



**NAVAJO NATION DEPARTMENT OF JUSTICE**  
**OFFICE OF THE ATTORNEY GENERAL**

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**AG-03-25**

**Opinion of the Attorney General  
Of the Navajo Nation**

October 21, 2025

**Regarding the Use of Blood Quantum in Membership**

The Attorney General is the Chief Legal Officer of the Navajo Nation and issues this Opinion pursuant to his authority under 2 N.N.C. § 1965(A). No adverse action may be taken by the Navajo Nation government against any official or employee of the Navajo Nation government who follows the advice contained in this Opinion.<sup>1</sup>

**Question Presented**

Does the  $\frac{1}{4}$  Navajo blood quantum requirement prevent the Executive Branch from enrolling a person who is unable to demonstrate  $\frac{1}{4}$  blood quantum under the rules applied by the Office of Vital Records and Identification?

**Short Answer**

No. Strict enforcement of the  $\frac{1}{4}$  blood quantum requirement to deny enrollment without consideration of Navajo cultural factors violates the rights of Navajo children under the Equal Protection Clause of the Navajo Bill of Rights, as informed by *Diné Bi Beenahaz'áanii*. For these reasons, the Navajo Nation Office of Vital Records & Identification and the Enrollment Screening Committee must consider applicants for enrollment, and can approve enrollment on a case-by-case basis, if the applicant can demonstrate Navajo ancestry and Navajo cultural knowledge, but

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<sup>1</sup> This Opinion relies on the laws of the Navajo Nation on the date this Opinion was issued. If the Navajo Nation Council amends any of the laws relied on or the Navajo Nation Supreme Court issues a relevant opinion, the advice contained in this Opinion will need to be revised accordingly.

otherwise cannot document  $\frac{1}{4}$  Navajo blood under the existing records.

## **Analysis**

### **A. The Current Navajo Membership Statutory Definition**

Currently, enrollment as a member of the Navajo Nation requires "at least one-fourth degree Navajo blood[.]" 1 N.N.C. § 701(b). This requirement originated in a Navajo Nation Council resolution passed in 1953. CJ-50-53 (July 30, 1953). At that time, Bureau of Indian Affairs officials drafted, introduced, and advocated for legislation before the Council.<sup>2</sup> The BIA claimed the blood quantum requirement was necessary to define Navajo membership because people were going to flood the Nation with membership claims because of per capita payments that would come from the recent discovery of uranium.<sup>3</sup> The BIA did not explain why blood quantum itself was necessary or appropriate, or why the specific  $\frac{1}{4}$  cut-off was necessary or appropriate. Delegates objected at the time, stating that such a rule was inconsistent with Navajo clanship and other Navajo familial values.<sup>4</sup> Nonetheless, the Council approved the requirement and has not revised it for 72 years.

Soon after the original statute, the Council further distinguished between those with  $\frac{1}{4}$  blood with at least one enrolled Navajo parent, and those without one enrolled parent. If the applicant for enrollment has one enrolled parent they are "automatically" enrollable. 1 N.N.C. § 701(C). If the applicant has  $\frac{1}{4}$  Navajo blood but not an enrolled parent, their application is sent to and considered by a hearing body known as the Enrollment Screening Committee. See 1 N.N.C. § 701(B); see also 1 N.N.C. § 752(A). The Committee considers the application on a case-by-case

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<sup>2</sup> Robert Young was a long-time BIA employee who worked closely with the Navajo Nation Council. See Biography/History in Inventory of the Robert W. Young Papers, 1860-1992 (bulk 1823-1980), <http://rmoa.unm.edu/docviewer.php?docId=nmulmss672bc.xml> (last visited Dec. 28, 2007). See also Robert W. Young Papers, Center for Southwest Research, University Libraries, University of New Mexico. See *Minutes of the Navajo Nation Council*, 325-26 (May, 1953).

<sup>3</sup> See *Minutes of the Navajo Nation Council* (May, 1953), at 325 (statement of Robert Young); see *Minutes of the Navajo Nation Council* (July, 1953) at 12 (statement of Allan Harper).

