evidence or testimony degrade, defame or incriminate witness or any other person, can hear a witness in executive session or close to the public and hear the testify. **9L:** request for subpoenas shall be directed to the committee Chair, who shall issue the same after a majority vote of the committee to authorize subpoenas.

Fourth part Rule 10 Order of the Hearing, what happens at the time of the hearing, **10A:** For the Record the Legislative Advisor shall read the proposed legislation into the record. **10B:** The Chairperson shall explain the reason for conducting the removal hearing and shall state what evidence the Committee possesses in support of reasonable cause. **10C:** Chairperson shall administer oaths to all witnesses prior to their testimony. **10D:** Respondent shall have the first opportunity to

address the Committee and present evidence; respondent shall have no more than thirty (30) minutes to address the Committee. **10E:** The respondent shall be given an opportunity to address the Committee, shall have no more than thirty (30) minutes. **10F:** Presentation from the respondent and the Chief Justice, the Committee shall open the hearing to members of the general public who have submitted in advance written testimony, shall be limited to no more than ten (10) minutes. **10G:** Respondent and the Chief Justice shall each be allowed to respond to oral and written testimony presented to the Committee. **10H:** After everything has come in, At the conclusion of all testimony the committee may recess in executive session to review and evaluate the evidence and testimony provided at the hearing, Committee may open session and by majority of the vote, Committee members shall adopt or defeat the proposed legislation to recommend the removal of the respondent by voting on each proposed Articles of Removal SIDE NOTE: LEGISLATION 0103-15 HAS 6 ARTICLES OF REMOVAL. **10I:** Committee members disagreeing with the majority may give notice of their intent to file a supplement, minority or additional view for inclusion in the legislation to be submitted to the Council. Such member shall have two (2) additional working days to submit to Legislative Advisor. **10J:** Committee votes to recommend the removal of the justice or judges, the Legislative Advisor, with the assistance of the Office of Legislative Counsel, shall promptly finalize the proposed Legislation and to be sponsored by the Chairperson of the Committee and presented to the Next Session (regular or special) of the Navajo Nation Council. **Rule 11 Navajo Nation Council Resolution - 11A:** Council Resolution shall notify the Council of the Committee's recommendation of removal, the adoption of Article(s) of removal providing the grounds for removal and summarize the evidence taken by the Committee that supports the grounds, Committee shall be made available to the Council. **11B:** Copy of said resolution shall be forwarded to the Chief Justice and permanent Justice and the Navajo Nation President. **11C:** Respondent shall be given an opportunity to appear before the Council to present evidence in their defense: 2/3 vote of the full membership of the Council in favor of the Legislation shall remove the Respondent from office. **11D:** Decision of the Navajo Nation Council in the resolution shall be final and it's not appealable to any other tribunal of the Navajo Nation. This is Final no place to appeal. **Rule 12** These rules may be amended by a duly adopted resolution of the Committee.

Keep in mind that these rules were adopted by The Judiciary Committee in 2010.

**Lavon Henry (Rule 4 page 3: 4B:** hearing shall be held no less than thirty (30) working days and no later than sixty (60) working days after written notice of hearing, pursuant to rule 4A: no later than

ten (10) working days after decision to hold a hearing, 2 things set a hearing date and send notice to everyone. Not calendar days but working days (Monday thru Friday). Judiciary Committee has passed in 2010

**Motion:** Otto Tso  
**Second:** Jonathan Perry

Recommended to go ahead and get the Judiciary Rules in place before anything, adopt the Judiciary and change that need to be updated, they are still in place and still apply but need to update.

Update what was passed by the Judiciary Committee in 2010 when we come to the vote and perhaps the one of the members can make that in the vote with the report.

**Kee Allen Begay, Jr.** recommended the committee to have, but be caution to do it in haste in the mitts of the situation, review line by line, on April 13, 2015 Regular Law and Order Committee Meeting in just procedures.

**Edmund Yazzie** regular Meeting April 13, 2015 on Judiciary committee hearing rules that were set on 2010, set date for work day, decided on the April 13, 2015.

**Michael Martinez** Judiciary conduct commission we have on my understanding a draft concerning the commission I can bring that on the next regular meeting as well

**VOTE:** 4 - 0

**VI. Old Business:** NONE

**VII. New Business:** NONE

**VIII. Closing of the Committee Meeting; Other Announcements; Adjournment.**

**Kee Allen Begay, Jr.** motioned to adjourn the meeting at 12:26 p.m.

**Second By:** Jonathan Perry

**Vote:** 4 - 0