

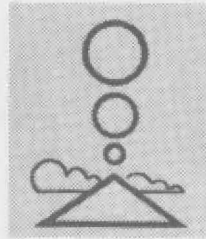
**The original documents are located in Box 11, folder “South Dakota” of the Norman Ross Files, 1974-75
at the Gerald R. Ford Presidential Library.**

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Norman E. Ross, Jr. donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

AMERICAN INDIAN PRESS ASSOCIATION
NEWS SERVICE



ROOM 206
1346 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036
Phone: (202) 293-9150

Executive Director: *Rose Robinson*
News Director: *Richard LaCourse*

SENTENCES - AU032

SIOUX FALLS, S.D.--(AIPA)--Two Indians and one non-Indian have been sentenced to prison terms here for their part in a so-called "riot" at Custer, S.D., last year preceding the takeover of Wounded Knee.

Defendants Sarah Bad Heart Bull, Kenneth Dahl and Robert High Eagle were sentenced here July 29 by State Circuit Court Judge Joseph Bottum. Mrs. Bad Heart Bull received from one to five years in prison, and Dahl and High Eagle received from five to seven years.

The three were found guilty by a Sioux Falls jury here June 20 of the charge of "riot where arson was committed" during the Feb. 6, 1973 Custer demonstration, during which some buildings in Custer were partially burned.

Attorneys for the three will appeal the case. Meanwhile, bail was denied the three pending their appeal.

The Custer incident itself occurred following the beating death of Wesley Bad Heart Bull, a 20-year-old Oglala Sioux, in January of 1973 in Buffalo Gap near Custer. Defendant Sarah Bad Heart Bull is the mother of the deceased man.

As sentences for the three were announced in a temporary courtroom closed to the public, defense attorneys Mark Lane and William Kunstler denounced the sentences as "savage" and "politically and racially motivated."

Mrs. Bad Heart Bull's other children were waiting in a car outside the courtroom as the sentences were read by Judge Bottum. She was given 24 hours by the judge to settle her affairs before imprisonment.

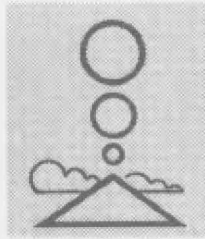
Said American Indian Movement (AIM) leader Dennis J. Banks outside the courtroom following the sentencing: "There is a lot of terrorism in this state, but it is not being done by Indian people. What happened in court today is going to affect AIM's political activity drastically."

And in a related statement, the Wounded Knee Legal Defense/Offense Committee here said:

"For other Custer defendants and those on trials for the Sioux Falls police riot (in 1974), today's ruling was very bad news. It was further proof of the pioneer justice that is alive and well in South Dakota. Unless national attention is focused on this state's policies of harrassment, prison sentences, and death for those Indians who dare to stand up for their rights, in a manner like that of the Deep South at its worst (against blacks), many more Indians like Sarah Bad Heart Bull will go to jail."



AMERICAN INDIAN PRESS ASSOCIATION
NEWS SERVICE



ROOM 206
1346 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036
Phone: (202) 293-9150

Executive Director: *Rose Robinson*
News Director: *Richard LaCourse*

JURISDICTION - SP121

WASHINGTON, D.C.--(AIPA)--The law and order issue--and the question of who should enforce the law in Indian country--has become a political campaign issue in South Dakota following public allegations of Indian unrest and growing lawlessness in that state.

On Aug. 22, South Dakota Gov. Richard Kneip, a Democrat running for reelection this November, telegraphed President Gerald R. Ford describing "an increasingly serious and volatile situation developing around South Dakota Indian reservations." Kneip said "legal restraints" created by federal law and federal court decisions "severely restricts the ability of local and state law enforcement to deal with growing lawlessness in reservation areas."

Kneip charged that fearful citizens in the state might take the law into their own hands, and said: "Both Indian and non-Indian citizens urgently need your help and in insuring their personal safety and property against criminal acts, the state of South Dakota and local authority stand(s) ready to cooperate to the extent of our resources and legal authority. I respectfully ask that your immediate attention be given to serious threat to public order and legal processes."

Kneip's telegram to Ford was made public in the state capital at Pierre, S.D., and the following day the Standing Rock Sioux Tribal Council met and drafted a telegram to Ford themselves strongly objecting to Kneip's statements and implications. The Standing Rock Council was aggressive in its definition of a possible struggle over sovereignty and jurisdiction. Said the Standing Rock telegram:

"Without consultation with tribal governments Kneip claimed 'growing lawlessness in reservation areas' and the threat of citizens taking the 'law into their own hands.' Kneip further claimed that federal law and federal court decisions restricted his use of local and state law enforcement within the reservation.

"The Standing Rock Sioux Tribal Council believes these allegations to be vastly overemphasized with a political intent to diminish sovereignty in the area of law and order. The Tribal Council will not accept the threat of violence in South Dakota as an instrument to diminish or encroach upon tribal sovereignty established by treaty and other agreements with the United States.

"Historically, peace under law has been recognized and respected by the Standing Rock Sioux Tribe. The Tribal Council notes, however, that Governor Kneip implies that federal laws and federal court decisions stand in the way of keeping peace on the reservations. The Standing Rock Sioux Tribal Council strongly objects to this transparent political maneuver for disregarding the traditional federal-tribal relationship. The Tribal Council believes common courtesy requires that the governor of South Dakota apologize to the people of the Standing Rock Sioux Tribe for his unwarranted statements and allegations in his telegram to you... Respectfully, Melvin White Eagle, Chairman, Standing Rock Sioux Tribe."

MORE



The Kneip and Standing Rock telegrams were received by the White House Domestic Council, which routed them to the Interior Department and the Bureau of Indian Affairs (BIA) so responses could be drafted.

The Kneip and Standing Rock telegrams had been sent on Aug. 22 and Aug. 23 respectively, and by Sept. 13 no responses had been delivered to the White House and in turn to the respective parties.

Two weeks after the two telegrams were sent to President Ford, during the annual state fair in South Dakota which is the traditional opening day for political campaigns, Sen. George McGovern, D-S.D., was pressed for his position on the jurisdiction by reporters. McGovern told them his staff was "preparing a position" on the issue for him.

By October a number of potentially significant positions on jurisdiction should be forthcoming from the White House and from the South Dakota senator.



IN EX REL Feather
vs
Eckson

8th Circuit:

1867 boundaries still sound
at Sioux. Res not
diminished. Indian have
jurisdiction.

US supported tribe.

Indian over Indians

Non-Indians against
non-Indians: State

Non-Indians vs Indians -
US (and the tribe's)
jurisdiction.



Kenneth ~~Sand~~ Sande
& John met
late August 21

S-W 10/1 Wb / Dickson
under 8th Circuit

Clayton has asked for
additional U.S. ATTYS

Asked Bush for more
judges - & a ^{US} magistrate
to handle petty crimes.

Marshall: wrong approach.



city, county, Trial, B/H
all cross-deputized - can
turn



SEVEN STATES JOIN IN JURISDICTION APPEAL

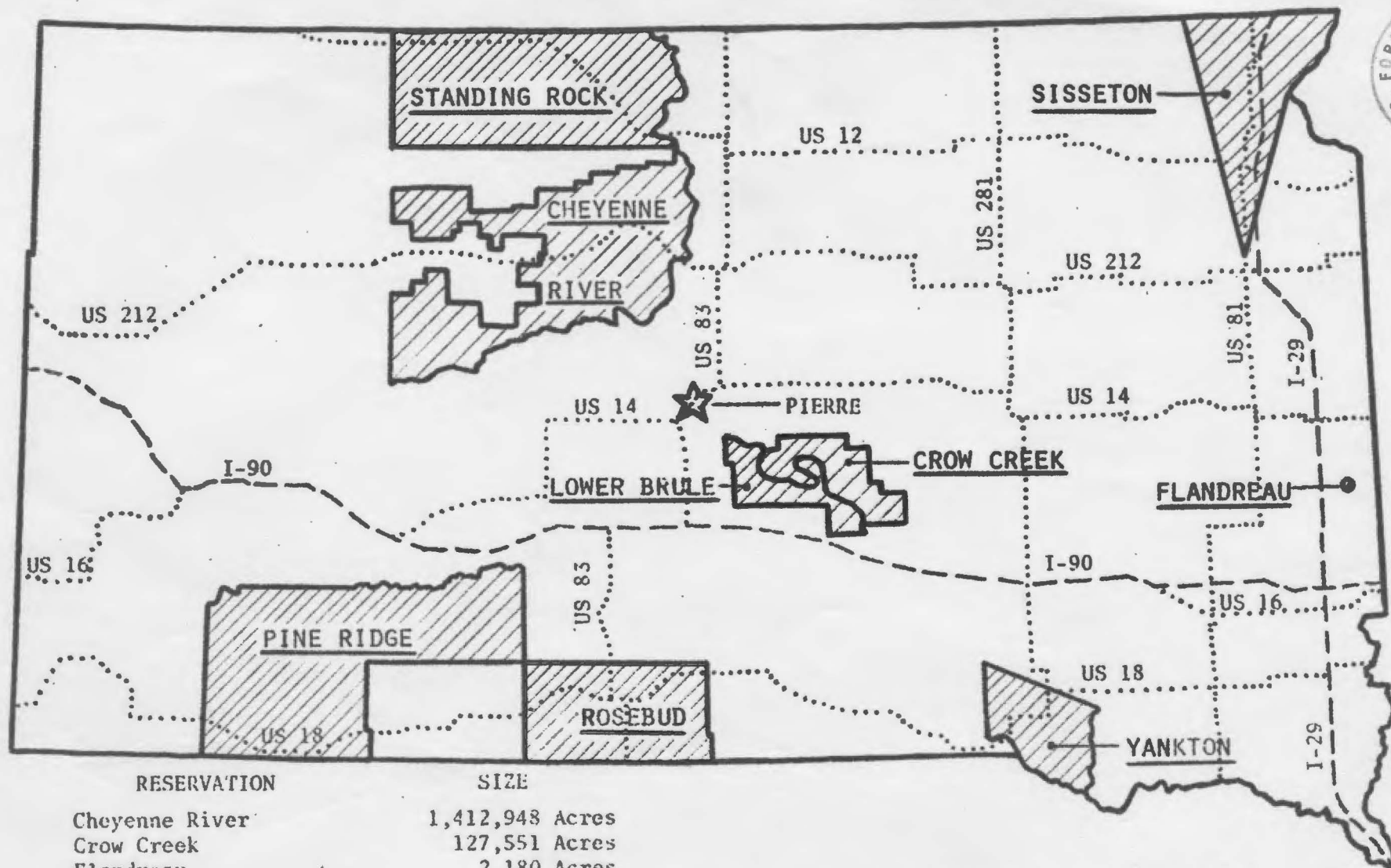
Atty. Gen. Kermit Sande says seven states have joined South Dakota in a U.S. Supreme Court appeal regarding state jurisdiction on an Indian reservation.

South Dakota has appealed to the Supreme Court a case involving state charges for crimes allegedly committed by Indians on the Lake Traverse Reservation.

South Dakota's Supreme Court decided that the state had jurisdiction, but a federal appeals court reversed that ruling. It affects the Sisseton-Wahpeton Sioux Tribe.

Sande said his office has filed a brief with the U.S. Supreme Court and probably will be involved in oral arguments in December. He said the court decision could produce a ruling that would affect not only the Sisseton Reservation, but all the other Indian Reservations in the state, and it could affect other states. He said North Dakota, Nebraska, Nevada, Montana, Arizona, New Mexico and Wisconsin are joining the state as friends of the court in the suit. "This is the first time in South Dakota history that the U.S. Supreme Court has agreed to hear this kind of jurisdiction case," Sande said.





RESERVATION	SIZE
Cheyenne River	1,412,948 Acres
Crow Creek	127,551 Acres
Flandreau	2,180 Acres
Lower Brule	114,529 Acres
Pine Ridge	1,653,477 Acres
Rosebud	977,016 Acres
Sisseton	103,728 Acres*
Standing Rock	546,386 Acres*
Yankton	34,475 Acres
	<u>4,967,250 Acres**</u>

PARTICIPATING RESERVATIONS
UNITED SIOUX TRIBES OF SOUTH DAKOTA
DEVELOPMENT CORPORATION

* South Dakota portion ** 11.05% of total State area

3-20-72 GCL/MHB

AUTHORITIES RELATED TO THE SIOUX TRIBES OF INDIANS IN THE UNITED STATES:

FORT LARAMIE TREATY OF APRIL 29, 1868, ratified February 16, 1869.
(15 Stat. 635, 2 Kappler 998):

"ARTICLE I. From this day forward all war between the parties to this agreement shall forever cease. The government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it.

* * * * * (Bad men among the whites shall be delivered up for punishment.)

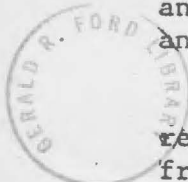
If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States, and at peace therewith, the Indians herein named solemnly agree that they will, upon proof made to their agent and notice by him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws; and in case they wilfully refuse to do so, the person injured shall be reimbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as in his judgement may be proper. But no one sustaining loss while violating the provisions of this treaty or the laws of the United States shall be reimbursed therefor."

AGREEMENT OF AUGUST 15, 1876, authorized by the Act of that date, (19 Stat. 176, 1 Kappler 166); executed by the Agreement of September 26, 1876, with consent of fewer than 10% of adult Sioux males, and ratified by Congress in the Act of February 28, 1877 (19 Stat. 254, 1 Kappler 168), modifying the 1868 Laramie Treaty:

"ARTICLE 9. The Indians, parties to this agreement, do hereby solemnly pledge themselves, individually and collectively * * * that they will at all times maintain peace with the citizens and Government of the United States; that they will observe the laws thereof and loyally endeavor to fulfill all the obligations assumed by them under the treaty of 1868 and the present agreement, and to this end will, whenever requested by the President of the United States, select so many suitable men from each band to co-operated with him in maintaining order and peace on the reservation as the President may deem necessary, who shall receive such compensation for their services as Congress may provide."

"ARTICLE 8. The provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and, with the provisions of this agreement, shall apply to any country which may hereafter be occupied by the said Indians as a home; and Congress shall, by appropriate legislation, secure to them an orderly government; they shall be subject to the laws of the United States, and each individual shall be protected in his rights of property, person and life."

"ARTICLE 7. * * * no person other than an Indian of full blood * * * shall receive any benefit from this agreement or former treaties, and may be expelled from the reservation."



Federal Grand Jury

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

~~████████████████████~~

ROOM 302

U. S. COURTHOUSE

515 - 9TH STREET

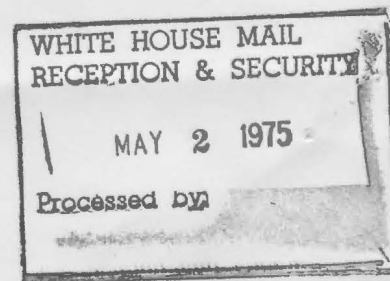
RAPID CITY, S. D. 57701

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE \$300

C

The Honorable Gerald Ford
President of the United States
White House
Washington, D.C.