<sup>4</sup> See *Minutes of the Navajo Nation Council* (July, 1953) at 16 (statement of Council Delegate Manuelito Begay).



basis, based on a number of cultural factors including "how long he has lived among the Navajo People, whether he is presently living among them, whether he can be identified as a member of a Navajo clan, whether he can speak the Navajo language, and whether he is married to an enrolled Navajo." 1 N.N.C. § 753(B). However, the application cannot be sent to the Committee unless the applicant first demonstrates  $\frac{1}{4}$  or more Navajo blood. See *id.*

**B. Implementation of the Membership Definition by the Office of Vital Records**

The Office of Vital Records and Identification within the Division of Human Resources currently implements the blood quantum requirement when processing requests for enrollment.

If an applicant demonstrates  $\frac{1}{4}$  or more Navajo blood, Vital Records issues a Certificate of Navajo Indian Blood (CNIB) to prove their membership in the Navajo Nation. The CNIB is a tribal document that the Office issues as part of its responsibilities under its 638 contract with the Bureau of Indian Affairs. The certificate states the amount of Navajo blood possessed by the individual.

Vital Records also manages and updates the BIA Navajo tribal membership roll, as required by its 638 contract. See Agreement Between the Secretary of the Department of the Interior and the Navajo Nation, Navajo Nation Office of Vital records & Identification, Scope of Work, § 6. The BIA created the Navajo tribal membership roll in 1940 and made arbitrary determinations on who to include as a tribal member on the roll. The BIA recorded each individual's Navajo blood quantum as the BIA officials at that time believed it to be, whether that was, in fact, accurate or not, on the tribal membership roll. Each succeeding generation, first BIA officials and then Vital Records officials, added children born onto the roll, and recorded those children's blood quantum, based on the blood quantum of the original enrollee and the child's direct ancestors. All of this was documented and shown in federal records.

Today, for a parent to enroll a child in the Navajo Nation, they must file an application to prove the child's blood quantum meets the  $\frac{1}{4}$  requirement. In order for an application to be approved Vital Records must compare the information in it to what is

documented in federal records. Additionally, Vital Records has internal requirements it applies to an application for enrollment. It appears the Council has never approved these internal requirements. It is unclear what document or documents Vital Records uses to apply these requirements, and when the document or documents, if they exist, were created and by whom.

The most significant internal requirement is the so-called "paternity rule." Under that requirement, if the parents cannot document the father's paternity through methods such as acknowledgment on a birth certificate or a court order, the child's Navajo blood quantum is automatically cut in half, whether or not the father is indeed Navajo. Therefore, if the child was adopted and the adoption records are sealed, the child receives no credit for the Navajo father's ancestry. Further, if the father dies before establishing paternity, making it difficult or impossible to establish paternity through a court order, that child may never be able to prove their father's contribution to their blood quantum. Under either scenario, the child is denied enrollment if the absence of the father's Navajo blood results in less than  $\frac{1}{4}$  Navajo blood. It is unclear why or under what authority Vital Records applies this rule, but, significantly, the BIA applied and applies the same rule when it directly issues a Certificate of Degree of Indian Blood.

**C. Blood Quantum is a federal colonial construct with no Navajo traditional equivalent**

"It is often said that blood quantum requirements only apply to horses, dogs, and Indians." Jerri L. Cook, *The Space Between Birthright and Blood Quantum*, Wis. Law., June 2024, at 20, 21. "Blood quantum is a fictional construct conjured up by the federal government" and is rooted in eugenics. Jerri L. Cook, *The Space Between Birthright and Blood Quantum*, Wis. Law., June 2024, at 20, 21. Blood quantum was originally used by the United States to "(1) eliminate the number of individuals to whom the federal government owed a trust responsibility, (2) transfer millions of acres from Tribal Nations to non-Indian ownership, and (3) justify wholesale termination of federal recognition of entire Tribes." Abi Fain & Mary Kathryn Nagle, *Close to Zero: The Reliance on Minimum Blood Quantum Requirements to Eliminate Tribal Citizenship in the Allotment Acts and the Post-Adoptive Couple Challenges to the*



*Constitutionality of ICWA*, 43 Mitchell Hamline L. Rev. 801, 803-04 (2017). Simply put, blood quantum was created out of whole cloth by the Federal Government to justify artificially limiting the number of Indians. Its history and application were an arbitrary system of limiting tribal enrollment and was a pseudoscience from its inception. Blood quantum simply did not exist among the *Diné* before its artificial creation by the Federal Government.

