



Testimony of Reverend Al Sharpton, President & Founder of National Action Network

**Full Judiciary Committee Hearing on: Jena 6 and the Role of Federal Intervention in Hate Crimes and Race-Related Violence in Public Schools
Tuesday 10/16/2007 - 9:30 AM
2141 Rayburn House Office Building**

Good morning Mr. Chairman and members of the Judiciary Committee. On behalf of the National Action Network and its Chairman Reverend Dr. Franklyn W. Richardson, Jr., and individuals throughout this great nation of ours who face the awful prospect of pursuing the American dream while confronting the nightmare of bigotry and racism, I thank you for conducting this hearing today.

Joining me are Martin Luther King III, a respected civil rights leader in his own right and the son of Dr. Martin Luther King, Jr., and Charlie King, former candidate for New York State Attorney General and Acting National Director of National Action Network. It is because of the seeming continued miscarriage of justice in Jena that I and other civil rights leaders requested these congressional hearings and federal government intervention in this very troubling case.

At the outset of my testimony, it is important to note that for the last fifty years, federal protection of civil rights over parochial states' rights has been a bipartisan effort that has improved and united our country. When the "Little Rock 9" schoolchildren needed the federal government to ensure that they could go to an integrated public school, it was Republican President Dwight Eisenhower who protected their civil rights, and our national education system improved. When Blacks in the South in the '60s sought to exercise their civil rights in the voting booths, at lunch counters and in interstate transit, Democratic Presidents John F. Kennedy and Lyndon Johnson ensured those rights were exercised and protected, and we began to grow together as a society.

And now, just as when Dr. King and other civil rights leaders in Dr. King's time urged the federal government to step in when local governments either could not or would not halt an onslaught of racism and bigotry, we are here today to urge the federal government to intervene in Jena and in all the other towns like Jena throughout our country. We are here today to ask the federal government to help us put an end to the dramatic increase in hate and bigotry taking place throughout the nation.

Hate crimes are on the rise throughout the land. A noose was hung on the Ivy League door of a Columbia University professor last week, another noose was left in the bag of a Black Coast Guard cadet, and yet another noose was found on the office floor of the officer who was investigating the situation. Last month, nooses were hung on a tree on a Maryland college campus, in the Long Island police department, in several places in North Carolina, and on a utility pole at the Anniston Army Depot in Alabama. In Ft. Pierce, Florida and Palmdale, California youth faced racially charged instance of excessive force by security guards and the police. In Florida a young African American girl was violently punched and sprayed by a police officer and in California a three students were overzealously arrested with force and called "nappy headed." There are also the Martin Lee Anderson and Genarlow Wilson cases, and just last Sunday, a Black high school football team from Harlem, NY went to play an all white team in Staten Island to find the "N" word scrawled on their team bench.

For those who think these assaults do not affect them because they either do not live there or they are not a person of color, they are mistaken. When Dr. King was alive

he said over and over again that injustice anywhere is a threat to justice everywhere, and he was so correct in preaching this that he lost in life in this cause. When the civil rights of one person are violated, that violation affects the moral fiber of our country and raises the possibility that the civil rights of any one of us could be violated as well.

Civil rights violations unchecked and not responded to also damage our country's standing throughout the world. I have just returned from an international conference of Caribbean leaders and heads of state where we all watched on television images and discussion of nooses and the tragic obvious increase in hate crimes in America.

Nooses, the "N" word, a Klansman's hood, and the burning cross are the clearest symbols of hate for Black America.

Some down in Jena have called the hanging of nooses from a schoolyard tree a "harmless prank." But if the Jena noose hanging is a prank, then this cruel joke is on our entire nation, because our federal government and we have been unable or unwilling to protect civil rights in the tradition of Presidents Eisenhower, Kennedy and Johnson.

As the President of National Action Network, one of the leading civil rights organizations in the nation and as a former candidate for President of the United States, I have seen firsthand grave injustices throughout this country. I have worked with victims of police misconduct and brutality and with other individuals who have been subjected to other civil rights abuses. In all of those cases, whether I agreed or disagreed with the ultimate outcome, I never once believed that our government, our laws or our judicial system were being used as instruments of bigotry or racism, or that they were incapable of correcting civil rights abuses.

But that has changed with the events in Jena, in Georgia with the Genarlow Wilson case and in Palmdale, California. These cases cry out for the need for federal jurisdiction and enforcement because local efforts have either failed or been purposely obstructed.

In the interest of time I will devote my testimony today to the ongoing tragedy and abuse in Jena, Louisiana.