FY 1973 BIA FUNDING
Treaty Area
Treaty with the Sioux - Ft. Laramie - April 29, 1868

Appropriations and Activities	Activity Totals (\$ in Thousands and Tenths)
EDUCATION & WELFARE SERVICES:	
1740 - Educational Assistance	9,159.0
Education	(6,568.4)
Higher Education	(1,090.7)
Community Colleges	(436.3)
Johnson-O'Malley	(1,063.6)
1768 - Adult Education and Com- munity Development	148.3
1770 - Social Services	4,476.8
1775 - Housing Improvement	352.3
1780 - Employment Assistance	478.3
1787 - Adult Vocational Training	1,357.2
Administrative Expenses	(.0)
Program Execution	(1,357.2)
1790 - Judicial Prevention and Enforcement Services	1,045.6
TOTAL	17,017.5
RESOURCES MANAGEMENT:	
1800 - Forestry	3.5
1805 - Range Lands	285.8
1810 - Fire Suppression	35.6
1821 - Agricultural Extension	172.9
1822 - Credit Operations	131.9
1823 - Reservation Programs	117.6
1825 - Tribal Operations	20.0
1826 - Housing Development	67.8
1827 - Comprehensive Planning	20.0
1830 - Soil & Moisture Conservation	475.0
1835 - Indian Water Rights	40.0
1840 - Maintenance of Roads	531.0
1861 - Real Property Management	349.9
1865 - General Trustee Services	95.7
1870 - R&M of Buildings & Utilities	1,134.4
1875 - Maintenance of reservation facilities	60.3
TOTAL	3,541.4
CONSTRUCTION:	
1120 - Buildings and Utilities	236.5
ROAD CONSTRUCTION:	
1250 - (Federal Aid)	4,913.0
CLEARING ACCOUNTS:	
1299 - Administrative Support	475.0
1898 - Plant Operations	1,603.9
GRAND TOTAL	27,787.3
FY 1967 Total Funding	10,716.9



**A PRELIMINARY REPORT
OF THE SOUTH DAKOTA**

**TASK FORCE ON
INDIAN-STATE
GOVERNMENT
RELATIONS**



DECEMBER 31, 1973

TABLE OF CONTENTS

	<u>Pages</u>
I. INTRODUCTION	
A. Organization	1
B. Membership	1-2
C. Purpose	2-3
D. Goals and Objectives	3
II. THE LEGAL RELATIONSHIP BETWEEN THE STATE GOVERNMENT AND THE INDIAN TRIBES	4-10
III. AREAS OF STUDY AND ACCOMPLISHMENT	
A. Establishment of recommended mutual policies between the Indian tribes and state government	11-12
B. Types of assistance provided to tribal governments	12-14
C. Possibility of formal agreements between the Indian tribes and state government	14-22
D. Services provided to Indian tribes by federal, state, and local agencies	22-25
IV. LEGISLATIVE PROPOSALS RECOMMENDED BY THE TASK FORCE	26-38
V. BUDGET SUMMARY	39-43
VI. FUTURE AREAS OF STUDY	44-46
VII. CONCLUSION	47



I.

INTRODUCTION

A. ORGANIZATION.

The 1973 South Dakota Legislature passed Senate Concurrent Resolution No. 7, requesting that a Task Force for study of the relationship between Indian governments in South Dakota and the state government of South Dakota be created. During the same legislative session, Senate Bill No. 206 was passed providing the sum of \$100,000 from July 1, 1973, to June 30, 1974, for the operation of a one year task force study. This Act also gave authorization for the creation of the Task Force by executive order.

On June 11, 1973, Governor Richard F. Kneip issued Executive Order 73-8, creating a Task Force on Indian-State Government Relations. The Order authorized the Task Force to investigate areas of common concern, following the directives of Senate Concurrent Resolution No. 7 as closely as possible, and empowered it to spend monies and undertake all other activities incident to special studies of this nature. The Order directed the Task Force to issue preliminary and final reports to the Governor, the Legislature, tribal government and the public. It also directed all units of the Executive Branch of state government to cooperate fully with the Task Force.

B. MEMBERSHIP

Executive Order 73-8 provided that the membership of the Task Force be composed of eighteen members; one appointed by each of the nine reservation tribal chairmen, five by the Governor, two by the President of the Senate from that body and two by the

Speaker of the House of Representatives from that body. The Order provided that no more than two of the legislative members and no more than three of the Governor's appointees be of the same political party.

The following are the non-tribal Task Force members:

Senator Don A. Bierle, Yankton; Dean James R. Adams, Dean of the University of South Dakota School of Law, Vermillion; Senator Curtis Jones, Britton; Representative Robert Kelly, Rapid City; Gordon Mydland, Lake Preston; Representative Sheldon Songstad, Sioux Falls; Attorney General Kermit Sande, Pierre; Robert D. Orr, Aberdeen; and Jeanne White, Rapid City.

The tribal chairmen members were: Richard Wilson, Oglala Sioux Tribe, Pine Ridge; T. O. Traversie, Cheyenne River Sioux Tribe, Eagle Butte; Webster Two Hawk, Rosebud Sioux Tribe, Rosebud; Moses Gill, Sisseton-Wahpeton Sioux Tribe, Sisseton; Percy Archambeau, Yankton Sioux Tribe, Wagner; Orville Langdeau, Lower Brule Sioux Tribe, Lower Brule; Elnita Rank, Crow Creek Sioux Tribe, Fort Thompson; Agnes C. Ross, Flandreau Santee Sioux Tribe, Flandreau; and Melvin White Eagle, Standing Rock Sioux Tribe, Fort Yates, North Dakota. As Executive Order 73-8 directed, Task Force membership has changed as tribal leadership has changed. Newly elected tribal leaders and Task Force members are: Harold Barse, Sisseton-Wahpeton Sioux Tribe, Sisseton, and Robert Burnette, Rosebud Sioux Tribe, Rosebud.

C. PURPOSE

In creating the Task Force, the State of South Dakota recognized and respected tribal governments as political struc-

tures independent of South Dakota state government and encouraged the establishment of mutual governmental policies which would facilitate rather than frustrate the Indian tribes' goal of self-determination.

One major reason for establishing the Task Force was that the State of South Dakota and the Indian tribes had for too long ignored the task of building a progressive and constructive relationship in dealing with each other. Therefore, the primary goal of the Task Force has been to establish coherent, positive, and mutually acceptable attitudes of cooperation on problems of joint concern.

D. GOALS AND OBJECTIVES

The Task Force on Indian-State Government Relations was empowered to study and make recommendations in areas of joint concern between the state and Indian tribes. The Task Force has dealt mainly with the following areas of concern in its effort to achieve recommended goals and objectives:

- (1) The establishment of recommended mutual policies which would effectuate an improved relationship in all areas of difference between the state and tribal governments and provide a mechanism for continuing review of this policy;
- (2) The study of types of assistance which might be provided to tribal governments, which would support the goals and objectives of the members thereof;
- (3) The possibility of formal agreements with individual or collective tribal governments, stipulating a formal and coherent set of intergovernmental policies;
- (4) The effectiveness of public services and other governmental assistance rendered by federal, state, and local agencies to reservation members and to tribal governments.

II.

THE LEGAL RELATIONSHIP BETWEEN THE STATE GOVERNMENT AND THE INDIAN TRIBES

An understanding of the work of the Task Force and of its legislative proposals for the 1974 Session requires an appreciation of the legal relationship between the state government and the Indian tribes located within that state's boundaries. This relationship is often summarized by the term, "jurisdiction." Jurisdiction relates to the extent of a government's authority. In this section of the Task Force report, the jurisdiction of the state government and the Indian tribes will be discussed.

Self-governing Authority of Indian Tribes - First, it must be recognized that the Indian tribes are governments with exclusive powers and rights in certain areas. Felix Cohen, in his Handbook of Federal Indian Law, summarizes this sovereignty in this passage:

Perhaps the most basic principle of all Indian law, supported by a host of decisions ... is the principle that those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished. Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. (p. 122)

That state laws are not effective over Indians within the territory of an Indian tribe was firmly established in Worcester v. State of Georgia, 6 Pet. 515, 31 U.S. 515 (1832). In an opinion by Chief Justice Marshall, the court held certain Georgia state laws unconstitutional because they interfered "forcibly

with the relation established between the United States and the Cherokee nation, the regulation of which, according to the settled principles of our constitution, are committed exclusively to the government of the Union." 6 Pet. 515 at 561, 31 U.S. 515 at 561. The opinion, after describing a series of Congressional acts and treaties stated:

From the commencement of our government, Congress has passed acts to regulate trade and intercourse with the Indians, which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all lands within those boundaries, which is not only acknowledged, but guaranteed by the United States. 6 Pet. 515 at 556-557, 31 U.S. 515 at 556-557.

The principle of inherent tribal sovereignty and independence from state government, first announced in Worcester v. Georgia, continues in force today. As recently as March 27, 1973, the Supreme Court, in McClanahan v. State Tax Commission of Arizona, ___ U.S. ___, 93 S.Ct. 1257, 1263 (1973), said:

But it is nonetheless still true, as it was in the last century, that "(t)he relation of the Indian tribes living within the borders of the United States (is) an anomalous one and of a complex character.... They were, and always have been, regarded as having a semi-independent position when they preserved their tribal relations; not as States, not as nations, not as possessed of the full attributes of sovereignty, but as a separate people, with the power of regulating their internal and social relations, and thus far not brought under the laws of the Union or of the State within whose limits they reside." United States v. Kagama, 118 U.S. 375, 381-382 (1886).

State governments may regulate matters affecting Indians within Indian country only to the extent provided by federal law.

Thus, state governments are compelled by federal law to recognize Indian tribes as independent political structures exercising powers of self-government and to deal with the tribes on a cooperative intergovernmental basis rather than on a unilateral basis.

Limits on State Jurisdiction - State governments have no jurisdictional basis to handle matters affecting Indians in Indian country. The basic federal statute on jurisdiction in Indian country is 18 U.S.C. § 1152, which reads as follows:

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

In the early cases of U.S. v. McBratney, 104 U.S. 621 (1881), and Draper v. U.S., 164 U.S. 240 (1896), the United States Supreme Court interpreted this section to give state governments jurisdiction only over crimes committed in Indian country by non-Indians against non-Indians. In Williams v. U.S., 327 U.S. 711 (1946), the Supreme Court reiterated this view, 327 U.S. 711 at 714:

While the laws and courts of the state of Arizona may have jurisdiction over offenses committed on this reservation between persons who are not Indians, the laws and the courts of the United States, rather than those of Arizona, have jurisdiction over offenses committed there, as in this case, by one who is not an Indian against one who is an Indian.

In general, state governments have authority within Indian country only over all matters which do not directly involve or

affect Indians. Thus, a crime or controversy between non-Indians located in Indian country is subject to state jurisdiction. Similarly, the state government may tax non-Indians within Indian country. Outside of Indian country, the state's authority is identical over Indians and non-Indians. It is only within Indian country that the state government's authority is circumscribed.

Definition of Indian Country - This naturally raises the important questions: What is the definition of Indian country and what is the extent of Indian country in South Dakota? Again, the federal statutes and courts are the key to the answer. 18 U.S.C. § 1151 defines Indian country:

Except as otherwise provided in sections 1154 and 1156 of this title, the term "Indian country", as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Court Decisions on the Extent of Indian Country - The last decade has produced a flood of litigation over the definition of Indian country as set forth in 18 U.S.C. § 1151. Most of the court cases (especially cases concerning South Dakota tribes) have turned on the question of a Congressional intent to terminate or diminish the reservation boundaries. Eight reservations were established in South Dakota by either treaty or Congressional act in the middle to late nineteenth century. These treaties and acts

are recorded in SDCL Volume 1, in the section headed "Indian Treaties". Document 21 in this section is an especially important act which created six "permanent reservations" in its first six sections. Later, Congress, by legislative acts, opened various Indian reservations to non-Indian homesteading and settlement. See, for example, Documents 25, 26, and 27, SDCL, Volume I, "Indian Treaties".

The question presented to the courts in recent years has been: Was there a Congressional (in the case of settlement by congressional act) or an Indian (in the case of settlement through sale of land by Indians to non-Indians) intent to diminish the exterior boundaries of reservations, i.e. Indian country, by virtue of this non-Indian settlement and ownership of land within the reservation? The courts have held that (1) the mere non-Indian settlement of reservation land does not show an intent to change the exterior and jurisdictional boundaries of a reservation, and (2) that absent a clear intent, the reservation boundaries remain unchanged. See Menominee Tribe of Indians v. U.S., 391 U.S. 404, (1968), Seymour v. Superintendent, 368 U.S. 351 (1962), Mattz v. Arnett, ___ U.S. ___, 93 S.Ct. 2245 (1973), City of New Town v. U.S., 454 F.2d 121 (CA 8, 1972), and McClanahan v. State Tax Commission of Arizona, ___ U.S. ___, 93 S.Ct. 1257 (1973).

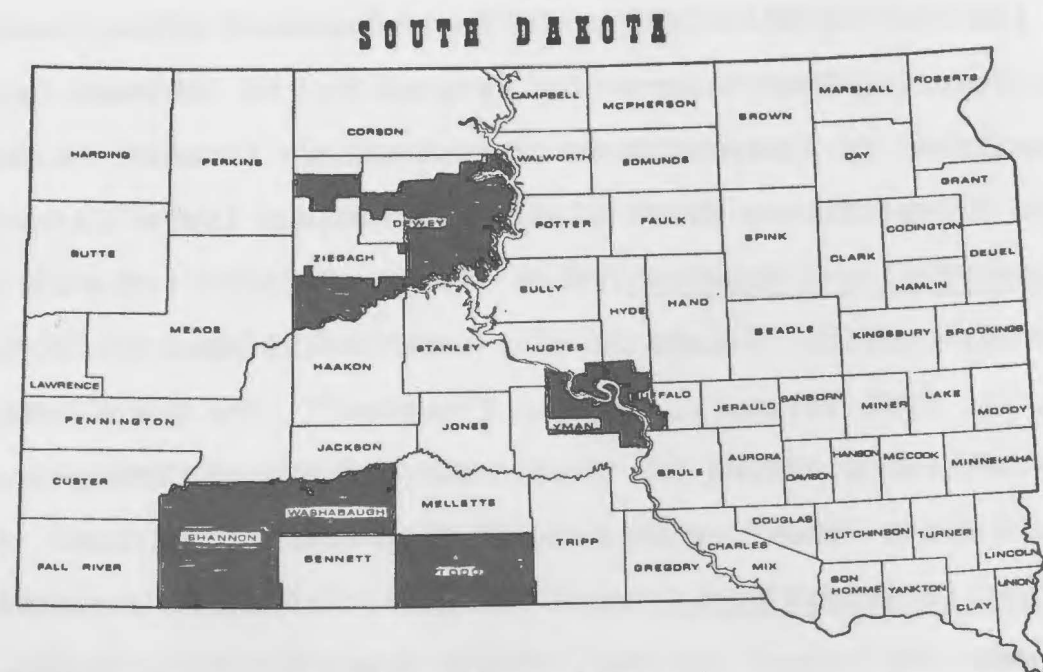
In addition to these cases, there are three important decisions relating to South Dakota reservations. U.S. ex. rel. Condon v. Erickson, 478 F. 2d 684 (CA8, 1973) held that the boundaries of the Cheyenne River Reservation were as established in the 1889 Act (see Document 21, SDCL Volume 1, "Indian Treaties"). In State v.