**D. The ¼ Blood Quantum Requirement violates Navajo Principles of Belonging under *Diné Bi Beenahaz'áanii*.**

According to our elders, blood quantum has nothing to do with traditional Navajo teachings. In fact, there is a joke that asks "are we less Navajo if we get our blood drawn at the hospital?" The answer is clearly no. Rather, what makes us Navajo is *k'é* (our relationships), *nihinéí'* (our language), *adóone'é niidliinii* (our clan system), and *nihi kék'ehashchíín* (our footprints, otherwise known as the relationship to *Diné Bikéyah*). These are among the fundamental principles that make us Navajo; not the arbitrary, foreign system used by the Federal Government. Blood quantum is simply incompatible with traditional Navajo principles.

"The root of the Navajo value is based on moral responsibility and familial relationship (*k'é*)[" In re A.M.K., 9 Nav. R. 399, 401 (Navajo Oct. 8, 2010) (citing *Smith v. Kasper*, 9 Nav. R. 295, 297 n. 2 (Nav. Sup. Ct. 2009)).

*K'é* is a basic *beenahaz'áanii*. The *Diné* are related to all creation through *K'é*. Through *K'é* we are related to one another and to our ancestors. *K'é* must be observed if we are to continue to exist as *Diné*. *K'é* imposes a duty on us to instruct and guide one another. It emphasizes restorative justice, ensuring that individuals living in disharmony are brought back into right relationships and into the community to re-establish order.

<https://courts.navajo-nsn.gov/bitse-silei/> (last checked October 20, 2025). Thus, *K'é* is our traditional relationship structure that is part of what makes us *Diné*.

Navajos are also identified by "[o]ur language[.]" 1 N.N.C. § 201. "The value system—the law of the Navajo people—is embedded

in the language." *Tsosie v. Deschene*, No. SC-CV-57-14, slip op. at 10 (Nav. Sup. Ct. Oct. 8, 2014) (internal citations and quotations omitted). "It is the right and freedom of the people that the sacred Diné language (*nihiiinéí'*) be taught and preserved." 1 N.N.C. § 204. Therefore, our sacred Diné language, *nihiiinéí'*, is part of what makes us Navajo—not blood quantum.

The Supreme Court has even recognized that the enrollment process is insufficient to define membership and that our clan system, *adóone'é niidliinii*, includes intermarriage. "While there is a formal process to obtain membership as a Navajo, see 1 N.N.C. §§ 751-759 (1995), that is not the only kind of 'membership' under Navajo Nation law." *Means v. Dist. Ct. of Chinle Jud. Dist.*, 7 Nav. R. 382, 392 (Nav. Sup. Ct. 1999).

The Navajo People have *adoone'e* or clans, and many of them are based upon the intermarriage of original Navajo clan members with people of other nations. The primary clan relation is traced through the mother, and some of the "foreign nation" clans include the "Flat Foot-Pima clan," the "Ute people clan," the "Zuni clan," the "Mexican clan," and the "Mescalero Apache clan." See, *Saad Ahaah Sinil: Dual Language Navajo-English Dictionary*, 3-4 (1986). The list of clans based upon other peoples is not exhaustive. A *hadane* or in-law assumes a clan relation to a Navajo when an intimate relationship forms, and when that relationship is conducted within the Navajo Nation, there are reciprocal obligations to and from family and clan members under Navajo common law.

*Means v. Dist. Ct. of Chinle Jud. Dist.*, 7 Nav. R. 382, 392-93 (Nav. Sup. Ct. 1999). Therefore, Navajo membership has never been limited to members who are 4/4 Navajo. Navajo people have always intermarried with other groups, and these groups became their own clans under the Navajo umbrella—and even in-laws assumed clan relations. Again, blood quantum did not exist in traditional Navajo culture and is inconsistent with this history of intermarrying and

creating new clans. Blood quantum cannot serve to artificially limit this traditional system of membership.

