



## Suicide leads to lawsuit

By Kathy Helms  
Diné Bureau

FORT DEFIANCE — An Albuquerque attorney has filed a wrongful death suit in U.S. District Court against the United States stemming from the suicide of a teenage Zuni girl, who was found March 12, 2003, hanging by a bed sheet from the upper bunk in her cell at Zuni Detention Center.

Nicole Kallestewa, 15, had been released from Rehoboth McKinley Christian Hospital Behavioral Health the day prior. A Utilization Review reported that Kallestewa was a suicide risk, according to the lawsuit, filed Sept. 29 in Albuquerque by Ted Barudin of Ted Barudin & Associates, P.C. The lawsuit was filed on behalf of Leola Eriacho, personal representative of the estate of Kallestewa, and Nicole's mother, Valanie Kallestewa.

In the complaint, Barudin alleges that the United States knew of dangerous conditions at the Pueblo of Zuni Detention Center, and "had reason to know of the Zuni Detention Center personnel's improper, negligent, and reckless operations ... as a direct result of the Bureau of Indian Affairs (BIA) investigation of the jail," yet failed to remedy the situation, bringing about Kallestewa's death.

The April 2004 "Indian Country Detention Facilities" interim report from the U.S. Department of the Interior's Office of Inspector General, mentions Kallestewa's death in its findings.

According to the report, "In March 2003, a 15-year-old female inmate hanged herself at the BIA-operated Zuni Adult and Juvenile Detention Facility in New Mexico. According to the facility director, correctional officers at the time were off-line for approximately 30 minutes, "handling other duties, and were not properly overseeing the cell population ..."

### Serious incidents

The Inspector General also cited information from BIA regarding the reported number of serious incidents within the last three years. According to those figures, Zuni jail had one suicide, no suicide attempts and no escapes. The

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Hopi detention facility had one non-suicide death by asphyxiation and could not provide the exact number of suicide attempts. One inmate escaped.

On the Navajo Nation, the Shiprock detention facility reported one suicide, seven attempts and two escapes, while the Tohatchi juvenile facility reported three suicide attempts. The Navajo Nation Council will consider involuntary commitment legislation at its winter session which is designed to prevent an individual with a mental disorder from being locked away in jail as an alternative to treatment.

The Health Commitment Act of 2004, co-sponsored by Willie Grayeyes of Inscription House/Navajo Mountain chapters and Ray Berchman of Oak Springs/St. Michaels, would allow a law enforcement officer to transport an individual for emergency mental health evaluation and care if there are reasonable grounds for the officer to believe that the individual has just attempted suicide, or might do serious harm to himself or others as a result of a mental disorder, and requires immediate detention to prevent such harm.

Individuals under age 18 require parental, guardian or legal custodian consent prior to treatment. In all proceedings, the parents, guardian or legal custodian have the right to be present.

Barudin, attorney in the Zuni case, said, Kallestewa "certainly had some emotional problems. One of our allegations is they never did a proper mental health markup for the young lady. They simply locked her up and kept her in there for 23 hours a day, which is inappropriate for a 15 year old."

At the time of her death, Kallestewa was being held for non-compliance with a judge's orders of serving out a 45-day sentence on weekends for disorderly conduct and substance abuse. She failed to report to Zuni jail on Jan. 31, 2003, and was apprehended Feb. 28.

Upon returning to jail, Kallestewa reported that she had been kidnapped, raped, and held against her will from Jan. 31 until Feb. 28. She was examined at Zuni Public Health Services Hospital, where her claims of kidnapping and rape were being investigated by the Zuni Police Department.

Seeking helpWhile in jail, Kallestewa asked for help with substance abuse and was in the process of being accepted at Sunrise Regional Treatment Center, pending acceptance of payment. "She was waiting to be sent there and all this calamity happened and she died. That's one of the problems. They did improper placement," Barudin said.

Kallestewa was the only female juvenile inmate at the detention center and was housed by herself in a cell with two bunk beds, according to the complaint. Throughout her stay, she was kept in her cell, alone, for 23 hours a day, Barudin alleges. She developed anxiety and wanted to return to her family before being sent to the treatment center.

She asked a jailer for a pen and paper to write a letter to the Zuni Tribal Court judge, but that request was denied, the complaint states. Kallestewa then allegedly made remarks about possibly harming herself. She was hospitalized March 7-11 at Rehoboth, where she was reported to be a suicide risk.

Upon her return to Zuni jail, Kallestewa told another inmate that she wanted to get out of jail, and the inmate reportedly told her to fake a suicide attempt and she would be placed back in the hospital, the complaint states.

Kallestewa was known to have "numerous emotional difficulties" as reported in her medical, psychological and behavioral records, Barudin said. On March 12, Kallestewa refused to eat breakfast and lunch, and reportedly was crying and upset throughout the day. She was last seen alive by a female guard at 4:12 p.m. and was found hanging in her cell at 4:42 p.m.

Barudin also alleges in the complaint that another inmate, Louie Qualo Enot, hanged himself this past September in the same cell in which Kallestewa died.

The lawsuit does not ask for specific damages, but rather compensatory and hedonic damages for the value of loss of life, plaintiffs' costs of action, pre- and post-judgment interest, and other relief as deemed appropriate by the court. A trial date has not been set.

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