Molash, 199 N.W. 2d 591 (1972), the South Dakota Supreme Court held that the Standing Rock reservation created by the 1889 Act had not been diminished by subsequent settlement acts. Finally, on December 7, 1973, the United States Court of Appeals for the Eighth Circuit held in Feather et al. v. Erickson, that the boundaries of the Sisseton-Wahpeton reservation "remain as they were established in 1867." (see Document 17, SDCL Volume 1, "Indian Treaties") The South Dakota Attorney-General's Office has petitioned the Eighth Circuit Court of Appeals for a rehearing in bank of the Feather decision.

Effect of Recent Decisions - The effect of these decisions has been to markedly expand the area within South Dakota which the state government has been willing to recognize as Indian country. (See Maps I and II below) Obviously, in the area which the courts find to be Indian country, the state government's authority over matters affecting Indians ceases. As the area of Indian country in South Dakota approaches one-quarter to one-third of our land area, it becomes increasingly clear that the state government and the Indian tribes must begin to take each other into account in providing governmental services. Cooperation and coordination between the state government and the nine Indian tribes is becoming more important and necessary for the mutual benefits of all Indians and non-Indians residing in South Dakota. The work of the Task Force is to promote this cooperation and coordination.

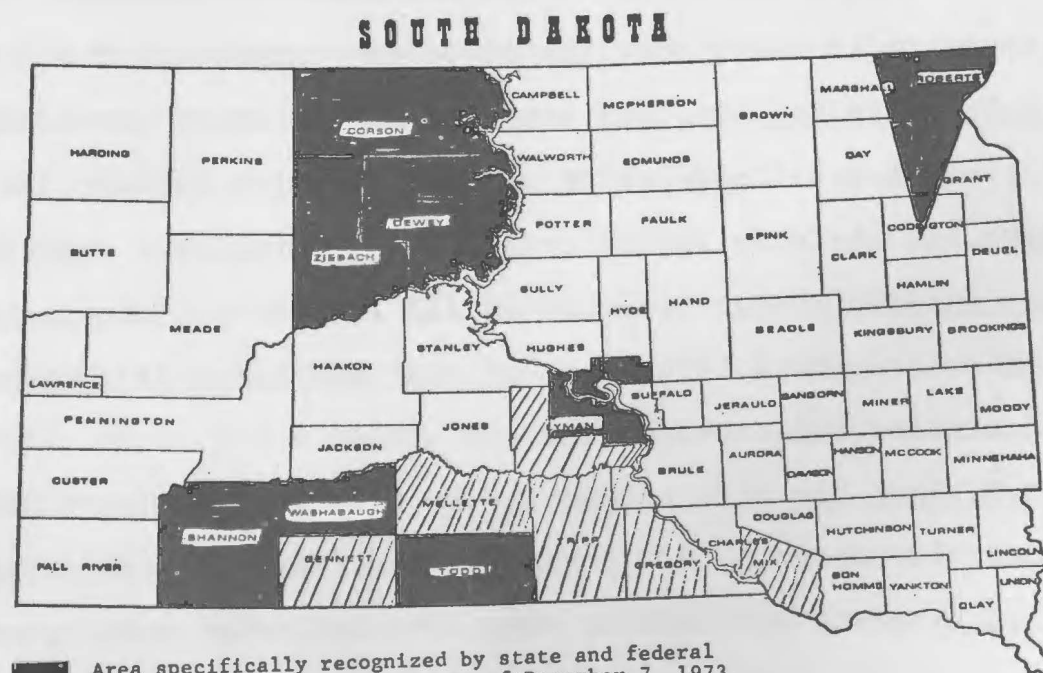
Map I shows the area recognized by the State of South Dakota to be Indian country in 1970. Map II shows the area specifically recognized by state and federal courts to be Indian country and shows the area which is still in dispute.

MAP I



Area recognized by the State of South Dakota to be Indian country prior to the New Town Decision (1972).

MAP II



Area specifically recognized by state and federal courts to be Indian country as of December 7, 1973.

Area still in dispute. (Present decisions strongly suggest this area will be found to be Indian country.)

III.

AREAS OF STUDY AND ACCOMPLISHMENT

A. ESTABLISHMENT OF RECOMMENDED MUTUAL POLICIES BETWEEN INDIAN TRIBES AND STATE GOVERNMENT.

An accomplishment that the Task Force is proud of is the fact that this is the first time in the history of Indian tribes and state government that both sides have sat down with each other to work out the comprehensive problems that exist between Indian tribes and state government. A number of tribal chairmen have commented that the State of South Dakota should be congratulated for having such foresight in establishing a Task Force on Indian-State Government Relations.

Another accomplishment of the Task Force lies in the opening of lines of communication, which have produced understanding and good will between representatives of Indian tribes and officials of state government in dealing with each other. State officials are receiving a better understanding of the difficulties and problems that Indian tribal governments face. Indian tribal officials are learning the problems that concern state officials when they work with Indian tribes.

The ultimate goal of the Task Force is to establish a permanent relationship of good will and understanding between the Indian tribes and state government. Since the Task Force has yet to study all the problems of joint concern, the Task Force is only in the preliminary stages of establishing a permanent relationship.

The relationship between the State of South Dakota, the Indian tribes and the Indian people of South Dakota will have to take into

account four factors: 1) Indian tribes are independent political structures who exercise powers of self government; 2) Indian people are citizens of the state and as such qualify for the services of and representation in the state of South Dakota; 3) Indian people come under the jurisdiction of the state of South Dakota when living off the reservation; and 4) Indian people are under the jurisdiction of the tribe when living on the reservation. Therefore, the policy of the State of South Dakota toward the Indian tribes and the Indian people must be based within this legal framework.

Recommendation:

The major recommended mutual policy between Indian tribes and state government is that there should always be some mechanism such as the Task Force that will allow the Indian tribes to sit down with state officials to discuss and negotiate problems of joint concern at an intergovernmental level. However, in no case should either the Indian tribes or the state government attempt to dictate to the other a solution to a mutual problem. Cooperation and coordination can be achieved only through mutually supported decisions. As long as the Task Force is in existence, there is this mechanism for mutual discussion and decision between the Indian tribes and the state government.

B. TYPES OF ASSISTANCE PROVIDED TO TRIBAL GOVERNMENTS.

The Task Force has achieved some success in the area of assistance to tribal governments which will support the goals and objectives of their members.

On July 30, 1973, Governor Richard F. Kneip, through an executive memorandum, strongly recommended that, whenever circumstances

permit, all state agencies, when holding training sessions for state or local government personnel, should invite representatives from appropriate tribal governmental agencies.

Nearly all state agencies of state government responded favorably to this recommendation. A number of agencies have invited tribal representatives to their training sessions or have included tribal governments in plans for future training sessions.

Proposed Legislative Changes Which Would Assist Tribal Governments:

The Task Force has studied the possibility of assisting tribal governments through changes in state laws which would improve the administrative operation of the tribes. In so doing, the Task Force has recommended the following proposed changes in state law which would assist tribal governments: 1) that tribal governments be included with other departments, institutions or state agencies in the acquisition of surplus state property, SDCL 5-23-32, (See Legislative Proposal A, section IV of this report); 2) that tribal governments be exempt from payment of motor vehicle registration fees, SDCL 35-5-42, (See Legislative Proposal B, section IV of this report); and 3) that tribal governments be exempt from state sales and fuel taxes. (See Legislative Proposal C, section IV of this report). Municipalities are presently exempted from these taxes.

There are a number of reasons why Indian tribes should be assisted through changes in state laws that would assist tribal governments in their administrative operations. The major reason is that an Indian tribe is a public agency in that it provides

services to its Indian people as a governmental agency. Therefore, an Indian tribe is similar to the federal government, state government, county government or a municipality in that it provides a public service to its constituents.

A goal of the Task Force is to establish an improved relationship between Indian tribes and state government. In trying to foster an improved relationship between state government and Indian tribes, the Task Force considers it to be in the interest of both that they deal with each other in a cooperative manner. Therefore, the proposed changes in state law would be in line with establishing improved relations between Indian tribes and state government.

Another consideration as to the proposed changes is that Indian people are citizens of the state and thereby qualify, as citizens, for services and representation in the state of South Dakota. Therefore, the reservation Indian people should receive the same services from their representative government as both non-Indian and Indian people receive from municipalities and county governments in South Dakota.

C. POSSIBILITY OF FORMAL AGREEMENTS BETWEEN THE INDIAN TRIBES AND THE STATE GOVERNMENT.

The Role of Formal Agreements:

The Task Force strongly feels that formal intergovernmental agreements between various Indian tribes and the state government represent the most effective means of providing the necessary coordination and cooperation on various public problems between the state and Indian governments in South Dakota. These inter-

governmental agreements are legal contracts, mutually agreed upon through a process of negotiation and provide benefits and responsibilities for all governments which are parties to the agreement. Formal, intergovernmental agreements comprise the heart of the Task Force's efforts to produce an effective working relationship between the Indian tribes and the state government. One agreement of this type is the sales tax collection agreement between the state Department of Revenue and the Pine Ridge tribal government.

The Task Force has recommended two statutory changes be made in South Dakota state law in order to facilitate formal agreements between the state government and the Indian tribes. SDCL 1-24 provides for the joint exercise of governmental powers by the state government and its subdivisions with other "public agencies". SDCL 1-24-1(1) defines "public agency". Although an Attorney-General's opinion ruled that Indian tribes are public agencies of the federal government (see Opinion 70-36 (1970)), the Task Force felt it was desirable to amend this definition to specifically include Indian tribes in the definition of "public agency". (See Legislative Proposal D, section IV of this report.) This legislation would eliminate any legal doubts about the legal propriety of intergovernmental agreements between the state government and Indian tribes.

The Task Force's second legislative proposal in this area would amend SDCL 4-9-10 to allow the State Auditor and Treasurer to remit any monies collected for the Indian tribes by the state back to the tribes in accordance with intergovernmental agreements

pursuant to SDCL 1-24. (See Legislative Proposal E). This bill would eliminate any doubts concerning the legality of current practice. The state presently is remitting monies back to the Pine Ridge tribal government as well as many municipalities.

Taxation of Indians in Indian Country:

It is clear that state governments may not directly tax Indians residing within the exterior boundaries of Indian reservations. The most recent in a line of court cases holding this result comes from a North Dakota Supreme Court decision on this question relating to North Dakota's attempts to collect sales and income taxes on the portion of the Standing Rock Reservation that is located in North Dakota. White Eagle v. Dorgan, ___ N.W.2d ___ (N.D., July 12, 1973).

The United States Supreme Court has also struck down similar attempts by state governments to impose sales and other taxes on Indians residing on Indian reservations. Warren Trading Post Co. v. Arizona State Tax Commission, 380 U.S. 685 (1965) and McClanahan v. State Tax Commission of Arizona, ___ U.S. ___, 93 S.Ct. 1257, 36 L.Ed.2d 114 (1973). Nevertheless, non-Indians within an Indian reservation are presently required to pay state taxes.

In his letter of October 17, 1973, to Senator Don A. Bierle, Co-chairman of the Task Force, Secretary of the South Dakota Department of Revenue, Lyle Wendell, stated:

It is the position of the Department of Revenue, based on the present statutes of this state, that the South Dakota sales tax is not applicable to the sales to or by Indians on an Indian Reservation. The same situation is true with regard to sales of cigarettes.

Thus, there is no claim by the state of South Dakota that it may directly tax Indians in Indian country. The state Department of Revenue does feel that taxes placed on wholesalers may be properly collected by the state even though the taxed product is ultimately sold, used or consumed by Indians in Indian country.

While it is clear that state governments may not impose direct taxes on Indians within an Indian reservation, Indian tribes have imposed sales and other taxes on their members; although there is some question about the ability of Indian tribes to tax their members in view of a possible pre-emption by the federal government's regulation of trade with Indians in Indian country under the Indian Traders Act, 25 U.S.C. § 261-264. However, federal courts have not been called upon at the present time to decide this question, and at least one Indian tribe in South Dakota is presently taxing its members through a tribal sales tax.

Tax Collection Agreements:

In view of its commitment to formal agreements as a method of providing cooperation between the state government and the Indian tribes and in view of the ability of the state to tax only non-Indians in Indian country and the ability of the tribes to tax Indians in Indian country, the Task Force began quickly to look into the possibility of tax collection agreements.

A tax collection agreement is a contract between two governments (each with the power to tax persons under its jurisdiction) which provides that all taxes levied by either government will be collected by one sovereign and that the collecting government will

remit to the other government an agreed upon percentage of the total tax collected as the portion of the total tax collection which is deemed to have been raised by that government's tax. A quick example may be the easiest way to explain completely the concept of a tax collection agreement. For this example, we will use the actual tax collection agreement presently in force between the Pine Ridge Indian Tribe and the state government. The Pine Ridge tribal government levied a 4 per cent sales tax on all Indian purchases within Shannon and Washabaugh counties. The South Dakota state government has levied a 4 per cent sales tax on all non-Indian purchases in these two counties. The state already had a procedure for the collection of the tax. The Pine Ridge Tribe did not. The two governments then entered into a tax collection agreement. The state then collected a 4 per cent tax on all purchases, Indian and non-Indian alike. Then the state sent back to the tribal government 83 per cent of the total tax collected. This 83 per cent sent back to the tribal government was that portion of the total tax collected as a result of the tribal tax levy. It is important to realize in a tax collection agreement, that the collecting government is not giving its tax money to the other government, rather it is merely returning money it collected by administering the other government's tax.

Two points should be noted in connection with a general discussion of tax collection agreements. Both points are tied to the efficiency of the agreement. One of the basic purposes of a tax collection agreement is to lessen the cost of collecting the

two taxes and to avoid unnecessary duplication of effort by the governments involved. If the tax collection is to be done efficiently, it is important that the two taxes be similar so that the collector knows how much tax to charge the purchaser regardless of whether the purchaser is Indian or non-Indian. If the collector must determine on each purchase which tax (state or tribal) he is charging, he may as well keep separate books and there is no great need for the collection agreement.

The second point is that in tax collection agreements, the allocation of the total tax collection between the share raised by the state tax and the share raised by the tribal tax usually cannot be exactly determined. Again, if the collector must determine which tax each purchaser is to pay, he may as well keep separate accounts for each government. Under such circumstances, the advantages of a tax collection agreement are not great. However, under the more typical circumstance involving state and tribal governments in South Dakota, this type of precise determination of which tax a purchaser ought to pay, is often difficult and time consuming. When separate accounts as to which tax is collected on each purchase are not kept, the allocation of the total tax collected to each government cannot be made exactly. Instead, the total tax collected must then be allocated between the governments on the basis of a negotiated percentage in lieu of the exact allocation. The 83 per cent figure used in the Pine Ridge tax collection agreement is a negotiated rather than exact figure.

Legislative Proposals:

The state government conceded its inability to levy its cigarette and sales taxes on Indians in Indian country. The Task Force felt that tax collection agreements between those Indian tribes, which wished to pass tribal cigarette and sales taxes, and the state government would be desirable. Accordingly, the Task Force has recommended the passage of legislation to encourage and authorize the state Department of Revenue to enter into tax collection agreements with interested Indian tribes in the areas of cigarette and sales taxation. (See Legislative Proposal F, Section IV of this report) Under this proposal, the exact nature of the agreements would be decided through the process of negotiation between the Indian tribes and the state Department of Revenue.

The Task Force has also considered the state alcoholic beverages tax and the propriety of Indians within Indian country paying that tax. The Task Force felt that it was unclear whether this tax, which is levied at the wholesale level, may be properly levied against liquor purchased by Indians in Indian country. The state Department of Revenue feels that this tax may be levied against all alcoholic beverages ultimately sold in the state.

