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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

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1974 AUG 23 AM 8 24

RECEIVED AND SECURITY UNIT
THE WHITE HOUSE
WASHINGTON

Mr. Bradley Patterson
Executive Assistant to Leonard Garment
Room 182, Old Executive Office Building
Washington, D. C. 20500



Nike Jackson

225-4861

Judith Linder's meeting



MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 19, 1974

MEMORANDUM FOR: BRAD PATTERSON
FROM: ~~DAVID PARKER~~
SUBJECT: Proposal for Presidential Meeting

The President has expressed interest in meeting with as many different groups as possible to discuss the economy and other important issues at this time.

Would you please put together a schedule proposal for a meeting with representatives of appropriate Indian groups at your earliest convenience, working with Morris Thompson.

Thank you.



DRAFT

STATEMENT BY PRESIDENT GERALD FORD ON INDIAN AFFAIRS

I want to assure the Indian community that I intend to continue the policy of "self-determination without termination" begun in 1970 with former President Nixon's Special Message to Congress.

Giving Indian tribes greater control over their own destinies and the amelioration of past injustices done to our first Americans are policies that my administration will gladly endorse. The record of achievements and legacies over the past 5 1/2 years has been a great one.

Therefore, I am asking Secretary of the Interior, Rogers C. B. Morton, and his Commissioner of Indian Affairs, Morris Thompson, as well as other heads of agencies working in the field of Indian Affairs, to push forward to the fulfillment of the important goals that lay ahead.



SCHEDULE PROPOSAL

DATE: August 22, 1974

FROM: Frank Zarb

Via: Bill Casselman

MEETING:

President to issue policy statement reaffirming Nixon Administration policy on Indian affairs as outlined in 1970 special message. Have meeting with Indian leaders as forum for announcement.

DATE:

Third week of September.

PURPOSE:

To reassure Indian people of your support for the philosophy and goals of self-determination. This policy is considered by the majority of Indian people to be the single most effective statement in recognizing and developing Native American resources.

FORMAT:

- Oval Office
- 15 minutes

Meeting with representative group of Indian leaders and release of Presidential statement. Suggested attendees:

Secretary Morton
Secretary Weinberger
Commissioner Thompson
President Lewis and Executive
Director Youpee of National
Tribal Chairmen's Association
President Tonasket and Executive
Director Trimble of National
Congress of American Indians
Richard LaCourse of American
Indian Press Association
President Attaquin and Executive
Director Strickland of Coalition
of Eastern Native Americans

This attendance can be enlarged with additional Indian leaders and Federal Officials.



SPEECH MATERIAL:

- Generally reaffirm philosophy of self-determination for Indian people.
- Talking points will be prepared.

PRESS COVERAGE:

Release policy statement to all national news associations. Press photo opportunity in Oval Office.

STAFF:

Frank G. Zarb
Norm Ross

BACKGROUND:

There is concern among Indian leaders regarding continuation of the policy of "self-determination without termination" established in 1970. This proposed meeting and the release of the policy statement will alleviate the concern and anxiety expressed by the Indian community.

RECOMMEND:

Under Secretary Whitaker; Commissioner
Morris Thompson; *Norm Ross / F. Zarb*

APPROVE _____

DISAPPROVE _____



TALKING POINTS

1. Same as 8/22 letter
2. Same as 8/22 letter
3. Same as 8/22 letter - adding the point that through this Council the several Federal Departments and agencies involved in Indian policy and operational questions will have a special forum ~~room~~ in which to coordinate their work.
4. Same as 8/22 letter . Add: "In fact, working in this fashion, I would like the Secretary, the Commissioner and yourselves ~~to~~ to start pulling together the outline of a Second Indian Message which I could include as part of my legislative program to the new Congress next January.
5. Specifically, I am aware of the concern which Indian ~~tribal~~ tribal leaders have about the so-called Indian Civil Rights Act and especially about the adverse consequences which that Act has brought about on Indian tribal sovereignty.

~~Individual~~ Individual Indian citizens may in fact be using that Act against their own tribal governments ~~in~~ without exhausting internal tribal remedies, and tribal courts themselves possibly creating making Indian may need strengthening in terms of ~~tribal~~ appellate systems (always) ~~without~~ without burdening the Federal courts as the only available recourse.

I am asking Commissioner Thompson, ~~in~~ in conjunction with the Office of Civil Rights of the Department of Justice, to review ~~both~~ both the language and the implementation of the Indian Civil Rights Act, to get your views as part of this



review and to report back to ^{the} White House ~~NA~~ within three ~~months~~ months.

