

**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

**United States District Court**  
**IN THE DISTRICT OF NEW MEXICO**

APR - 2 2010

**MATTHEW J. DYKMAN**  
CLERK

UNITED STATES OF AMERICA

v.

**CRIMINAL COMPLAINT**

**EUGENE CHARLEY**  
YOB: 1945

10-MJ-939  
CASE NUMBER: 10-MG-018

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or between December 1, 2009 and February 28, 2010, in McKinley County, in the District of New Mexico, defendant(s) did knowingly engage in Abusive Sexual Contact with an individual that has not attained the age of 12 years, in violation of Title 18 United States Code, Section(s) 1153, 2244(a)(5), and 2246(2)(d). Eugene Charley and Jane Doe are both registered members of the Navajo Nation. The aforementioned criminal act occurred within the exterior boundaries of the Navajo Indian Reservation, or Indian Country.

I further state that I am a Special Agent and that this complaint is based on the following facts:

- See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:  Yes  No

**SA Matthew W. Collar**  
Special Agent  
Federal Bureau of Investigation

**AUSA - Chuck Barth**  
Sworn to before me and subscribed in my presence,

Date 4/2/10

at Gallup, N.M.  
City and State

**Robert W. Ionta, United States Magistrate Judge**  
Name & Title of Judicial Officer

Signature of Judicial Officer

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA	)	
	)	CASE NO. <u>10-MJ-939</u>
VS.	)	<u>10-MG-018</u>
	)	
EUGENE CHARLEY	)	AFFIDAVIT IN SUPPORT OF
YOB: 1945	)	ARREST WARRANT

AFFIDAVIT

I, the undersigned, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and has been employed in that capacity since January of 2008. Your affiant was previously employed by the Montana Highway Patrol and Bozeman Police Department since 1998. Your affiant is currently assigned to the Albuquerque Division of the FBI, Gallup Resident Agency, and has primary investigative responsibility for crimes occurring within Indian Country; including violent crimes such as homicide, robbery, arson, aggravated assault, and sexual assault. The information set forth in this affidavit has been derived from investigation conducted by your affiant, and/or communicated to me by other sworn Law Enforcement Officers.

2. On March 25, 2010, Navajo Division of Social Services (NDSS) reported to your affiant the alleged occurrence of a child sexual assault previously disclosed in

1 occurrence of a child sexual assault previously disclosed in  
2 Chichiltah, New Mexico on March 1, 2010.

3  
4 (a) Jane Doe, an (8) year-old female student at  
5 Chichiltah-Jones Ranch School, reportedly disclosed to school  
6 authorities having been inappropriately touched beneath her  
7 clothing by step-father Eugene Charley while at his residence  
8 in Vanderwagen, New Mexico.

9  
10 3. Your affiant is aware that on March 26, 2010,  
11 Doe participated in a video-recorded Forensic Interview with  
12 SA John Fortunato at the FBI Gallup Resident Agency. Your  
13 affiant observed Doe provide the following information:

14  
15 (a) Doe described living at the Chichiltah-Jones  
16 Ranch Elementary School dormitories during the week, and  
17 residing at home with her mother Cecelia Charley and step-  
18 father Eugene Charley on the weekends.

19  
20 (b) Doe disclosed that Eugene Charley reached into  
21 her pajama bottoms and touched her "private parts" the  
22 evening of "December 9th" 2009. Doe further associated the  
23 incident with a Christmas party held the same day at her  
24 school.

25  
26 (c) Charley approached Doe while she was sleeping  
27 on the floor of the livingroom and her brothers were outside  
28 cutting firewood. Doe was wearing a pair of black pajama

1 bottoms and a red shirt during the incident -- her "school  
2 colors."

3  
4 (d) Doe correctly identified the location of her  
5 "private parts" on a provided anatomical diagram, and further  
6 indicated Charley had touched both her genitals and buttocks.  
7 Doe did not disclose any additional occurrences of sexual  
8 contact.

9  
10 4. Your affiant is aware that on March 31, 2010,  
11 Charley agreed to participate in a video-recorded interview  
12 with your affiant and Navajo Nation Criminal Investigator  
13 (CI) Larry Etsitty at the FBI Gallup RA. The interview was  
14 conducted in both Navajo and English and translated by CI  
15 Etsitty.

16  
17 (a) Charley initially denied allegations of having  
18 sexually assaulted Doe; however, detailed numerous innocuous  
19 accounts of vaginal contact associated with assisting Doe in  
20 her personal hygiene after repeatedly urinating in her pants.

21  
22 (b) Charley eventually acknowledged touching Doe  
23 for purposes of sexual gratification on one occasion several  
24 months earlier while in the livingroom of his residence on  
25 Jones Ranch Road. Charley also stated that Doe's disclosure  
26 of sexual abuse to the FBI was accurate and truthful.

27  
28 (c) Charley described becoming sexually aroused

1 and curious on one occasion after Doe had seated herself on  
2 his lap while wearing sweatpants. Charley described reaching  
3 into Doe's pants beneath her panties and touching her vagina  
4 with his left hand. Charley denied having an erection or  
5 ejaculating during the incident.

6  
7 (d) Charley denied penetrating Doe's vagina with  
8 his fingers and further demonstrated on himself the limited  
9 manner in which his cupped hand contacted the outside of her  
10 genitals.

11  
12 (e) Charley explained not inserting his fingers  
13 into Doe's vagina for fear that Doe would tell someone about  
14 the incident, and that his fingers might have caused her  
15 physical pain due to having had a hangnail.

16  
17 (f) Charley identified on a hand-drawn female  
18 anatomical map the genital region, and further indicated on  
19 a "tracing" of his left hand the specific fingers utilized to  
20 touch Doe's vagina. Charley also dictated to CI Etsitty a  
21 translated letter apologizing for his actions.

22  
23 5. Your affiant is aware that Charley and Doe have  
24 each been identified as enrolled members of the Navajo  
25 Nation, and that the location of the offense, 960A Jones  
26 Ranch Road, Vanderwagen, New Mexico, has been determined to  
27 be within the exterior boundaries of the Navajo Indian  
28 Reservation, or Indian Country.