Rather than leave this issue for resolution by litigation, the Task Force has recommended that alcoholic beverages purchased by Indians in Indian country be exempt from the state alcoholic beverages tax. (See Legislative Proposal G, section IV of this report.)

The Task Force felt that the alcoholic beverages tax is

ultimately paid by the consumer and that litigation challenging the state's right to collect this tax on alcoholic beverages sold to Indians in Indian country is likely to occur if nothing is done in this area. Accordingly, the Task Force has recommended that Indians' purchases of alcoholic beverages in Indian country be exempt from state taxation. The Task Force hopes in the future to encourage tax collection agreements in this area of taxation in order to assist the Indian tribes in developing this revenue source and to provide a stable price for alcoholic beverages throughout the state.

The Task Force has formulated no conclusions regarding other agreements in the area of taxation.

Hunting and Fishing Agreement:

The Task Force has begun a preliminary study into the problem of hunting and fishing on Indian reservations. The Task Force has studied the possibility of reaching a cooperative agreement on hunting and fishing which would be agreeable to both the Indian tribes and the Department of Game, Fish and Parks. The Department of Game, Fish and Parks has expressed willingness in discussing a cooperative agreement.

The possibility of a cooperative agreement on hunting and fishing is not new since the state of Minnesota and the Leech Lake Band of Chippewa Indians do have a cooperative agreement on hunting and fishing. The Task Force is studying the possibility of a cooperative agreement similar to the Leech Lake agreement. At the present time, hunting and fishing is under further consideration by the Task Force and a course of direction will occur when the Indian tribes inform the Task Force of their position on



hunting and fishing at the January meeting of the Task Force.

D. SERVICES PROVIDED TO INDIAN TRIBES BY FEDERAL, STATE, AND LOCAL AGENCIES

The Task Force has begun preliminary investigation into the area of services provided to tribal government by federal, state, and local agencies. The Task Force has only dealt with two subjects in this area and they are: 1) federal funds programmed for Indian tribes which are channeled through state agencies, and 2) the problems involved with caring for Indian patients at Yankton State Hospital.

Federal Funds Earmarked for Indian Tribes Channeled Through State Agencies:

The Task Force has begun a preliminary study into the area of federal program funds channeled through state agencies. Many federal programs such as the Law Enforcement Assistance Administration and the Bureau of Outdoor Recreation include Indian tribes in their funding, but the funding goes through state agencies, and tribes must deal with state agencies in order to receive these funds.

The major problems involved in this area are: 1) the Indian tribes negotiate with both a state agency and a regional Indian Desk on grant applications, 2) the bothersome technicalities that the tribes must go through in submitting applications to state agencies for federal grants, 3) the misunderstanding arising out of procedural problems with federal guidelines, 4) different guidelines for tribes in contrast to political subdivisions of state government for federal grants, and 5) tribes competing with

state political subdivisions for federal funds.

The end result of these problems is the bad feeling that it generates with the tribes and the state agencies dealing with tribes. A number of state agencies have expressed the opinion that federal funds earmarked for tribes should go directly to the tribes. Therefore, the Task Force is studying the possibility of recommending to the federal government that the State of South Dakota be allowed to discontinue its role as a funneling agent for funds earmarked for tribal governments. At the present time, the problem of federal funds earmarked for tribes and channeled through state agencies is under further consideration by the Task Force, and a recommendation on the future of this procedure will occur after the Indian tribes inform the Task Force of their position on this issue at the January meeting.

The Problem of Health Services to Indians at Yankton State Hospital:

The Task Force has begun preliminary investigation into the problems that exist at Yankton State Hospital as to health services for Indian people. The problem has centered around two issues: 1) whether the state can involuntarily commit an Indian residing within Indian country, and 2) what agency or department of the state or federal government, if any, will bear the cost of treatment.

In Bad Bear v. Fall River County Subcommission for the Mentally Retarded, Circuit Judge Thomas Parker ruled that the state can involuntarily commit an Indian residing within Indian country. However, it is the opinion of legal counsel for the Task Force that a reservation Indian cannot "submit" to state

jurisdiction for involuntary commitment, and the state has no jurisdiction to compel a reservation Indian to attend and such a patient could leave at any time.

The question of jurisdiction involves the more important question, from the viewpoint of the state and federal governments, as to which government pays for services to an indigent reservation Indian. This question has not been answered, to the knowledge of the Task Force. Indian Health Service has taken the position that it is not required to pay for services to an Indian in a state hospital because the state cannot discriminate in its provision of services. However, this ignores the question of jurisdiction -- if an Indian cannot be involuntarily committed, the state cannot pay for services. The position of I.H.S. also ignores some statutory and perhaps treaty language which arguably places responsibility for health services of reservation Indians upon some aspect of the federal government, if not upon I.H.S. specifically. For example, 24 U.S.C. § 195a reads:

The Secretary of Health, Education, and Welfare is authorized to admit to Saint Elizabeth's Hospital in the District of Columbia, for care and treatment, upon application of the Secretary of the Interior, beneficiaries of the Bureau of Indian Affairs. The cost of such care and treatment shall be paid for by the Bureau of Indian Affairs.

Therefore, the responsibility of paying for health services for indigent reservation Indians is at a stalemate with the state and federal government both claiming that the other has the responsibility.

At the present time, the problem at Yankton State Hospital is under further consideration by the Task Force, and a recommendation in this area will be made after the Indian tribes inform the Task Force of their position on this subject at the January meeting of the Task Force.

IV.

LEGISLATIVE PROPOSALS RECOMMENDED BY THE TASK FORCE

The following six proposed bills were specifically recommended by the Task Force. They are discussed more fully in section III of this report.

Legislative Proposal A - Amending SDCL 5-23-32.

This bill would amend § 5-23-32 to allow the transfer of surplus state property to Indian tribes.

Legislative Proposal B - Amending SDCL 32-5-42.

This bill would allow the Indian tribes free license plates in the same manner as municipalities receive free license plates for their motor vehicles.

Legislative Proposal C - Amending SDCL 10-45-10 and 10-48-3.

This bill would exempt Indian tribes from state sales and fuel taxation in the same manner as municipalities are exempt from these taxes.

Legislative Proposal D - Amending SDCL 1-24-1(1).

This bill would change the definition of public agency to include specifically Indian tribes. This change would eliminate any question about the legality of intergovernmental agreements between the state government and the Indian tribes.

Legislative Proposal E - Amending SDCL 4-9-10.

This bill would allow the state treasurer and auditor to remit to Indian tribes any monies due to the Indian tribes under an intergovernmental agreement.

Legislative Proposal F - New Law.

This bill would authorize and encourage tax collection agreements between the state government and the Indian tribes. These

agreements could cover sales and cigarette taxes. The state would also relinquish whatever right it had to collect sales and cigarette taxes from Indians in Indian country.

Legislative Proposal G - Amending SDCL 35-5.

This bill would exempt the purchase of alcoholic beverages by Indians in Indian country from the state alcoholic beverages tax.

Legislative Proposal H - Amending SDCL 2-14-2.

This bill would define "Indian tribe" throughout the SDCL as an Indian tribe which is located within the State of South Dakota and which has a charter or constitution approved or granted by the Secretary of the Department of the Interior.

LEGISLATIVE PROPOSAL A

HOUSE BILL NO.

Introduced by: Messrs. Kelly, Songstad, Bierle, and Jones

FOR AN ACT ENTITLED, An Act to amend SDCL 5-23-32 relating to the transfer of surplus and obsolete equipment and supplies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 5-23-32 be amended to read as follows:

5-23-32. When any department, institution, or office may have a surplus of any furniture or fixtures, equipment, or supplies, or when any such furniture or fixtures, equipment, or supplies, have become useless or no longer needed by such department, institution, or office, the director may transfer such surplus property to some other department, institution, ((or)) other state agency, (((or Indian tribe,))) and if such transfer cannot be made, the director shall dispose of such furniture or fixtures, equipment, or supplies at private or public sale, but before such sale is made, such property shall be appraised by the secretary of finance, the director of purchasing and printing, and the auditor-general, and the same shall not be sold for less than ninety per cent of such appraisal.

LEGISLATIVE PROPOSAL B

HOUSE BILL NO.

Introduced by: Messrs. Songstad, Kelly, Jones and Bierle

FOR AN ACT ENTITLED, An Act to amend SDCL 32-5-42, relating to annual registration and license plates for publicly owned vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 32-5-42 be amended as follows:

32-5-42. Motor vehicles which are the property of this state, of the United States, of counties, municipal or public school corporations, ((or)) Indian mission schools in this state, (((or of Indian tribes,))) may be registered upon application, in the manner provided for other motor vehicles, except that such application ((,)) shall be made by the custodian of any such vehicle direct to the commissioner of motor vehicles. No fees shall be charged for the registration of such vehicle, and number plates therefor shall be charged for the registration of such vehicle, and number plates therefor shall be furnished by the commissioner of motor vehicles upon payment to him of the actual cost of such plates. All costs collected under the provisions of this section shall be depo-

sited in the license plate revolving fund and disbursements therefrom made by warrants drawn by the state auditor on vouchers duly approved by the commissioner of motor vehicles.

LEGISLATIVE PROPOSAL C

SENATE BILL NO.

Introduced by: Messrs. Bierle, Jones, Kelly, and Songstad

FOR AN ACT ENTITLED, An Act to amend SDCL 10-45-10 and SDCL 10-48-3, relating to the exemption of Indian tribes from state sales and fuel taxation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That SDCL 10-45-10 be amended to read as follows:

10-45-10. There are hereby specifically exempted from the provisions of this chapter and from the computation of the amount of tax imposed by it, the gross receipts from sales to the United States, to the state of South Dakota, ((or)) to public or municipal corporations in the state of South Dakota ((or)) (((,to))) any relief agency (((, or to any Indian tribe))).

Section 2. That SDCL 10-48-3 be amended to read as follows:

10-48-3. All counties, including unorganized counties, municipalities ((and)) (((,))) organized townships (((, and Indian tribes))) shall be exempt from the payment of gallonage tax imposed on use fuel as defined by this chapter. This section applies only to use fuel used by said political subdivisions (((and Indian tribes))) in machinery or equipment owned

and operated by such political subdivisions (((and Indian tribes))) and in highway and street work performed by said political subdivisions (((and Indian tribes))) by day labor.

LEGISLATIVE PROPOSAL D

HOUSE BILL NO.

Introduced by: Messrs. Kelly, Songstad, Bierle, and Jones

FOR AN ACT ENTITLED, An Act to amend SDCL 1-24-1(1),
relating to the definition of a public agency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 1-24-1(1) be amended to read as follows:

- (1) "Public agency" shall mean any county, municipality, township, school district, water conservancy sub-district or drainage district of the state of South Dakota; any agency of South Dakota state government or of the United States; ((and)) any adjacent political subdivision of another state (((; and any Indian tribe))).

LEGISLATIVE PROPOSAL E

HOUSE BILL NO.

Introduced by: Messrs. Songstad, Kelly, Jones and Bierle

FOR AN ACT ENTITLED, An Act to amend SDCL 4-9-10, relating
to the disbursement of public funds

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That § 4-9-10 be amended to read as follows:

4-9-10. The apportionment of all money paid into the
state treasury, any part of which is required by law to be
paid to the several counties, ((or)) to municipal corporations,
(((or to Indian tribes, or any part of which is to be rebated
in compliance with any intergovernmental agreement pursuant
to SDCL 1-24,))) shall be made by the auditor and treasurer.
The auditor shall, and he is authorized to draw his warrants
on the state treasury for the amounts found due each county
((or)) (((,))) corporation (((, Indian tribe, or other public
agency))) and forward the same to the treasurer of such county
((or)) (((,))) corporation, (((Indian tribe, or other public
agency,))) and at the same time send a written notice to the
auditor of such county ((or))(((,))) corporation (((, Indian
tribe, or other public agency))) stating the amount so
apportioned.

LEGISLATIVE PROPOSAL F

SENATE BILL NO.

Introduced by: Messrs. Jones, Bierle, Kelly and Songstad

FOR AN ACT ENTITLED, An Act to authorize the state department
of revenue to enter into tax collection agreements with
Indian tribes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section . Terms as used in this Act, unless the context
otherwise requires, mean:

- (1) "Indian country" means those areas subject to
exclusive federal and tribal jurisdiction as
defined in 18 U.S.C. § 1151; and
- (2) "Tribal tax" means any sales or cigarette tax
imposed by an Indian tribe on persons subject
to the Indian tribe's taxing powers.

Section 2. The Legislature finds that the public
interest of both Indians and non-Indians is best served by
close cooperation between the state government and the Indian
tribes. The Legislature finds this cooperation to be espe-
cially important in the area of taxation. Accordingly, the
Legislature hereby authorizes the state department of revenue
to enter into tax collection agreements with Indian tribes.

Section 3. The state of South Dakota hereby relinquishes

any jurisdiction it may have to levy and collect from Indians within Indian country the following state taxes:

- (1) The retail sales and service tax imposed by SDCL 10-45;
- (2) The use tax imposed by SDCL 10-46; and
- (3) The cigarette tax imposed by SDCL 10-50.

Section 4. The state department of revenue is hereby authorized to enter into tax collection agreements with any Indian tribe under the provisions of SDCL 1-24. These agreements may provide for the collection of any tribal sales or cigarette tax by the state department of revenue for the Indian tribe. The agreement may provide for the retention by the state department of revenue of an agreed upon percentage of the gross revenue as an administrative fee.

Section 5. A tax collection agreement between the state department of revenue and an Indian tribe may provide, if agreed upon by the parties, that a fixed percentage of the total annual state and tribal tax proceeds from an area of Indian country shall be remitted to the Indian tribe in lieu of the exact amount of the revenue collected as a result of the imposition of tribal taxes.

Section 6. Any tax collection agreements between the state department of revenue and an Indian tribe shall be for a term not to exceed five years. Such agreement, however, shall be renewable upon expiration of the old agreement, upon the mutual consent of the parties.

LEGISLATIVE PROPOSAL G

SENATE BILL NO.

Introduced by: Messrs. Bierle and Kelly

FOR AN ACT ENTITLED, An Act to amend SDCL 35-5 by adding thereto a new section relating to the taxation of alcoholic beverages in Indian country.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That SDCL 35-5 be amended by adding thereto a new section reading as follows:

Notwithstanding any other provision in this chapter, alcoholic beverages purchased by Indians within Indian country, as defined in 18 U.S.C. § 1151, shall not be subject to the tax imposed by this chapter.



LEGISLATIVE PROPOSAL H

HOUSE BILL NO.

Introduced by: Messrs. Kelly, Songstad, Bierle and Jones

FOR AN ACT ENTITLED, An Act to amend SDCL 2-14-2 by adding thereto a new subdivision relating to the definition of Indian tribe.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

That SDCL 2-14-2 be amended by adding thereto a new subdivision reading as follows:

2-14-2. "Indian tribe," means any Indian tribe which is located either wholly or partially within the state of South Dakota and which has a constitution approved by the secretary of the department of the interior pursuant to 25 U.S.C. § 477 and which possesses the powers of self-government.

V.

BUDGET SUMMARY

The 1973 Legislature appropriated \$100,000 for the operation of a Task Force on Indian-State Government Relations for the period of one year. Since the Task Force was not only a new agency, but dealt in a heretofor entirely unexplored area, there were questionable areas of expenditure. In preparing a budget, the Acting Director had to surmise what staff would be needed for research and support of Task Force directives. Travel for Task Force staff and members was another questionable area.