~~so that the new Domestic Council Subcommittee can XXXXZXXXX~~

~~give me recommendations in this area for the future.~~ What I want is to ensure ~~XXXXXXXXXXXXXXXXXXXX~~ ^{the} ~~XXXXXXXXXXXX~~ is to protect ~~it~~.

individual Indian civil rights ~~WIKEX~~ within ~~EXEX~~~~EXEX~~~~EXEX~~ the
~~EXEX~~~~EXEX~~ existing or improved Indian tribal systemX itself,

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ I hope you will work with
Commissioner Thompson and the Justice Department in making this
review.



THE WHITE HOUSE
WASHINGTON

M. Thompson -
BIA

Rm 6315. Int.

183-4174

343-5116

What about
meeting.

WCBack



THE WHITE HOUSE

WASHINGTON

August 16, 1974

Mr. Garment:

I checked with Dave Parker to see if a meeting with Indian leaders similar to the one mentioned on the attached memo for the Black Caucus was being planned. He said that he had contacted Morris Thompson and a number of Indian leaders were being brought together for such a meeting in the near future.

--Jim

Call
AM
8/21
M. Thompson —





United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20242

IN REPLY REFER TO:

AUG 22 1974

Mr. Norman E. Ross, Jr.
Assistant Director, Domestic Council
The White House
Washington, D. C. 20500

Dear Norm:

In response to your request, the following proposal is offered for a Presidential meeting with Indian leaders.

Purpose: To assure the Indian community that President Ford's Indian policy will be a continuation of the policy of self-determination without termination and that Indian affairs will continue to receive priority attention under the Ford Administration.

Background: Former President Richard Nixon's message to Congress on Indian affairs of July 8, 1970 and its supportive legislative proposals was hailed as a great landmark in the history of Federal Indian policy and received widespread acclaim and acceptance in the Indian community.

The clear statement in the message that "Federal termination errs in one direction, Federal paternalism in another;" that a middle course between these two which would "assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group;" and "that Indians can become independent of Federal control without being cut off from Federal concern and Federal support" had two beneficial effects in the Indian community.

First, it permitted Indian tribes to get off their defensive concentration on fighting termination and allowed them to concentrate their time, money and efforts on more positive efforts.

Second, it gave the tribes for the first time in a long time a known framework within which to do some long range planning.

During the Nixon years, the Indian community also had the sense that their problems and concerns were receiving attention at the



highest levels of the Administration--that they were being listened to--proving to them that the message was not just empty rhetoric.

Participants: Governor Robert Lewis, President, National Tribal Chairman's Association (NTCA); William Youpee, Executive Director, NTCA; Mel Tonasket, President, National Congress of American Indians (NCAI); Charles Trimble, Executive Director, NCAI; Helen Attaquin, President, Coalition of Eastern Native Americans (CENA); W. J. Strickland, Co-executive Director, CENA; Richard La Course, News Director of the American Indian Press Association (I will assume the responsibility for notifying these people of the meeting, if you so desire); Rogers C. B. Morton, Secretary of the Interior; and myself.

Talking points: "I have asked for this meeting with you for several reasons: First, I want to assure you that my Administration will continue the Indian policy enunciated by former President Richard Nixon of July 8, 1970. Second, we will work closely with the Congress to see that the supportive legislation for that policy is enacted into law; specifically, to get the self-determination legislation out before Congress adjourns this year and, hopefully, the rest of the legislation before the end of next Congress.

"Third, through the creation of the Indian Affairs Committee of the Domestic Council, Indian affairs will continue to receive White House attention.

"Fourth, that my Administration will continue to consult with the Indian community before making major policy decisions. I look forward to working jointly with Secretary Morton, Commissioner Thompson, and yourselves to get the self-determination policy implemented and to seek out new policy initiatives so that my Administration of Indian affairs will be a positive and progressive one."

Sincerely yours,

(Sgd) Morris Thompson

Commissioner of Indian Affairs

cc:

✓ Mr. Brad Patterson



Draft 8/26/74

In 1968, Congress enacted an important statute securing to Indian citizens fundamental rights in terms of their dealings with their tribal governments. The act places upon tribal governments basic restraints and limitations similar to those forged by centuries of Anglo-American jurisprudence and incorporated in our own bill of rights. In this sense, it represented an important step forward.

An unintended consequence, however, of the Civil Rights Act of 1968 has been its recurrent subjection of Indian tribes to lengthy and costly litigation. I am concerned that this litigation threatens the capacity of tribal governments to operate effectively. Prior to the 1968 act, tribal governments, like all governments, were generally immune from suit.