In Jena, I believe that we have witnessed, and are continuing to witness, a state judicial system that has not protected the civil rights of six African American boys, the "Jena 6", and this breakdown has had a chilling effect on the civil rights of all Jena residents and, by extension, on the civil rights of all of us. For those who are properly outraged by the acts of the prosecutor in the Duke case, the prosecutorial actions in Jena should invoke a similar response. Jena has a renegade prosecutor who has: overcharged the Jena 6 with attempted murder for their involvement in a school fight without weapons where the injured person went to a school event just hours after the fight; caused Mychal Bell to serve ten months in an adult prison due to his wrongful prosecution of Mychal as an adult; and kept Mychal in an adult jail without the possibility of bail even after Mychal's conviction was overturned.

There also seems to be an abuse of judicial discretion in Jena. The court there has permitted the overcharging of the Jena 6 with attempted murder, allowed their prosecution as adults rather than as juveniles, and then refused bail requests of any amount for Mychal after the appeals court had overturned his conviction. The court subsequently re-arrested Mychal because of an alleged violation of his parole and sentenced him to 18 months. Mychal is incarcerated again today as we have this hearing.

But the breakdown of the state system in Jena goes beyond the horrible specifics of this case. The prosecutor and judge are the same for both the adult and juvenile courts, which means that if there indeed was prosecutorial misconduct and abuse of judicial discretion in the adult Jena 6 cases, then that very same misconduct and abuse will follow the Jena 6 in their juvenile cases. Although I am not a lawyer, I believe this is a classic and unacceptable conflict of interest. Another conflict of interest is that the prosecutor also was counsel to Jena high school and thus played a

role in the modest punishment meted out to the white students who hung the nooses and who precipitated this entire travesty.

Further, assuming that there are violations of civil rights occurring in the juvenile court system of Jena beyond the Jena 6 case, we will never know about it, because these proceedings took place behind closed doors and in secrecy. I am not advocating that such proceedings transpire in public, but if the state juvenile system is fraught with civil rights abuses, then it is hard to identify those abuses without federal safeguards and protections.

Not every case receives national attention, and not every family has Al Sharpton or Martin King on their side in a civil rights dispute. In 2004, law enforcement agencies reported nearly 5,000 incidents that were motivated by racial animus, and nearly 70% of those were directed at African Americans. In addition, 12% of all children claimed to have been victims of hate crimes. But, as the Southern Poverty Law Center in Montgomery, Alabama states, even these dramatic numbers are likely grossly underreported.

I believe the time is now for federal intervention to protect these civil rights. And the focus of this intervention should be in three areas: expanded jurisdiction over hate crimes; better federal protection against prosecutorial misconduct and abuse of judicial discretion; and quicker legal federal intervention mechanism in civil rights cases where local courts are not protecting or cannot protect the civil rights of the parties involved.

Even though three white Jena high school students indisputably hung nooses from a school tree, the United States Attorney who is testifying today has been on record stating that he could not prosecute those students under current federal hate crime statutes. Putting aside for the moment what other statutes he could have utilized had he chosen to, it is clear that, if our criminal justice system can – and does – prosecute 16 and 17 year olds for certain crimes, then those crimes should include hate crimes.

When it comes to prosecutorial misconduct, it does not make sense to me that a prosecutor like the one in Jena can overcharge Black students in a schoolyard fight, never even charge the white students who engaged in the hateful conduct that caused all of these problems, and then have his conduct escape any scrutiny for prosecutorial misconduct. There has to be a way to deter local prosecutors from engaging in the blatant disparate treatment of people who come before them based on race.

Abuse of judicial discretion must also be examined. A court system that believes it is impervious to scrutiny opens the door for the type of abuse that is taking place in Jena. It is my opinion that there is absolutely no way that the Jena 6 can enjoy a fair trial before this local judge who has even gone so far as to hold a juvenile in an adult prison without bail on charges that were overturned by a higher court while the prosecutor took an unreasonable amount of time deciding whether to appeal. Again, this type of abuse, unchecked, sends the message to everyone in Jena and throughout our nation that the court system in Jena is there to thwart justice, not protect it.

Finally, there must be a way for the federal government to intervene when civil rights are being violated but the conduct of the local prosecutor or judge does not fully rise to the level of misconduct or abuse.

Since I am not a lawyer, I leave it to Professor Ogletree and others to fashion the appropriate statutory remedies, but I do know in my heart and in my mind that federal intervention in Jena and many of these other cases is warranted.

Mr. Chairman, at this time of urgency in the field of civil rights, I hope your Committee hearing today will prompt Congress and the President to make their marks in civil rights alongside those of Presidents Eisenhower, Kennedy and Johnson. With respect, we do not need any more silent witnesses to civil rights infringements and abuses.

Thank you for this privilege.