After a short period of operation, it was determined that by maximum use of a full time Director, a full time secretary, and two part-time legal researchers, and by limiting expenditures to only the essential necessities, the Task Force could operate within a budget of \$80,000. Provision was left in the \$80,000 budget for an occasional, additional clerical and/or legal counsel person if necessary.

The Task Force is now able to report with a fair degree of certainty that it will operate for the fiscal year 1973, on a budget of \$60,000 to \$65,000. The Task Force is in no way attempting to limit expenditures which would impede progress toward achievement of goals. It is merely attempting to exercise efficiency in operation.

If the Task Force were to be continued for another year, \$40,000, in addition to the expected savings, should be adequate for refunding purposes.

Attached to this summary are an Operating Budget, an Expense Statement, and an Average Monthly Expenditure Statement.

OPERATING BUDGET
for the
TASK FORCE
ON
INDIAN-STATE GOVERNMENT RELATIONS

01 Personal Services Total Budgeted \$46,400

Position	Salary Range	Budgeted
Director	\$17,500	\$15,400
Adm. Ass't. Researcher	\$10,800	\$ 8,000
Legal Researcher, Part-time	\$ 7,000	\$ 7,000
Adm. Secretary	\$ 7,000	\$ 7,000
Intern		\$ 3,000
Legal Intern		\$ 1,500
Per Diem (11 meetings)	\$ 25	\$ 4,500
Total		\$46,400

The budgeted totals are at variance with the salary ranges because most of the staff will be working for less than an entire year. As of December 31, 1973, the positions of Administrative Assistant Researcher and Intern have not been filled.

02 Employee Benefits Total Budgeted \$ 4,600

We assumed ten percent of personal services would cover employee benefits.

03 Travel Total Budgeted \$14,000

T-F Members travel (11 meetings)	\$ 7,000
T-F Members eating	\$ 1,200
T-F Members lodging (80 nights)	\$ 800
Total T-F member travel	\$ 9,000

Staff travel -- 55,000 miles	\$ 3,000
Staff meals -- 100 person days	\$ 650
Staff lodging -- 50 person days	\$ 500
Total Staff travel	\$ 4,150

Miscellaneous travel for both staff and especially Steering Committee	\$ 850
Total Travel	\$14,000

Operating Budget

-2-

04 Contractual Services Total Budgeted \$ 31,960

Rent and Utilities	\$ 3,000
Typewriters (leased)	\$ 1,500
Telephone	\$ 1,500
Mailing	\$ 750
Consultants	\$ 2,960
Advertising	\$ 1,500
Misc. for addition leased equipment, etc.	\$ 750
Other Contractual Services	\$20,000
Total	\$31,960

The \$20,000 under Other Contractual Services is the amount of appropriation the Task Force has budgeted for savings.

05 Supplies and Materials Total Budgeted \$ 3,000

General Office Supplies	\$ 1,250
Printing Expense	\$ 1,500
Miscellaneous	\$ 250
Total	\$ 3,000

06 Grants and Subsidies Total Budgeted None

07 Capital Assets Total Budgeted None

There may be a need to buy some equipment which is unavailable for loan. However, at this point we have no certain need for any capital assets.

08 Other Total Budgeted None

TOTAL BUDGETED \$100,000

EXPENSE STATEMENT

of the

TASK FORCE ON INDIAN-STATE GOVERNMENT RELATIONS
Five Months Ending November 30, 1973

	Year To Date
01 <u>Personal Services</u>	
Director	\$ 5,047.73
Legal Researcher	2,261.56
Secretary	2,499.06
Student Researcher	1,855.80
Temporary Appointments	55.00
Per Diem	1,950.00
Total	\$13,669.15
02 <u>Employee Benefits</u>	
F.I.C.A.	\$ 798.05
Health	145.70
Retirement	9.20
Moving Expense	306.00
Total	\$ 1,258.95
03 <u>Travel</u>	
Staff	\$ 948.59
Task Force Members	2,868.79
Applicants & Law Enforcem't. Mtg.	285.05
Total	\$ 4,102.43
04 <u>Contractual Services</u>	
Rent	\$ 1,009.50
Typewriters	205.04
Telephone	592.87
Postage	142.41
Advertising	926.28
Total	\$ 2,876.10
05 <u>Supplies and Materials</u>	
General Office Supplies	\$ 289.39
Printing	481.01
Capital Assets	25.15
Total	\$ 795.55
Total Expenditures	<u>\$22,702.18</u>

AVERAGE MONTHLY EXPENDITURES

OF THE

TASK FORCE ON INDIAN-STATE GOVERNMENT RELATIONS

01 <u>Personal Services</u>	\$3,200.00
02 <u>Employee Benefits</u>	\$ 320.00
03 <u>Travel</u>	\$ 870.00
04 <u>Contractual Services</u>	\$ 620.00
05 <u>Supplies and Materials</u>	\$ 190.00
Total Average Monthly Expenditures	<u>\$5,200.00</u>

These figures are not the average monthly expenditures for the five months covered in the Expense Statement, but are projected average monthly expenditures for the entire fiscal year. The reason the first five months' average monthly expenditures are lower is because the Task Force had limited staff and travel expenditure the first two months of operation.

VI.

FUTURE AREAS OF STUDY

During the last half of this fiscal year, the Task Force will complete its study and make recommendation on the following areas: 1) hunting and fishing, 2) federal program funds which are earmarked for Indian tribes and which are funneled through state agencies, and 3) the problems involved with caring for Indian patients at Yankton State Hospital.

There are a number of other problems of joint concern between the state and Indian tribes that need the consideration and study of the Task Force. The following is a listing of future study areas that will be under consideration by the Task Force:

(1) Law enforcement - Areas that need discussion and deliberation under law enforcement are extradition, cross-deputization, cooperative police agreements and planning. These subject areas need to be studied so that better law and order can be achieved for both Indians and non-Indians residing on Indian reservations. On extradition, the Task Force would want to consider the possibility of agreements between Indian tribal governments and the state of South Dakota to extradite to each other persons wanted by the other's law enforcement officials. Cross-deputization is already utilized in various parts of the state and further use of these types of agreements would provide for better law and order for both Indians and non-Indians. Cooperative police agreements can improve the cooperation between Indian

tribal police and state, county, and local police in dealing with law enforcement problems.

(2) Recognition of tribal courts by the state for some or all purposes - The issue of recognition of tribal courts by the state would include the problems involving the refusal of the state's bureau of vital statistics to recognize tribal adoptions, difficulties involving decrees of tribal courts in domestic relation cases, and tribal courts decisions on committing persons to various special care institutions.

(3) The delivery of services to Indian people by state agencies - The Task Force will continue its study and research into services provided by state agencies to reservation Indian people. The policy of state agencies (with emphasis on the Department of Social Services) toward tribal governments and the individual reservation Indian will also be studied.

(4) Liquor laws and licenses - The state's requirement that liquor wholesalers sell only to retailers licensed by the state of South Dakota should be considered with regard to providing for sales to retailers licensed by tribal governments.

(5) The problem of state and tribal jurisdiction - There is a great confusion among the citizens of the state as to the various authorities and jurisdictions between the state, tribal, federal, county and local governments. The Task Force will also study the problem involved in the exterior boundaries of the reservations.

(6) Representation of Indian people in state government - The Task Force will consider how more input by Indian people can

be achieved in the decisions and policies of the State of South Dakota.

The procedure followed by the Task Force has been that the tribal chairmen have proposed the areas of study for research and investigation by the Task Force. Therefore, the tribal chairmen may request a subject area studied that has not been listed in this report.

The Task Force will attempt to study and make recommendation on the areas of study that have been listed in this report. However, it seems certain that not all of these subjects will be able to be studied with resulting recommended solutions in only one year.

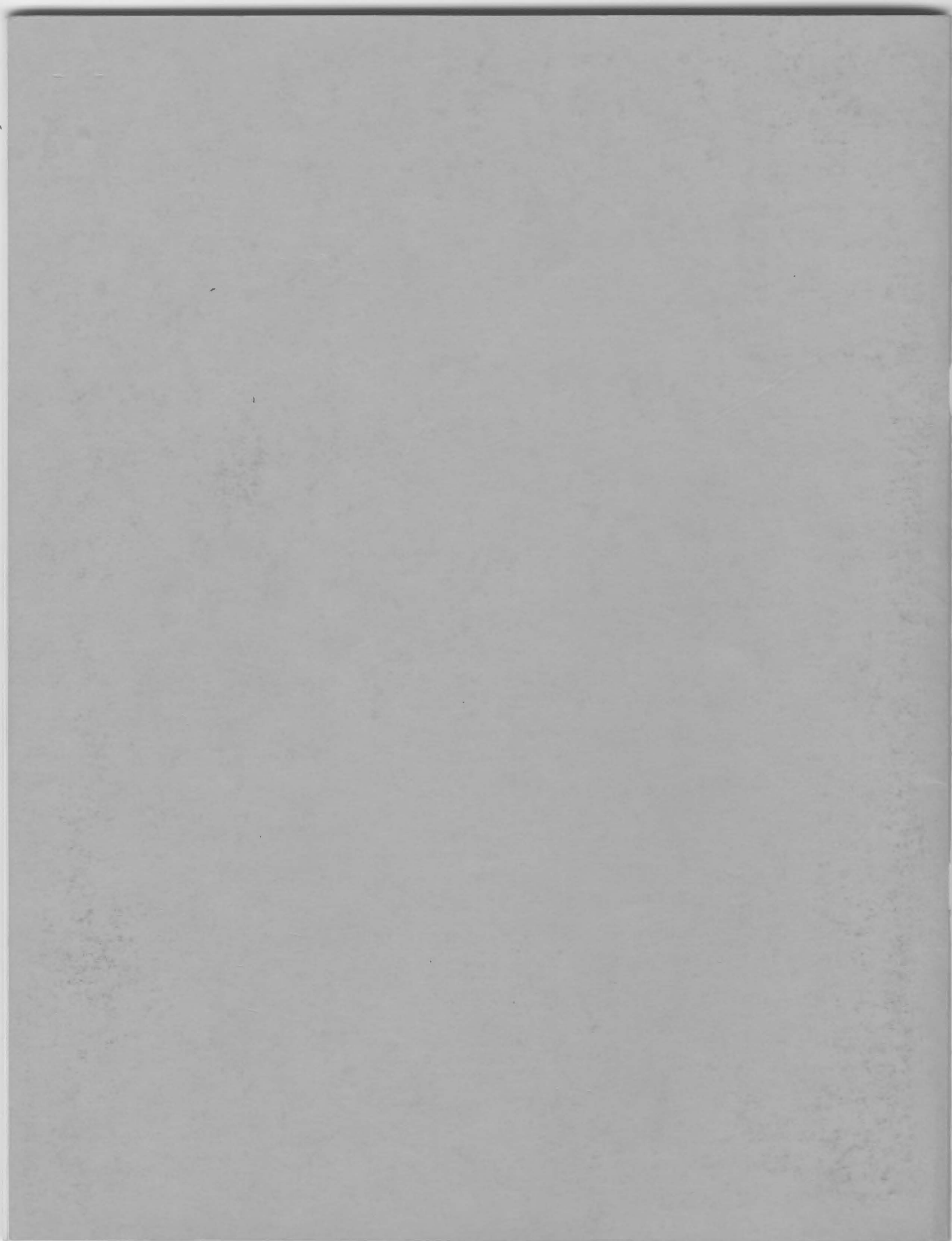
VII.

CONCLUSION

In creating the Task Force on Indian-State Government Relations, the state of South Dakota has taken an enlightened position as to how it should deal with its Indian people. It is in the interest of both the Indian and non-Indian people of South Dakota that problems that exist between the state government and tribal governments be resolved through cooperation rather than confrontation.

In the short period of time that the Task Force has been in existence, the Task Force has achieved a number of accomplishments and has studied and offered recommended solutions to problems of joint concern between the Indian tribes and state government. The Task Force has made a number of recommendations to the South Dakota legislature and will seek the introduction and support of these proposed legislative changes. The importance of these legislative changes toward the improvement of relations between the Indian tribes and state government cannot be over emphasized.

The Task Force does not claim it can solve all the problems that exist between the Indian people and the non-Indian people of South Dakota nor can it immediately produce permanent good will and understanding. However, as a number of tribal chairmen and state officials have commented, the Task Force is a step in the right direction toward improved relations between the Indian tribes and state government.



DEPARTMENT OF JUSTICE
ROUTING SLIP

TO:	NAME			
1.	Mr. Patterson			
2.				
3.				
4.				

- | | | |
|---|---|---|
| ☐ SIGNATURE | ☐ COMMENT | ☐ PER CONVERSATION |
| ☐ APPROVAL | ☐ NECESSARY ACTION | ☐ AS REQUESTED |
| ☐ SEE ME | ☐ NOTE AND RETURN | ☐ NOTE AND FILE |
| ☐ RECOMMENDATION | ☐ CALL ME | ☐ YOUR INFORMATION |
| ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____ | | |
| ☐ PREPARE REPLY FOR THE SIGNATURE OF _____ | | |

REMARKS

Drafts of the letters to White
Eagle & Kneip.

R Dennis Icker

9-17-74

I ran the Kneip letter by
Suarez.

FROM:	NAME	BUILDING & ROOM	EXT.	DATE

received
Aug 22



The White House
Washington

WH9029(1044)(2-010362E234)PD 08/22/74 1044

ICS IPMBNGZ CSP

1974 AUG 22 AM 11 27

6052243212 TDBN PIERRE SD 131 08-22 1044A EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS TO ADVISED YOU OF ANY INCREASELY SERIOUS AND VOLATILE
SITUATION DEVELOPING AROUND SOUTH DAKOTA INDIAN RESERVATION.
LEGAL RESTRAINTS CREATED BY FEDERAL LAW AND FEDERAL COURTS DECISIONS
SEVERELY RESTRICT THE ABILITY OF LOCAL AND STATE LAWS ENFORCEMENT
TO DEAL WITH GROWING LAWLESSNESS IN RESERVATION AREA. FEARFUL
CITIZEN THREATEN TO TAKE THE LAW INTO THEIR OWN HANDS UNLESS
THEY CAN BE ASSURE OF LAW ENFORCEMENT PROTECTIONS WHICH CAN
ONLY BE PROVIDED BY FEDERAL AUTHORITY. BOTH INDIAN AND NON INDIAN
CITIZEN URGENTLY NEED YOUR HELP AND IN INSURING THEIR PERSONAL
SAFETY AND PROPERTY AGAINST CRIMINAL ACTS. THE STATE OF SOUTH
DAKOTA AND LOCAL AUTHORITY STAND READY TO COOPERATE TO THE EXTINCT

8114

FORM 0803 PRINTED BY THE STANDARD ASSISTANCE COMPANY, L. S. A.

OF OUR RESOURCES AND LEGAL AUTHORITY. I RESPECTFULLY ASK THAT
YOU IMMEDIATELY ATTENTION BE GIVEN TO SERIOUS THREAT TO PUBLIC
ORDER AND LEGAL PROCESSES.

RICHARD KENIP, GOVERNOR OF SOUTH DAKOTA

NNNN



FORM 6003 PRINTED BY THE STATE OF ARIZONA 12-11-64

THE WHITE HOUSE
WASHINGTON

SEP 3 1974
430

August 27, 1974

Morrie -

I gather that through
Norm Ross you got action on
the Governor's telegram.