Last, Navajos are identified by "[o]ur footprints[.]" 1 N.N.C. § 201. Our footprints, *nihi kék'ehashchíín*, refers to where our ancestors have lived and where we live. Today, we live in the same footprints of our ancestors in *Diné Bikéyah*. Navajos are identified by where our ancestors' left footprints, and where we make footprints today - within the boundaries of the sacred mountains. Again, this has absolutely nothing to do with blood quantum. Blood quantum has nothing to do with this traditional concept of living in the footprints of our ancestors; that is part of what makes us Navajo, not blood quantum.

What makes us Navajo is *adóone'é niidliínii* (our clan system), *k'é* (our relationships), *nihinéí'* (our language), and *nihi kék'ehashchíín* (our footprints, otherwise known as the relationship to *Diné Bikéyah*)—not blood quantum. The use of blood quantum to define and limit membership is wholly inconsistent with *Diné Bi Beenahaz'áanii* traditional Navajo concepts of what it means to be a Navajo and thereby a member of the Navajo Nation, so it cannot be the deciding factor.

### **E. The ¼ Blood Quantum Requirement Violates Equal Protection**

#### **1. Being a Member of the Navajo Nation is a Fundamental Right**

The Navajo Bill of Rights is part of the organic law of the Navajo Nation, a "higher law" that "set[s] the boundaries for permissible action by the legislative, executive, and judicial branches of the Navajo Nation." *Opinion and Order on Reconsideration, Shirley v. Morgan*, No. SC-CV-02-10, 9 Nav. R. 372, 378 (Nav. Sup. Ct. July 16, 2010).

Section 3 of the Navajo Bill of Rights affirms that "[l]ife, liberty, and the pursuit of happiness are recognized as fundamental individual rights of all human beings." 1 N.N.C. § 3. These fundamental rights are guaranteed by an equal protection clause of the Navajo Bill of Rights that provides "[no] person within [Navajo] jurisdiction [shall] be denied equal protection [of their fundamental rights] in accordance with the laws of the Navajo Nation," 1 N.N.C. § 3. It follows that all person's fundamental



rights must have equal protection in accordance with the Navajo law, including *Diné bi beenahaz'áanii*.

Being a member of the Navajo Nation is a fundamental right that is protected by equal protection. Laws that deny an individual the right to Navajo membership must not violate equal protection. When determining if a law violates equal protection, "[t]he question is whether *this classification* is arbitrary or whether it serves some important governmental interest[?]" *Bennett v. Navajo Board of Election Supervisors*, 6 Nav. R. 319, 328 (Nav. Sup. Ct. 1990) (emphasis added).

## **2. The $\frac{1}{4}$ Navajo blood quantum requirement for membership is an arbitrary classification.**

What is the relevant classification here? The distinction is between Navajo relatives who are enrolled members and those who are not. The only criteria marking the distinction is the federally-documented possession of  $\frac{1}{4}$  Navajo blood.

The primary affected group is Navajo children. One set of parents can enroll the child "automatically" if the child has  $\frac{1}{4}$  Navajo blood. The other parents can never enroll the child at all. In either case, the child's suitability for Navajo membership is wholly beyond the child's control, as governed by the amount of Navajo "blood" listed in federal documents.

Consider further these two hypothetical Navajo children. One does not live or go to school on the Navajo Nation. They cannot speak the Navajo language. They do not know or practice Navajo culture, and do not participate in ceremonies. They do not know their clans and therefore cannot practice clan dating and marriage rules. The other lives and goes to school on the Nation. They can speak the Navajo language. They know and practice Navajo culture, had a first laugh party, blessing way ceremonies, and, if female, a *kinaaldá*, or a male, a *táchééh*. They know their clans and follow clan dating and marriage rules.

The first child is an enrolled member because, according to federal records, they can document the required amount of Navajo blood. The second is not, because, according to the federal records, they cannot document the required amount of blood.

The first Navajo child is eligible for Navajo Nation scholarships and can receive other Native scholarships, including



at some colleges and universities, full tuition. They also will be eligible to vote in Chapter and Navajo Nation elections when they reach voting age and will be able to run for office and be elected a Navajo leader. They will receive Navajo employment preference under the Navajo Preference in Employment Act, and they will receive all the protections in state court under the Indian Child Welfare Act preventing the breakup of their family and their adoption by non-Indians. Finally, they will receive free medical services at Indian Health Service hospitals.