Since the early years of our nation's history, the sovereignty of Indian tribes has been recognized. I am concerned that this important aspect of Indian self-government is threatened. Tribal governments are generally without large financial resources to employ counsel for advice on the legal ramifications of their actions, to develop and maintain complex governmental structures and procedures necessary to comport with all constitutional requirements, and to defend protracted litigation. Some tribal governments have been unable to function while federal courts redrew their election districts and compelled them to cancel or repeat elections. Other cases have ordered tribes to admit persons to membership, although tribal membership decisions--like the granting of citizenship by the United States--have traditionally been reserved to the tribes. The Supreme Court has not construed the 1968 act and has been asked by the Department of Justice to limit the jurisdiction of federal courts under



the act. I firmly support the position of the Justice Department in those cases. In addition, I will--in the event of an adverse court decision--ask Congress to clarify its intent as to the permissible scope of federal court jurisdiction permitted by the act.

More specifically, federal courts have even held that the Act constitutes an implied waiver of tribal sovereignty for the purpose of authorizing civil rights suits against tribes and tribal officials. As you are aware, this subjects your tribal governments to lengthy litigation in federal courts which is disruptive to normal, everyday functioning of government operations and is financially crippling to tribal treasuries, both in terms of attorneys fees and court-ordered money judgments.

I do not believe that Congress intended its passage of the Civil Rights Act of 1968 to visit such consequences upon the tribes. Therefore, I shall propose to the Congress that legislation be enacted to amend the Civil Rights Act of 1968, to make it clear that the Act was not intended to waive the sovereign immunity of Indian tribes nor the immunity of tribal officers acting in their official capacity. This will insure that Indian tribes enjoy the same immunities as federal and state governments.

On the other hand, I think it important that the Act continue to protect the rights of individual Indian citizens. The amendment I will propose would also make it clear that the Act affords equitable remedies to protect individuals whose civil rights are violated by abuses of tribal



officials. An equitable remedy--such as an injunction--is an appropriate order from the court directing an individual to do or not to do some particular thing, as required by law, or if a tribal official acts clearly outside the scope of his authority, he would be subject as an individual to a suit for money damages just as would a federal or state official under the same circumstances.

I also believe that the primary responsibility for protection of civil rights should rest in the tribal system. This will strengthen the development of tribal governments, encourage cooperation and effective reform from within, and enhance the integrity of the tribe as a self-governing, autonomous entity. It will also insure that federal courts may resolve tribal problems only if the tribal people themselves have been unable to do so at the local level. Thus, I am proposing that prior to the initiation of an action in federal court, an individual who feels his civil rights have been violated must first avail himself of whatever remedies are provided by the tribal system.

This will go a long way to putting the solution of tribal problems in the tribe rather than the federal courts. I know that many Indian tribes have felt that the 1968 Act was imposed on them. In a sense, it is unique; all other pieces of Indian legislation--the allotment act, the Indian Reorganization Act, Public Law 280 (eventually, 15 years later), even termination--contained some provision for tribal consent. The 1968 Act did not. Although I do not propose a consent requirement, I do believe



that tribal governmental procedures should be given the fullest possible opportunity to operate.

It has been brought to my attention by the Commissioner that there has been discussion in the Indian community about the creation of an inter-tribal appellate and arbitration court system. Such a system would provide the judicial detachment and objectivity sought by tribal members when they go to federal court in these often intensely political civil rights cases. This system would also alleviate tribal concerns regarding the apparently insensitive treatment given local tribal issues by outside courts. It would permit those best able to do so to handle these issues with understanding and with respect for the existing autonomy of tribal structures and governmental procedures and the customary and traditional manner of resolving disputes.

To some extent, the strengthening of tribal court institutions is a funding problem which the tribes alone cannot meet. Accordingly, I am directing the Commissioner of Indian Affairs to survey the needs of Indian courts on reservations and to report his findings to me within 2 months together with the approximate amount of funding which would be required to assure that tribal court systems are adequately equipped to provide these remedies. Upon receipt of the Commissioner's report I shall propose to the Congress legislation authorizing appropriations for this purpose.

Finally, I should like to identify another area of confusion in the Civil Rights Act; that is the uncertainty as to what standards should be applied



in interpreting the "Indian Bill of Rights." Literal reading of some of the provisions to mean the same standards as applied to state and federal governments under the United States Constitutional Bill of Rights would seriously undermine the tribes' cultural autonomy and in some instances undermine the stability of their political institutions.