You should have action
on this, also; for the
appropriate signature -- possibly
the President's if you consider
it required in this case.

Brad



See file
Off White House
Washington

3L WHA053(1531)(2-026654E235)PD 08/23/74 1531
ICS IPMBNGZ CSP 27 11 3 41 1974 AUG 23 PM 3 36

7018542561 TDBN FORT YATES ND 238 08-23 0331P EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THE STANDING ROCK SIOUX TRIBAL COUNCIL IN SPECIAL SESSION ON
AUGUST 23RD 1974 VOTED UNANIMOUSLY TO STRONGLY OBJECT TO SOUTH
DAKOTA GOVERNOR KNEIP'S TELEGRAM TO YOU OF AUGUST 22ND 1974.
WITHOUT CONSULTATION WITH TRIBAL GOVERNMENTS KNEIP CLAIMED "GROWING
LAWLESSNESS IN RESERVATION AREAS" AND THE THREAT OF CITIZENS
TAKING "THE LAW INTO THEIR OWN HANDS" KNEIP FURTHER CLAIMED
THAT FEDERAL LAW AND FEDERAL COURT DECISIONS RESTRICTED HIS
USE OF LOCAL AND STATE LAW ENFORCEMENT WITHIN THE RESERVATION.
THE STANDING ROCK SIOUX TRIBAL COUNCIL BELIEVES THESE ALLOGATIONS
TO BE VASTLY OVEREMPHASIZED WITH A POLITICAL INTENT TO DIMINISH
SOVEREIGNTY IN THE AREA OF LAW AND ORDER. THE TRIBAL COUNCIL

WILL NOT ACCEPT THE THREAT OF VIOLENCE IN SOUTH DAKOTA AS AN
INSTRUMENT TO DIMINISH OR ENCROACH UPON TRIBAL SOVEREIGNTY ESTABLISHE
D BY TREATY AND OTHER AGREEMENTS WITH THE UNITED STATES.

HISTORICALLY, PEACE UNDER LAW HAS BEEN RECOGNIZED AND RESPECTED
BY THE STANDING ROCK SIOUX TRIBE. THE TRIBAL COUNCIL NOTES,
HOWEVER, THAT GOVERNOR KNEIP IMPLYS THAT FEDERAL LAWS AND FEDERAL
COURT DECISIONS STAND IN THE WAY OF KEEPING PEACE ON THE RESERVATIONS
. THE STANDING ROCK SIOUX TRIBAL COUNCIL STRONGLY OBJECTS TO
THIS TRANSPARENT POLITICAL MANEUVER FOR DISREGARDING THE TRADITIONAL
FEDERAL TRIBAL RELATIONSHIP. THE TRIBAL COUNCIL BELIEVES COMMON
COURTESY REQUIRES THAT THE GOVERNOR OF SOUTH DAKOTA APOLOGIZE
TO THE PEOPLE OF THE STANDING ROCK SIOUX TRIBE FOR HIS UNWARRENTED
STATEMENTS AND ALLOGATIONS IN HIS TELEGRAM TO YOU OF AUGUST

22ND 1974. RESPECTIFULLY

MELVIN WHITE EAGLE, CHAIRMAN STANDING ROCK SIOUX TRIBE

NNNN



*received
Aug 22*

The White House
Washington

1974 AUG 22 AM 11 27

0114

WHB029(1044)(2-010362E234)PD 08/22/74 1044

ICS IPMBNGZ CSP

6052243212 TDBN PIERRE SD 131 08-22 1044A EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS TO ADVISED YOU OF ANY INCREASELY SERIOUS AND VOLATILE
SITUATION DEVELOPING AROUND SOUTH DAKOTA INDIAN RESERVATION.
LEGAL RESTRAINTS CREATED BY FEDERAL LAW AND FEDERAL COURTS DECISIONS
SEVERELY RESTRICT THE ABILITY OF LOCAL AND STATE LAWS ENFORCEMENT
TO DEAL WITH GROWING LAWLESSNESS IN RESERVATION AREA. FEARFUL
CITIZEN THREATEN TO TAKE THE LAW INTO THEIR OWN HANDS UNLESS
THEY CAN BE ASSURE OF LAW ENFORCEMENT PROTECTIONS WHICH CAN
ONLY BE PROVIDED BY FEDERAL AUTHORITY. BOTH INDIAN AND NON INDIAN
CITIZEN URGENTLY NEED YOUR HELP AND IN INSURING THEIR PERSONAL
SAFETY AND PROPERTY AGAINST CRIMINAL ACTS. THE STATE OF SOUTH
DAKOTA AND LOCAL AUTHORITY STAND READY TO COOPERATE TO THE EXTINCT

FORM 0805 PRINTED BY THE STANDARD REGISTER COMPANY U.S.A.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

OF OUR RESOURCES AND LEGAL AUTHORITY. I RESPECTFULLY ASK THAT
YOU IMMEDIATELY ATTENTION BE GIVEN TO SERIOUS THREAT TO PUBLIC
ORDER AND LEGAL PROCESSES.

RICHARD KENIP GOVERNOR OF SOUTH DAKOTA

NNNN



5
Brad Patterson

The White House
Washington

BL WHA053(1531)(2-226654E235)PD 08/23/74 1531
ICS IPMBNGZ CSP 27 AUG 9 41 1974 AUG 23 PM 3 36

7018542561 TDBN FORT YATES ND 238 08-23 0331P EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THE STANDING ROCK SIOUX TRIBAL COUNCIL IN SPECIAL SESSION ON
AUGUST 23RD 1974 VOTED UNANIMOUSLY TO STRONGLY OBJECT TO SOUTH
DAKOTA GOVERNOR KNEIP'S TELEGRAM TO YOU OF AUGUST 22ND 1974.
WITHOUT CONSULTATION WITH TRIBAL GOVERNMENTS KNEIP CLAIMED "GROWING
LAWLESSNESS IN RESERVATION AREAS" AND THE THREAT OF CITIZENS
TAKING "THE LAW INTO THEIR OWN HANDS" KNEIP FURTHER CLAIMED
THAT FEDERAL LAW AND FEDERAL COURT DECISIONS RESTRICTED HIS
USE OF LOCAL AND STATE LAW ENFORCEMENT WITHIN THE RESERVATION.
THE STANDING ROCK SIOUX TRIBAL COUNCIL BELIEVES THESE ALLOGATIONS
TO BE VASTLY OVEREMPHASIZED WITH A POLITICAL INTENT TO DIMINISH
SOVEREIGNTY IN THE AREA OF LAW AND ORDER. THE TRIBAL COUNCIL



1
2
3
4
5
6
7 WILL NOT ACCEPT THE THREAT OF VIOLENCE IN SOUTH DAKOTA AS AN
8 INSTRUMENT TO DIMINISH OR ENCROACH UPON TRIBAL SOVEREIGNTY ESTABLISHED
9 BY TREATY AND OTHER AGREEMENTS WITH THE UNITED STATES.
10
11

12
13 HISTORICALLY, PEACE UNDER LAW HAS BEEN RECOGNIZED AND RESPECTED
14 BY THE STANDING ROCK SIOUX TRIBE. THE TRIBAL COUNCIL NOTES,
15 HOWEVER, THAT GOVERNOR KNEIP IMPLIES THAT FEDERAL LAWS AND FEDERAL
16 COURT DECISIONS STAND IN THE WAY OF KEEPING PEACE ON THE RESERVATIONS
17 . THE STANDING ROCK SIOUX TRIBAL COUNCIL STRONGLY OBJECTS TO
18 THIS TRANSPARENT POLITICAL MANEUVER FOR DISREGARDING THE TRADITIONAL
19 FEDERAL TRIBAL RELATIONSHIP. THE TRIBAL COUNCIL BELIEVES COMMON
20 COURTESY REQUIRES THAT THE GOVERNOR OF SOUTH DAKOTA APOLOGIZE
21 TO THE PEOPLE OF THE STANDING ROCK SIOUX TRIBE FOR HIS UNWARRENTED
22 STATEMENTS AND ALLOGATIONS IN HIS TELEGRAM TO YOU OF AUGUST
23
24
25
26



22ND 1974. RESPECTFULLY

MELVIN WHITE EAGLE, CHAIRMAN STANDING ROCK SIOUX TRIBE.

NNNN

FORM 0805 PRINTED BY THE STANDARD REGISTER COMPANY, U. S. A.

12501





✓

Telephone No. 854-2561
Fort Yates, North Dakota 58538
August 23, 1974

The Honorable Gerald Ford
President of the United States
The White House
Washington, D.C. 20004

Dear Mr. President:

The Standing Rock Sioux Tribal Council, in special session on August 23, 1974, voted unanimously to strongly object to South Dakota Governor Kneip's telegram to you of August 22, 1974. Without consultation with Tribal governments, Kneip claimed "growing lawlessness in reservation areas" and the threat of citizens taking the "law into their own hands." Kneip further claimed that Federal law and Federal court decisions restricted his use of local and state law enforcement within the reservations. The Standing Rock Sioux Tribal Council believes these allegations to be vastly over-emphasized with the political intent to diminish Tribal sovereignty in the area of law and order. The Tribal Council will not accept the threat of violence in South Dakota as an instrument to diminish or encroach upon Tribal sovereignty established by Treaty and other agreements with the United States.

Historically, peace under law has been recognized and respected by the Standing Rock Sioux Tribe. The Tribal Council notes, however, that Governor Kneip implies that Federal laws and Federal court decisions stand in the way of keeping peace on the reservations. The Standing Rock Sioux Tribal Council strongly objects to this transparent political maneuver for disregarding the traditional Federal-Tribal relationship. The Tribal Council believes common courtesy requires that the Governor of South Dakota apologize to the people of the Standing Rock Sioux Tribe for his unwarranted statements and allegations in his telegram to you of August 22, 1974.

Sincerely,

Melvin White Eagle
Melvin White Eagle, Chairman
Standing Rock Sioux Tribe

Enclosure

MWE/sa



PRESIDENT GERALD FORD
THE WHITE HOUSE
WASHINGTON, D.C.

THIS IS TO ADVISE YOU OF AN INCREASINGLY SERIOUS AND VOLATILE SITUATION DEVELOPING ON AND AROUND SOUTH DAKOTA'S INDIAN RESERVATIONS. LEGAL RESTRAINTS CREATED BY FEDERAL LAW AND FEDERAL COURT DECISIONS SEVERELY RESTRICT THE ABILITY OF LOCAL AND STATE LAW ENFORCEMENT TO DEAL WITH GROWING LAWLESSNESS IN RESERVATION AREAS. FEARFUL CITIZENS THREATEN TO TAKE THE LAW INTO THEIR OWN HANDS UNLESS THEY CAN BE ASSURED OF LAW ENFORCEMENT PROTECTION WHICH CAN ONLY BE PROVIDED BY FEDERAL AUTHORITIES. BOTH INDIAN AND NON-INDIAN CITIZENS URGENTLY NEED YOUR HELP IN INSURING THEIR PERSONAL SAFETY AND PROPERTY AGAINST CRIMINAL ACTS. THE STATE OF SOUTH DAKOTA AND LOCAL AUTHORITIES STAND READY TO COOPERATE TO THE EXTENT OF OUR RESOURCES AND LEGAL AUTHORITY.

I RESPECTFULLY ASK THAT YOUR IMMEDIATE ATTENTION BE GIVEN TO THIS SERIOUS THREAT TO PUBLIC ORDER AND LEGAL PROCESSES.

RICHARD F. KNEIP
GOVERNOR OF SOUTH DAKOTA

(TELEGRAM ---- AUGUST 22, 1974) INFORMATION GAINED OVER TELEPHONE AUGUST 23, 1974



8/27

THE WHITE HOUSE
WASHINGTON

Call.
Linder's
office
- where
is the
orig telegram
now?



K.D.

It went to
Norm Rosot
then to
BIA.

2
3
4
5
6

The White House
Washington

Action to
MT
BIA
74 AUG 27 PM 9 41

1
2
3
4 BL WHA053(1531)(2-026654E235)PD 08/23/74 1531
5 ICS IPMBNGZ CSP
6
7 7018542561 TDBN FORT YATES ND 238 08-23 0331P EDT
8 PMS PRESIDENT GERALD FORD
9
10 WHITE HOUSE DC

11 THE STANDING ROCK SIOUX TRIBAL COUNCIL IN SPECIAL SESSION ON
12 AUGUST 23RD 1974 VOTED UNANIMOUSLY TO STRONGLY OBJECT TO SOUTH
13 DAKOTA GOVERNOR KNEIP'S TELEGRAM TO YOU OF AUGUST 22ND 1974.
14 WITHOUT CONSULTATION WITH TRIBAL GOVERNMENTS KNEIP CLAIMED "GROWING
15 LAWLESSNESS IN RESERVATION AREAS" AND THE THREAT OF CITIZENS
16 TAKING "THE LAW INTO THEIR OWN HANDS" KNEIP FURTHER CLAIMED
17 THAT FEDERAL LAW AND FEDERAL COURT DECISIONS RESTRICTED HIS
18 USE OF LOCAL AND STATE LAW ENFORCEMENT WITHIN THE RESERVATION.
19 THE STANDING ROCK SIOUX TRIBAL COUNCIL BELIEVES THESE ALLOGATIONS
20 TO BE VASTLY OVEREMPHASIZED WITH A POLITICAL INTENT TO DIMINISH
21 SOVEREIGNTY IN THE AREA OF LAW AND ORDER. THE TRIBAL COUNCIL
22
23
24
25
26



2
3
4
5
6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

WILL NOT ACCEPT THE THREAT OF VIOLENCE IN SOUTH DAKOTA AS AN INSTRUMENT TO DIMINISH OR ENCROACH UPON TRIBAL SOVEREIGNTY ESTABLISHED BY TREATY AND OTHER AGREEMENTS WITH THE UNITED STATES.