The second child will not receive any educational support from the Nation, and likely will not receive other Native scholarships. They will never be able to vote in Chapter or Nation elections. They are wholly barred from even running in a Nation election, much less becoming a Navajo elected leader. They will be on equal footing with non-Indians for employment with the Nation, receiving no preference. They, and their children, will not be protected at all by the Indian Child Welfare Act from being removed from their parents or adopted by non-Indians. They may be denied free medical services from the Indian Health Service.

### **3. There is no rational bases for this arbitrary requirement.**

Under these circumstances, for such a stark disparity in outcome to stand, there must be a robust justification that serves a stated, important government interest. Limits on the rights of children must be viewed narrowly and be reasonable. The Navajo Nation Supreme Court has stated that any restriction upon rights "must meet a reasonableness standard." *In re Appeal of Lee*, 9 Nav. R. 61, 64 (Nav. Sup. Ct. 2006).

Here, based on the lack of any stated rationale in the statute or in the BIA's discussion before the Council, membership strictly limited to Navajos who are  $\frac{1}{4}$  or more Navajo blood is arbitrary and fails to serve any important Navajo Nation interest. In the 72 years the membership statute has existed, there has never been any statement of a rationale for the use of blood quantum or the use of the specific quantum amount, much less an identification of a "valid" and "substantial" public purpose. Further, there has been no attempt to reconcile the blood quantum restriction with the principles of Navajo Fundamental Law identified above.

As discussed above, the passage of the  $\frac{1}{4}$  requirement was, at best, arbitrary. Not only is there no basis for  $\frac{1}{4}$  at all, the

purported justification of preventing hordes of people making claims for membership based on uranium revenues never materialized. The Navajo Nation is not awash in funds to distribute from uranium mining. In fact, it is quite the opposite: uranium left a devastating impact on the Navajo Reservation and its people that will last for generations.

The Navajo Supreme Court has previously invalidated several statutes because they violated equal protection. In *Bennett v. Navajo Board of Election Supervisors*, the Navajo Supreme Court invalidated "11 N.T.C. § 8.A.5 - a statute limiting elective public office for president and vice president to previously elected officials and employees of the 'Navajo tribal organization[.]'" *Bennett v. Navajo Board of Election Supervisors*, 6 Nav. R. 319, 329 (Nav. Sup. Ct. 1990) ("We hold that there was no rational basis for the classifications established by the statute, and there is no valid and substantial governmental interest to support the requirements of 11 N.T.C. § 8.A.5. It therefore denies Bennett and her class equal protection of the law."). Likewise, the Navajo Supreme Court has invalidated a statute that limited jury service to only Navajos. *George v. Navajo Indian Tribe*, 2 Nav. R. 1, 6 (Ct. of App. 1979) ("Therefore, we cannot sanction the provision of 7 N.T.C. 654 limiting jurors to Navajo Indians. 7 N.T.C. 654 is declared null and void insofar as it restricts jury service to only Navajos."). Last, the Court invalidated a statute that limited criminal appeals to "a sentence in excess of fifteen (15) days in jail or a \$26 fine[.]" *The Navajo Nation v. Browneyes*, 1 Nav. R. 300, 301 (Ct. of App. 1978). The Court held "[t]his Court does not believe that any rational purpose is achieved by 7 NTC 172 (7 NTC 302). "The only reasonable purpose behind such a limitation is to reduce the number of potential appeals and thereby save the public the expense." *Id.* 1 Nav. R. at 303.

Here, there is no rational basis or reasonable purpose behind the limiting membership to  $\frac{1}{4}$  blood quantum. Navajo Children do not choose how much blood quantum they have; they have no choice as to the "quantum" of "blood" documented on federal records. If a child just so happens to be born with less than  $\frac{1}{4}$  blood quantum, their status as a Navajo member is fixed at birth; they can never be enrolled, regardless of their knowledge and commitment to Navajo language and culture. See 1 N.N.C. § 701(B). Such stark disparity is not reasonable. Just as the limitation on appeals in *Browneyes*



was only meant to arbitrarily reduce the number of appeals and save expenses, the  $\frac{1}{4}$  blood quantum requirement is similarly arbitrary and only serves to artificially limit membership numbers. Therefore, the  $\frac{1}{4}$  requirement denies equal protection to Navajos who fall below the  $\frac{1}{4}$  blood quantum threshold.