Inclusion in the Indian Bill of Rights of equal protection and due process clauses has resulted in approximately 25 cases in federal court challenging tribal methods of selecting government officers and of determining eligibility for tribal membership.

The task of federal judges, trained in federal constitutional law, has not been simple, particularly in view of the almost identical wording of the Act and the United States Constitutional Bill of Rights, the lack of definitive standards in the Act itself and its less than clear legislative history. I am impressed with the fairness of the interpretation given by Senator Sam Ervin, Sponsoreof the Civil Rights Act, when he remarked that:

[Title II] takes general standards of what constitutes basic constitutional rights to all the rest of the people in the country and leaves them to be applied by you in your own way with the only limitation that you will grant these fundamental rights in substance, not according to any law which applies to Americans generally, but according to your own law. That's the only way your sovereignty is curtailed to any degree whatever. Hearings on Amendments to the Indian Bill of Rights Before the Sub-committee on Constitutional Rights of the Committee on the Judiciary, 91st Cong. 1st Sess. (1969).



It is my belief that Congress did not intend by use of certain constitutional sounding language in Title II of the Act to mandate an interpretation of that language in the same exact sense as the wording in the United States Constitution, nor to mandate automatic application of federal constitutional case law precedents in the interpretation of the Act.

Development of a workable, understandable set of standards to guide the tribes and the federal courts would facilitate tribal government operations and fair and expeditious disposition of cases which are brought to tribal and federal courts. To develop such standards will be difficult, requiring in addition to legal competence, sensitivity and an awareness of tribal customs, practices, and resources.

I have, therefore, already directed my own legal advisers on Indian matters, whom most of you know, to begin research leading to the development of proposed interpretive standards. I have also directed that in doing so they consult Indian people and others knowledgeable about the Indian Bill of Rights. It is my hope that based on their proposals I shall be able to propose to Congress amendatory legislation.



MEMORANDUM
OF CALL

TO:

BRAD

☒ YOU WERE CALLED BY—

☐ YOU WERE VISITED BY—

OF (Organization)

Helen Donaldson
Bustand's Office

☐ PLEASE CALL —→

PHONE NO.
CODE/EXT. _____

☐ WILL CALL AGAIN

☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL

☐ WISHES AN APPOINTMENT

MESSAGE

*Indian proposal
will happen in a
couple weeks*



RECEIVED BY

DATE

TIME

Linda

10-2

2:21

STANDARD FORM 63

REVISED AUGUST 1967

GSA FPMR (41 CFR) 101-11.6

☆ U. S. GPO: 1972 - 472-749

63-108

THE WHITE HOUSE
WASHINGTON



September 30

LG:

After a specific reminder from me, Zarb has sent me the draft of his "talking points" memo (you will note it attached here.) I have amended it as indicated in the clean re-draft and am about to send it back to him. *OK*

OK with you? Do you want your name added to the list?

No

Brad

THE WHITE HOUSE

WASHINGTON

September 30, 1974

Frank -

Leonard and I would like to suggest the indicated amendments to the draft talking points re the upcoming Indian leaders' meeting with the President. I have put them into the form of a clean draft.

Incidentally, Dick LaCourse has left Washington; Rose Robinson is running the Washington AIPA office now.



September 30, 1974

**MEETING WITH LEADERS OF THE
AMERICAN INDIAN COMMUNITY**

Unscheduled
(15 minutes)
The Oval Office

I. PURPOSE

To reassure Indian people of your support for the philosophy and goals of self-determination.

II. BACKGROUND, PARTICIPANTS AND PRESS PLAN

A. Background:

1. Indian leaders first of all want reassurance that the policy of "self-determination without termination", set forth in a Special Message of 1970, is going to be continued and in fact strengthened in this Administration.
2. Indian leaders also would like to hear confirmation from you that they will continued to be consulted on matters which affect them -- a promise made in 1970 and adhered to somewhat imperfectly since.
3. Five specific issues on Indian minds which you are likely to hear about are:
 - a) Are we going to replace the defunct National Council on Indian Opportunity with a new Domestic Council or Cabinet Committee on Indian Affairs?



- b) How will the FY 1976 budget stringencies affect Indian programs?
- c) What kind of Indian liaison arrangements, if any, do you plan to have in the White House/ Executive Office?
- d) Will we continue vigorously to discharge our trust responsibility for protecting Indian land, water and fishing rights?
- e) Ms. Attaquin and Mr. Strickland will want to know your views about extending federal recognition to the many small and mostly landless Eastern Indian bands which they represent.

Suggested answers are under "Talking Points".

At Tab A is a fact sheet summarizing the very solid accomplishments which have been realized for Indian people in the past 5 years.