HISTORICALLY, PEACE UNDER LAW HAS BEEN RECOGNIZED AND RESPECTED BY THE STANDING ROCK SIOUX TRIBE. THE TRIBAL COUNCIL NOTES, HOWEVER, THAT GOVERNOR KNEIP IMPLIES THAT FEDERAL LAWS AND FEDERAL COURT DECISIONS STAND IN THE WAY OF KEEPING PEACE ON THE RESERVATIONS. THE STANDING ROCK SIOUX TRIBAL COUNCIL STRONGLY OBJECTS TO THIS TRANSPARENT POLITICAL MANEUVER FOR DISREGARDING THE TRADITIONAL FEDERAL TRIBAL RELATIONSHIP. THE TRIBAL COUNCIL BELIEVES COMMON COURTESY REQUIRES THAT THE GOVERNOR OF SOUTH DAKOTA APOLOGIZE TO THE PEOPLE OF THE STANDING ROCK SIOUX TRIBE FOR HIS UNWARRENTED STATEMENTS AND ALLOGATIONS IN HIS TELEGRAM TO YOU OF AUGUST



2
3
4
5
6

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

22ND 1974. RESPECTFULLY

MELVIN WHITE EAGLE, CHAIRMAN STANDING ROCK SIOUX TRIBE

NNNN



R. Linder

Office Memorandum
Washington

WH9029(1044)(2-010362E234)PD 08/22/74 1044

1974 AUG 22 11 11 27

ICS IPMBNGZ CSP

6052243212 TDBN PIERRE SD 131 08-22 1044A EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS TO ADVISED YOU OF ANY INCREASELY SERIOUS AND VOLATILE
SITUATION DEVELOPING AROUND SOUTH DAKOTA INDIAN RESERVATION.
LEGAL RESTRAINTS CREATED BY FEDERAL LAW AND FEDERAL COURTS DECISIONS
SEVERELY RESTRICT THE ABILITY OF LOCAL AND STATE LAWS ENFORCEMENT
TO DEAL WITH GROWING LAWLESSNESS IN RESERVATION AREA. FEARFUL
CITIZEN THREATEN TO TAKE THE LAW INTO THEIR OWN HANDS UNLESS
THEY CAN BE ASSURE OF LAW ENFORCEMENT PROTECTIONS WHICH CAN
ONLY BE PROVIDED BY FEDERAL AUTHORITY. BOTH INDIAN AND NON INDIAN
CITIZEN URGENTLY NEED YOUR HELP AND IN INSURING THEIR PERSONAL
SAFETY AND PROPERTY AGAINST CRIMINAL ACTS. THE STATE OF SOUTH
DAKOTA AND LOCAL AUTHORITY STAND READY TO COOPERATE TO THE EXTINCT

OF OUR RESOURCES AND LEGAL AUTHORITY. I RESPECTFULLY ASK THAT
YOU IMMEDIATELY ATTENTION BE GIVEN TO SERIOUS THREAT TO PUBLIC
ORDER AND LEGAL PROCESSES.

RICHARD KENIP GOVERNOR OF SOUTH DAKOTA

NNNN



7-12

August 28, 1974

Honorable Richard F. Kneip
Governor
State Capitol Building
Pierre, South Dakota 57501

Dear Governor Kneip:

Upon receipt of your August 22 telegram to President Ford the Department of Justice was immediately contacted in an effort to scrutinize the situation and take any necessary action.

Since that time I have been informed by the Deputy U. S. Attorney General that the Justice Department is aware of the situation you described, and will continue to watch the situation and take whatever action necessary as it develops.

Please call me if we should discuss this further.

Sincerely,

15/

Frank G. Zarb
Associate Director

cc:

~~Stam Schaefer~~ Norman Ross



8/28

August 28, 1974

Honorable Richard F. Kneip
Governor
State Capitol Building
Pierre, South Dakota 57501

Dear Governor Kneip:

Upon receipt of your August 22 telegram to President Ford the Department of Justice was immediately contacted in an effort to scrutinize the situation and take any necessary action.

Since that time I have been informed by the Deputy U. S. Attorney General that the Justice Department is aware of the situation you described, and will continue to watch the situation and take whatever action necessary as it develops.

Please call me if we should discuss this further.

Sincerely,

/s/

Frank G. Zarb
Associate Director

cc:

~~Sierra~~ ~~Sobczek~~ Norman Ross



received
Aug 22
The White House
Washington

WHB029(1044)(2-010362E234)PD 08/22/74 1044

1974 AUG 22 AM 11 27

ICS IPMBNGZ CSP

6052243212 TDBN PIERRE SD 131 08-22 1044A EDT

PMS PRESIDENT GERALD FORD

WHITE HOUSE DC

THIS IS TO ADVISED YOU OF ANY INCREASELY SERIOUS AND VOLATILE
SITUATION DEVELOPING AROUND SOUTH DAKOTA INDIAN RESERVATION.
LEGAL RESTRAINTS CREATED BY FEDERAL LAW AND FEDERAL COURTS DECISIONS
SEVERELY RESTRICT THE ABILITY OF LOCAL AND STATE LAWS ENFORCEMENT
TO DEAL WITH GROWING LAWLESSNESS IN RESERVATION AREA. FEARFUL
CITIZEN THREATEN TO TAKE THE LAW INTO THEIR OWN HANDS UNLESS
THEY CAN BE ASSURE OF LAW ENFORCEMENT PROTECTIONS WHICH CAN
ONLY BE PROVIDED BY FEDERAL AUTHORITY. BOTH INDIAN AND NON INDIAN
CITIZEN URGENTLY NEED YOUR HELP AND IN INSURING THEIR PERSONAL
SAFETY AND PROPERTY AGAINST CRIMINAL ACTS. THE STATE OF SOUTH
DAKOTA AND LOCAL AUTHORITY STAND READY TO COOPERATE TO THE EXTINCT



1
2
3
4
5
6
7 OF OUR RESOURCES AND LEGAL AUTHORITY. I RESPECTFULLY ASK THAT
8 YOU IMMEDIATELY ATTENTION BE GIVEN TO SERIOUS THREAT TO PUBLIC
9 ORDER AND LEGAL PROCESSES.
10

11 RICHARD KENIP, GOVERNOR OF SOUTH DAKOTA

12 NNNN
13
14
15
16
17
18

19 8/22

20 cc's sent to Zark, on B
21 Morris Thompson
22
23
24
25
26

FORM 0805 PRINTED BY THE STANDARD REGISTER COMPANY, U. S. A.

THE WHITE HOUSE
WASHINGTON

August 30, 1974

Morrie -

You already have action
on this matter, and should
add this to the pieces.

If you are doing a letter
for the President's signature,
please send it via this office.

SEP

4 1974



Brad

Received
Sept 3

DRAFT

Dear Mr. White Eagle:

Thank you for your telegram of August 23 regarding your views on the law enforcement and jurisdictional issues on the South Dakota Indian reservations.

Please find enclosed a copy of my reply to Governor Kneip's telegram of August 22.

I very much appreciate your views and assure you, too, of my concern and cooperation to protect the peace and safety of all the citizens of South Dakota.

Sincerely,

Mr. Melvin White Eagle
Chairman, Standing Rock Sioux
Tribal Council
Fort Yates, North Dakota 58538



DRAFT

Dear Governor Kneip:

This is to acknowledge your telegram of August 22 regarding the law enforcement and jurisdictional issues on the South Dakota Indian reservations.

I understand that a member of the Commissioner of Indian Affairs' office discussed the issues extensively on August 21 with Mr. George Bennett of your Public Safety Secretariat. Although there were some areas of different points of view, only through such open channels of communication can we all work together to find an equitable solution to these issues. The Indian people, themselves, are equally concerned, as expressed by Standing Rock Sioux Tribal Chairman Melvin White Eagle in his telegram of August 23.

Only through a joint effort by tribal, federal, state, county and municipal officials will we be able to resolve these issues. I assure you, and the tribal officials of my concern and cooperation to protect the peace and safety of all the citizens of South Dakota.

cc:

Mr. Melvin White Eagle
Chairman, Standing Rock Sioux Tribe



Brad Peterson
The White House
Washington, D.C. 20500

BULK RATE
US POSTAGE
PAID
PERMIT NO. 2
FORT YATES, ND

STANDING Rock STAR

FOURTH YEAR, NUMBER 9 STANDING ROCK SIOUX RESERVATION AUGUST 30, 1974 25¢

United States Department of Justice

UNITED STATES ATTORNEY

DISTRICT OF SOUTH DAKOTA
SIOUX FALLS, SOUTH DAKOTA 57102

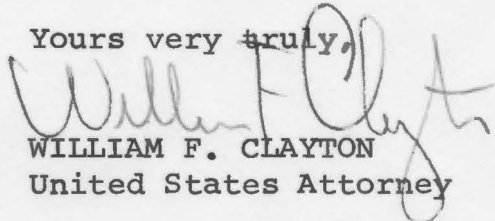
September 30, 1974

Mr. Bradley H. Patterson, Jr.
The White House
Washington, D. C.

Dear Brad:

I have sent copies of the letters that went out from the White House, to the tribal chairmen, and I am enclosing a list of the tribal chairmen to whom they were sent.

Yours very truly,


WILLIAM F. CLAYTON
United States Attorney

WFC:FMC

cc: Morrie Thompson
Kent Frizzell
Dennis Ickes



TRIBAL CHAIRMEN

T. L. Traversie
Cheyenne River Agency
Eagle Butte, S.Dak. 57625

Elnita M. Rank
Crow Creek Agency
Fort Thompson, S.Dak. 57339

Michael Jandreau
Lower Brule Agency
Lower Brule, S.Dak. 57548

Richard (Dick) Wilson
Pine Ridge Agency
Pine Ridge, S.Dak. 57770

Robert Burnette
Rosebud Agency
Mission, S.Dak. 57555

Percy Archambeau
Yankton Agency
Wagner, S.Dak. 57380

Harold Barse
Sisseton-Wahpeton Agency
Sisseton, S.Dak.



MGMWSHT HSB
2-037958E249 09/06/74
ICS IPMBNGZ CSP
7018542561 MGM TDBN FT YATES ND 396 09-06 0541P EDT
ZIP 20500

western union Mailgram



47
PRESIDENT GERALD FORD
WHITE HOUSE
WASHINGTON DC 20500
BP

DEAR MR PRESIDENT

IN RESPONSE TO SENATOR GEORGE MCGOVERNS PRESS RELEASE ISSUED SEPTEMBER 4 1974 REGARDING STATE JURISDICTION ON INDIAN RESERVATION IN SOUTH DAKOTA STANDING ROCKS SIOUX TRIBAL COUNCIL MET AND UNANIMOUSLY VOTED TO OBJECT TO THE FOLLOWING POINTS OF MCGOVERNS STATEMENT. MCGOVERN CALLED FOR FEDERAL MARSHALLS TO BE ASSIGNED IN APPROPRIATE LOCATIONS ON INDIAN RESERVATIONS IN SOUTH DAKOTA PENDING "THE RESOLUTION OF LEGAL QUESTIONS INVOLVING JURISDICTION IN INDIAN AREAS." MCGOVERN ALSO ADDED THAT STATE AND FEDERAL GOVERNMENT WORK OUT "A PERMANENT SETTLEMENT OF THE ENTIRE JURISDICTIONAL ISSUE." THE STANDING ROCK SIOUX COUNCIL DOES NOT BELIEVE THAT THE JURISDICTIONAL SITUATION WARRANTS THE USE OF PARA-MILITARY POLICE, TO BE DISPATCHED TO RESERVATIONS IN SOUTH DAKOTA. WE AGREE WITH SENATOR ABOUREZK IN HIS STATEMENTS THAT THE SITUATION IN SOUTH DAKOTA DOES WARRANT THE USE OF FEDERAL MARSHALLS. ABOUREZK ALSO NOTED THAT, IN HIS OPINION, IT IS THE BUREAU OF INDIAN AFFAIRS REFUSAL TO SUFFICIENTLY FUND LAW ENFORCEMENT AND JUDICIAL SERVICES ON THE RESERVATION WHICH IS CAUSING THE PROBLEM. THE TRIBAL COUNCIL BELIEVES SENATOR MCGOVERN HAS TAKEN RELATIVELY MINOR INCIDENTS AND HAS EXAGGERATED THEM IN AN APPARENT EFFORT TO JUSTIFY STATE CONTROLLED AND JURISDICTION IN INDIAN COUNTRY. TRIBAL COUNCILMEN ALSO RECOGNIZE INCONSISTENCY IN SENATOR MCGOVERNS RECENT STAND IN HELPING THE DAUGHTER OF THE LATE MARXIST PRESIDENT OF CHILE, SALVATORE ALLENDE, TO TRAVEL THROUGHOUT THE UNITED STATES TO SPEAK AGAINST "BRUTALITY AND OPPRESSION IN THAT SOUTH AMERICAN COUNTRY," (PEOPLE WEEKLY, AUGUST 19, 1974); WHILE, AT THE SAME TIME MCGOVERN HAS CALLED FOR PARA-MILITARY PERSONNEL TO CONTROL WHAT HE CALLS "A BREAK-DOWN OF LAW AND ORDER" ON INDIAN RESERVATIONS IN SOUTH DAKOTA. WE WOULD LIKE TO CALL TO THE ATTENTION OF THE SOUTH DAKOTA SENATOR THAT A CONSTITUTIONAL RELATIONSHIP BETWEEN THE UNITED STATES AND STANDING ROCKS EXISTED BEFORE SOUTH DAKOTA WAS FORMED. WE FEEL THAT HIS CALL TO HAVE THE STATE AND FEDERAL AUTHORITIES WORK OUT "A PERMANENT SETTLEMENT OF THE ENTIRE JURISDICTIONAL ISSUE" FAILS TO RECOGNIZE A CONSTITUTIONALLY VALID TREATY RELATIONSHIP, SUPPORTED BY FEDERAL DECISIONS, BETWEEN THE TRIBE AND THE UNITED STATES. THE TRIBAL COUNCIL UNANIMOUSLY CALLS FOR A MORATORIUM ON INFLAMMATORY STATEMENTS BEING ISSUED BY GOVERNOR RICHARD KNEIP AND SENATOR GEORGE MCGOVERN IN AN EFFORT TO BRING BACK RESPONSIBILITY AND SANITY IN THE RESOLUTION OF JURISDICTIONAL DIFFERENCES BETWEEN INDIAN TRIBES AND THE STATE OF SOUTH DAKOTA. RESPECTFULLY,
MELVIN WHITE EAGLE CHAIRMAN STANDING ROCK SIOUX TRIBE



western union Mailgram



17:41 EDT

MGMWSHT HSB

THIS MAILGRAM WAS TRANSMITTED ELECTRONICALLY BY WESTERN UNION TO A POST OFFICE NEAR YOU FOR DELIVERY



Return After Five Days To
Standing Rock Sioux Tribal Office
Fort Yates, North Dakota 58538



"Watching the Tribe's Welfare"



The Honorable Gerald Ford
President of the United States
The White House
Washington, D.C. 





Telephone No. 854-2561
Fort Yates, North Dakota 58538

September 6, 1974

The Honorable Gerald Ford
President of the United States
The White House
Washington, D.C. 20520

Dear Mr. President:

In response to Senator George McGovern's press release issued September 4, 1974, regarding state jurisdiction on Indian reservations in South Dakota, the Standing Rock Sioux Tribal Council met and unanimously voted to object to the following points of McGovern's statement. McGovern called for Federal marshalls to be assigned in appropriate locations on Indian reservations in South Dakota, pending "the resolution of legal questions involving jurisdiction in Indian areas." McGovern also added that state and Federal Government work out "a permanent settlement of the entire jurisdictional issue."

The Standing Rock Sioux Tribal Council does not believe that the jurisdictional situations warrant the use of para-military police to be dispatched to reservations in South Dakota. We agree with Senator Abourezk in his statements that the situation in South Dakota does not warrant the use of Federal marshalls. Abourezk also noted that, in his opinion, it is the Bureau of Indian Affairs' refusal to sufficiently fund law enforcement and judicial services on the reservations which is causing the problem. The Tribal Council believes Senator McGovern has taken relatively minor incidents and has exaggerated them in an apparent effort to justify state control and jurisdiction in Indian Country. Tribal Councilmen also recognize inconsistency in Senator McGovern's recent stand in helping the daughter of the late Marxist President of Chile, Salvatore Allende, to travel throughout the United States to speak against "brutality and oppression in that South American country," (People Weekly, August 19, 1974); while, at the same time, McGovern has called for para-military personnel to control what he calls "a breakdown of law and order" on Indian reservations in South Dakota.