**4. The  $\frac{1}{4}$  blood quantum requirement for membership violates Navajo children's rights to equal protection because it is arbitrary and fails to serve any reasonable purpose other than artificially reducing enrollment.**

Navajo Children are our future. The Nation cannot continue to exist if Navajo Children are not brought into the world. The importance of children, and their rights, are firmly established in Navajo law. "Children are the most valuable gift of creation. They must be loved and receive care." 9 N.N.C. § 1702. "It is the right and freedom of the people that every child and every elder be respected[.]" 1 N.N.C. § 204. "It is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and *participate in the growth of the Navajo Nation.*" 1 N.N.C. § 204 (emphasis added).

Accordingly, because Navajo Children are our most precious resource, and in order to ensure their guaranteed equal right to participate in the growth of the Nation, their right to participate via enrollment cannot be denied merely because they fall below the  $\frac{1}{4}$  blood quantum threshold. These Navajo Children share our ancestry, and our highest law requires the Navajo government to provide them an equal opportunity to participate in the continued growth of the Nation. To otherwise deny them enrollment, is to unjustly punish them for a decision that they took no part in (who their parents are). Thus, the denial of membership based on the arbitrary  $\frac{1}{4}$  blood quantum requirement violates Navajo children's right to equal protection and cannot be enforced.

**F. The Role of the Department of Justice and the Other Branches**

The Department of Justice has a duty to uphold and defend Navajo law. We will not opine that a statute violates higher law unless it patently does so. We will not advise a Navajo official or employee to ignore a statute unless there is no interpretation

by which the official or employee can both apply the statute and also abide by the higher law.

The  $\frac{1}{4}$  blood quantum requirement in 1 N.N.C. § 701(B) and (C), 752(B), and 753 arbitrarily excludes Navajo people, including Navajo children, who are Diné under *Diné bi beenahaz'áanii*. This clearly violates *Diné bi beenahaz'áanii*. In addition to violating *Diné bi beenahaz'áanii*, it also violates the equal protection guarantee of the Navajo Bill of Rights by being an arbitrary requirement with no rational basis. *Diné bi beenahaz'áanii* and the Bill of Rights are higher law. The statute cannot be interpreted in any manner to cure this violation.

A Navajo court, with a proper plaintiff and facts before it, is the appropriate forum to determine if a statute is valid. *Opinion, Shirley v. Morgan*, 9 Nav. R. 325, 331 (Nav. Sup. Ct. June 2, 2010) ("The Navajo Nation Bill of Rights, by its own terms and necessary implication, call for judicial review to decide whether another law or an act of the Navajo Nation Government is void because of a violation of fundamental rights.")

The Navajo Nation Council or the Navajo people may also amend the Title 1 provisions of the Navajo Nation Code that require  $\frac{1}{4}$  blood to be enrolled as a Navajo member, so the statute is compatible with *Diné bi beenahaz'áanii* and the Bill of Rights. We encourage Council or the People to do so.

In the meantime, "[n]o adverse action may be taken by the Navajo Nation government against any official or employee of the Navajo Nation government for conduct taken in reasonable reliance upon the advice given in [this] opinion." 2 N.N.C. § 1965.

### **Conclusion**

Based on the above, to avoid a violation of the Navajo Bill of Rights, an applicant who cannot document through federal records  $\frac{1}{4}$  or more Navajo blood, nonetheless has the right to seek enrollment through demonstration of Navajo cultural factors. Until such time as the Court, the Council, or the People resolve the conflict between equal protection and the  $\frac{1}{4}$  blood requirement, the Nation can fulfill this right through its existing process of submitting an application to the Office of Vital Records, and if the applicant claims Navajo ancestry but cannot document  $\frac{1}{4}$  Navajo blood under the existing federal records, Vital Records shall



submit the application to the Enrollment Screening Committee. The Enrollment Screening Committee can consider the application under the cultural criteria listed in 1 N.N.C. § 753(B) and others factors from *Diné Bi Beenahaz'áanii*. If the Committee is satisfied the applicant fulfills those criteria, it may order the applicant's enrollment.

Navajo Nation Department of Justice

A handwritten signature in blue ink, reading "Colin Bradley", written over a horizontal line.

Colin W. Bradley, Acting Attorney General