At Tab B is a summary of the major pending legislation affecting Indians.

B. Participants:

Melford Tonasket, President of the National Congress of American Indians, and Charles Trimble, Executive Director of NCAI
 Robert Lewis, President of the National Tribal Chairmans' Association (and Governor of Zuni Pueblo) and William Youpee, Executive Director of NTCA
 Helen Attaquin, President of the Coalition of Eastern Native Americans, and W. J. Strickland, Executive Director of CENA
 LaDonna Harris, President of Americans for Indian Opportunity (AIO)
 Richard LaCourse, Director of the American Indian Press Association



Secretary Morton
Secretary Weinberger
Morris Thompson, Commissioner of Indian Affairs
Frank G. Zarb, Office of Management and Budget
Bradley H. Patterson, Jr., White House Staff

C. Press Plan:

Press photo opportunity. Meeting to be announced.

III. TALKING POINTS

1. I welcome you here today to assure you of my intention of establishing lines of communication between my Administration and Indian people across the country. We will continue the policy of "self-determination" begun in 1970; and we will build on that policy and strengthen it in the future. The Indian legislative program proposed in 1970 stands, and I seek your own cooperation in persuading the Congress to move it.
2. I recognize the importance of consultation with the Indian Community before making major policy decisions. This process will continue under my Administration and all agencies have been instructed to carry on such a consultative mechanism.
3. If some of these five specific points are raised:

a) NCIO Replacement

Yes, we do plan to establish a Cabinet Committee or Domestic Council Committee on Indian Affairs, as an internal Executive Branch coordinating body, to ensure that the principal federal Departments handling Indian matters (Interior, HEW, Justice, Agriculture, Commerce, etc) work together and speak as one voice.



b) FY 1976 Budget

Although we all recognize the present economic constraints facing us, I will do everything in my power to ensure that budget changes do not impact the Indian people disproportionately.

c) White House/Executive Office Liaison Arrangements

I am still in the process of organizing the staff here, and do plan to have an office on the Domestic Council or White House Staff which concerns itself with Indian matters. In OMB, Mr. Zarb is the Assistant Director with oversight over Interior's Indian responsibilities.

d) Protection of Trust Rights

You do have my commitment that the Federal Executive Branch will continue to carry out its responsibilities to protect Indian trust lands and natural resources rights. We hope very much to see the bill creating an Indian Trust Council enacted, and would like your own help in pushing this legislation.

e) Recognition of Eastern Indians

Only the Congress can extend this recognition -- by legislation. If the history and circumstances of any of the Eastern Indian bands duplicates that of the Menominees, whom we did restore to Reservation status, I would like to know of it. I am skeptical of creating new Indian reservations at this point in our history.



September 20, 1974

MEMORANDUM FOR:

WARREN RUSTAND

SUBJECT:

Presidential Schedule Proposals

In response to your good note of the 18th, the schedule proposal in which my office currently has most interest is the pending one you have for a Presidential meeting with national Indian leaders. I was away when Dave Parker's memo came in asking me to propose this, but in my absence Bill Casselman and Frank Zarb gave you a recommendation.

As soon as you set a date, I will be glad to supply talking points if you should wish, since I have had a five-year experience with these leaders and their problems. I can work up a briefing memorandum in close coordination with Bill, Frank, Norm Ross and with Commissioner Thompson. The best date for the Indian leaders would, I think, come between October 3 and 18.

Bradley H. Patterson, Jr.



INDIAN LEGISLATION NOT YET ENACTED

- HR-620 Assistant Secretary for Indian and Territorial Affairs. Proposes to elevate the position of Commissioner for the Bureau of Indian Affairs to an Assistant Secretary position. Enactment not expected.
- S-1012 Indian Trust Council Authority. Establishes independent legal representation for their natural resource rights. Prospects for enactment are not good.
- S-1017 Indian Self-Determination and Education Assistance. This bill has passed the Senate and sent to the House. Enactment possible with some changes expected.
- S-1014 Trespass Traders Bill. Increases the penalties levied on livestock trespass on Indian land, and provides tribal governments with more control over traders on trust land. Not expected to pass both houses.
- HJR-881 Policy Review Commission. Reviews Indian law and the relationship between the federal government and Indian people. Passage expected.
- S-1296 Grand Canyon Bill. Proposes to enlarge the Havasupai Reservation. Reported to House Subcommittee.
- S-3230 Navajo-Hopi Bill. Proposes a plan for the orderly disposition of Navajo people now living on the "disputed" Hopi land. Differences are expected to be ironed out in Conference for enactment.



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