We would like to call to the attention of the South Dakota Senator that a constitutional relationship between the United States and Standing Rock existed before South Dakota was formed. We feel that his call to have the state and Federal authorities work out "a permanent settlement of the entire jurisdictional issue" fails to recognize a constitutionally valid treaty relationship, supported by Federal court decisions, between the Tribe and the United States. The Tribal Council unanimously calls for a moratorium on inflammatory statements being issued by Governor Richard Kneip and Senator George McGovern in an effort to bring back responsibility and sanity in the resolution of jurisdictional differences between Indian tribes and the State of South Dakota.

Respectfully,

Melvin White Eagle

Melvin White Eagle, Chairman
Standing Rock Sioux Tribe

MWE:sa



September 19, 1974

Dear Mr. White Eagle:

This is in response to your letters to President Ford of August 23, and September 6, 1974 giving the Standing Rock Sioux Tribal Council's views concerning certain statements, made by South Dakota public officials.

The Department of Justice, which shares responsibility with the Department of the Interior for law enforcement on South Dakota Indian reservations in matters affecting the welfare of Indians and non-Indians, is following activities and events on the reservations. The Department of Justice believes that under current conditions and circumstances the existing law enforcement agencies on the reservations have the capability of handling the present law enforcement problems. The Department will continue to be sensitive to the law enforcement needs on South Dakota Indian reservations and act appropriately to new situations which may threaten the lives and property of reservation residents where the situation is beyond the capability of the reservation's available law enforcement agencies.

I am enclosing for your information a copy of my letter to Governor Kneip.

Sincerely,

Bradley H. Patterson, Jr.

Mr. Melvin White Eagle
Chairman
Standing Rock Sioux Tribal Council
Ft. Yates, North Dakota 58538

CF

cc Laker
Zarb (clear w Zarb)
Thompson

bcc Dick LaCourse



September 19, 1974

Dear Governor Knely:

This is to keep you abreast of the Federal Government's activities in South Dakota as to the law enforcement problems relating to jurisdiction on Indian reservations, and in further response to your August 22 telegram.

On August 19, 1974, R. Donald Ickes, Director of the Department of Justice's Office of Indian Rights arrived in South Dakota and in conjunction with the South Dakota United States Attorney's Office and the Bureau of Indian Affairs evaluated the law enforcement and jurisdictional problems arising from recent Eighth Circuit and State Supreme Court decisions. On August 21, 1974, the United States Attorney and Mr. Ickes met with representatives from South Dakota Attorney General Kermit Sande's Office concerning the problem. Together, Mr. Sande, Mr. Clayton and Mr. Ickes arranged for a meeting in Sisseton of federal, state, and tribal officials who are responsible for law enforcement on the Lake Traverse Reservation. That meeting of approximately 40 law enforcement officials resulted in a better understanding of each governmental unit's jurisdictional responsibilities and limitations.

In addition, a Memorandum of Understanding has been submitted by the United States Attorney and Mr. Ickes to state and tribal officials, as well as to your office. This Memorandum, if agreed to by the proposed signators, would clarify to law enforcement officials and prosecutors the current jurisdictional status of the Lake Traverse Reservation during this period of time when jurisdictional authority is under review by the U.S. Supreme Court. The Memorandum also seeks the pledge of mutual cooperation from the signators.

The Department of Justice and the Department of the Interior are continuing to watch the situation closely and will take appropriate action if new circumstances arise where the capability of the reservation's available law enforcement agencies is exceeded.

Sincerely,

Bradley H. Patterson, Jr.

Governor Richard F. Knely
State Capitol
Pierre, South Dakota



CF

cc: Ickes
Zark (closed w Zark)
Thompson
bcc: Dick & Louie
Sami & Louie

93D CONGRESS
2D SESSION

S. 4022

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 1974

Mr. McGOVERN (for himself, Mr. ABOUREZK, and Mr. CURTIS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To amend the Small Business Act to provide for compensation for small business and other losses arising out of the disturbances at Wounded Knee, South Dakota.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Small Business Act is amended by adding at the
4 end thereof the following new section:
5 "SEC. 21. (a) The Congress finds that—
6 "(1) many innocent persons suffered injuries and
7 losses as a result of the disturbances at Wounded Knee,
8 South Dakota, in 1973, and other related disturbances;
9 "(2) many such injuries and losses occurred as a



1 result of the forbearance of the Department of Justice
2 in dealing with the disturbances; and

3 “(3) the Government of the United States has an
4 obligation to compensate innocent persons for injuries
5 and losses for which they would not otherwise receive
6 compensation.

7 “(b) As used in this section—

8 “(1) ‘Commission’ means the Wounded Knee Com-
9 pensation Commission established under subsection (c)
10 of this section;

11 “(2) ‘innocent person’ means any person or entity
12 as to whom the Commission has reasonable grounds to
13 believe (A) was not willfully engaged in such disturb-
14 ances when that person or entity suffered the loss or
15 injury as the result of such disturbances or related dis-
16 turbances, and (B) was not responsible for such loss or
17 injury;

18 “(3) ‘uninsured loss or injury’ means any damage
19 to property, personal or real (including livestock, loss
20 of earnings, or damage to business), or any personal
21 injury which would not have occurred but for such dis-
22 turbances and for which compensation would not other-
23 wise be received; and

24 “(4) ‘related disturbance’ means any disturbance or
25 event occurring during the period January 1, 1973, to

1 and including May 9, 1973, within the States of Ne-
2 braska and South Dakota in which any nonresident of
3 Wounded Knee occupying Wounded Knee during all or
4 part of such period was involved.

5 “(c) (1) There is established a temporary commission
6 to be known as the Wounded Knee Compensation Commis-
7 sion.

8 “(2) (A) The Commission shall—

9 “(i) receive and accept claims filed with it within
10 one year after the date of enactment of this section by
11 any person seeking compensation for injuries and losses
12 which arose out of, or were caused by, the disturbances
13 at Wounded Knee, South Dakota, or any related disturb-
14 ance;

15 “(ii) determine whether a person filing such a
16 claim is an innocent person and therefore is entitled to
17 such compensation;

18 “(iii) determine the amount of such compensation
19 to which any such innocent person is entitled; and

20 “(iv) make an award to any such innocent person
21 in a sum equal to 100 per centum of the amount of such
22 compensation.

23 “(B) (i) Any final decision of the Commission pur-
24 suant to subparagraph (A) of this paragraph may be ap-
25 pealed to the Court of Claims.

1 “(ii) The Court of Claims shall have jurisdiction to
2 review by appeal any final decision of the Commission with
3 respect to a claim filed under this section.

4 “(d) (1) The Commission shall submit to the Con-
5 gress such interim reports as it deems advisable, including a
6 report, not later than six months after the date of enactment
7 of this section, relating to the amount and extent of damage
8 resulting from such disturbance and all related disturbances.

9 “(2) Not later than eighteen months after the date of
10 enactment of this section, the Commission shall submit to
11 the Congress and the President a final report, together with
12 such recommendations, as it deems advisable.

13 “(3) The Commission shall cease to exist sixty days
14 after the submission of its final report.

15 “(e) (1) The Commission shall be composed of five
16 members appointed by the President.

17 “(2) Three members shall constitute a quorum, but a
18 lesser number may conduct hearings. The chairman shall be
19 selected by a majority of the members of the Commission.

20 “(3) Members of the Commission shall, while serving
21 on the business of the Commission, be entitled to receive com-
22 pensation at a rate fixed by the Director of the Office of Man-
23 agement and Budget but not in excess of \$125 per day, in-
24 cluding traveltime; and while so serving away from their
25 homes or regular places of business they may be allowed

1 travel expenses, including per diem, as authorized by section
2 5703 of title 5, United States Code.

3 “(4) (A) The Commission or, on the authorization of
4 the Commission, any subcommittee thereof, may, for the
5 purpose of carrying out the provisions of this section, hold
6 hearings, administer oaths for the purpose of taking evidence
7 in any such hearings, take a testimony, and receive docu-
8 ments and other matter. Any member authorized by the
9 Commission may administer oaths or affirmations to wit-
10 nesses appearing before a Commission, or any subcommittee
11 thereof.

12 “(B) Each department, agency, and instrumentality
13 of the executive branch of the United States Government
14 shall furnish to the Commission, upon request made by the
15 chairman, such information as the Commission deems nec-
16 essary to carry out its functions under this section.

17 “(C) The Commission, without regard to the provisions
18 of title 5, United States Code, governing appointments in
19 the competitive service, and without regard to the provi-
20 sions of chapter 51 and subchapter III of chapter 53 of such
21 title, relating to classification and general schedule pay rates,
22 shall have the power—

23 “(i) to appoint and fix the compensation of such
24 personnel as it deems necessary;

25 “(ii) to procure the services of experts and con-

5 “(f) Any right of action of any person compensated
6 under subsection (c) of this section, arising out of the dis-
7 turbance at Wounded Knee, South Dakota, or any related
8 disturbance, shall, at the time payment of the compensation
9 required under such subsection is made, be assigned by that
10 person to the United States Government and such right of
11 action shall inure to the Government.

12 “(g) The Commission shall certify to the Treasurer of
13 the United States, and the Treasurer of the United States
14 shall pay, all awards made pursuant to subsection (c) of
15 this section.”

SEC. 2. There are hereby authorized to be appropriated such funds as are necessary to carry out the amendment made by this Act.

93D CONGRESS
2D SESSION

S. 4022

A BILL

To amend the Small Business Act to provide
for compensation for small business and
other losses arising out of the disturbances
at Wounded Knee, South Dakota.

By Mr. McGOVERN, Mr. ABOUREZK, and Mr.
CURTIS

SEPTEMBER 19, 1974

Read twice and referred to the Committee on
Banking, Housing and Urban Affairs

THE WHITE HOUSE
WASHINGTON

9-26-74

Norm Ross:

FYI

Brad Patterson

file



September 19, 1974

Dear Governor Kneip:

This is to keep you abreast of the Federal Government's activities in South Dakota as to the law enforcement problems relating to jurisdiction on Indian reservations, and in further response to your August 22 telegram.

On August 19, 1974, R. Dennis Ickes, Director of the Department of Justice's Office of Indian Rights arrived in South Dakota and in conjunction with the South Dakota United States Attorney's Office and the Bureau of Indian Affairs evaluated the law enforcement and jurisdictional problems arising from recent Eighth Circuit and State Supreme Court decisions. On August 21, 1974, the United States Attorney and Mr. Ickes met with representatives from South Dakota Attorney General Kermit Sande's Office concerning the problem. Together, Mr. Sande, Mr. Clayton and Mr. Ickes arranged for a meeting in Sisseton of federal, State, and tribal officials who are responsible for law enforcement on the Lake Traverse Reservation. That meeting of approximately 40 law enforcement officials resulted in a better understanding of each governmental unit's jurisdictional responsibilities and limitations.

In addition, a Memorandum of Understanding has been submitted by the United States Attorney and Mr. Ickes to state and tribal officials, as well as to your office. This Memorandum, if agreed to by the proposed signators, would clarify to law enforcement officials and prosecutors the current jurisdictional status of the Lake Traverse Reservation during this period of time when jurisdictional authority is under review by the U.S. Supreme Court. The Memorandum also seeks the pledge of mutual cooperation from the signators.

The Department of Justice and the Department of the Interior are continuing to watch the situation closely and will take appropriate action if new circumstances arise where the capability of the reservation's available law enforcement agencies is exceeded.

Sincerely,

Bradley H. Patterson, Jr.

Governor Richard F. Kneip
State Capitol
Pierre, South Dakota

CF

cc: Ickes
Zarb (closed w Zarb)
Thompson

bcc: Dick La Course

received Sept 26-



September 19, 1974

Dear Mr. White Eagle:

This is in response to your letters to President Ford of August 23, and September 6, 1974 giving the Standing Rock Sioux Tribal Council's views concerning certain statements, made by South Dakota public officials.

The Department of Justice, which shares responsibility with the Department of the Interior for law enforcement on South Dakota Indian reservations in matters affecting the welfare of Indians and non-Indians, is following activities and events on the reservations. The Department of Justice believes that under current conditions and circumstances the existing law enforcement agencies on the reservations have the capability of handling the present law enforcement problems. The Department will continue to be sensitive to the law enforcement needs on South Dakota Indian reservations and act appropriately to new situations which may threaten the lives and property of reservation residents where the situation is beyond the capability of the reservation's available law enforcement agencies.

I am enclosing for your information a copy of my letter to Governor Kneip.

Sincerely,

Bradley H. Patterson, Jr.

Mr. Melvin White Eagle
Chairman
Standing Rock Sioux Tribal Council
Ft. Yates, North Dakota 58538

CF

cc

Laker
Zarb (cleared w Zarb)
Thompson

bcc Dick LaCourse



THE WHITE HOUSE

WASHINGTON

September 26, 1974

Will -

Per our conversation.

The Governor was in this morning and talked to others on the staff unbeknownst to me. As a result, I understand, Morrie Thompson was asked to ascertain the views of the tribes.

I suggest you go ahead and circulate the copies here (minus the inscriptions on the bottom) and keep Morrie informed on any results/reactions.

Brad



November 6, 1974

MEMORANDUM FOR FRANK G. ZARB

Subject: Attorney General Saxbe's Meeting with
Wounded Knee Sympathizers

BACKGROUND

At 10:00 am today I received a call from Mr. Mark Lane, lawyer for AIM leader Dennis Banks in the Wounded Knee occupation trial. He related the following to me:

- Attorney General Saxbe had agreed to meet with "Jurors and Others," (a group comprised of Church leaders, AFL-CIO members, American Civil Liberties Union representatives and University Presidents, as well as 9 members of the original Wounded Knee jury and 3 alternates) on November 12, 1974 at 2:00 pm.
- The purpose of the meeting was to request that DOJ dismiss charges against approximately 100 reservation Indians who were allegedly involved in the occupation. Since the case was dismissed against Banks and Means, this group feels that charges should be dropped for the 100 Indians mentioned above.
- A member of Saxbe's staff, Mr. Salisbury, notified Mr. Lane that the scheduled meeting was canceled earlier this week.
- Attorney General Saxbe felt he could not meet with the group until Justice made a determination regarding DOJ's wish to appeal the dismissal of the case.
- Justice has til November 15, 1974 to file an appeal on the case.



- Mr. Lane asked Attorney General Saxbe to reconsider since approximately 50 people have arranged their schedules to visit with him on November 12th.
- Today Mr. Lane was told that Saxbe could not meet with "Jurors and Others" until after Justice has decided on the appeal.

Lane tried to reach Brad Patterson for assistance but was told he was reassigned to Mrs. Ford's office. The White House operator referred him to me. He is angry at Saxbe's cancellation since plans were made to bring in the sympathizers once the meeting was agreed to. Lane requests either White House representation at their meeting, or "high level" Justice representation. He has made it clear he does not intend to cancel the meeting and "...if no one will meet with us, we will meet on the steps of the Department of Justice by ourselves."

DEPARTMENT OF JUSTICE

I contacted Doris Meissner of Silberman's staff. Her information is as follows.

- Lane sent a letter to Saxbe on October 8, 1974 requesting the meeting, but Justice did not respond to the request and no meeting was agreed to.
- Salisbury compounded the problem by talking to Lane and trying to get him to agree to meet with Pottinger's staff. This effort confirmed, in a round about way, that DOJ was willing to meet with the group.
- Justice will not meet with "Jurors and Others" because
 - the group is not coming in as attorneys for the remaining defendants,
 - any statement made by a Justice Department official could be construed as evidence and introduced in court, and



- Justice will file an appeal on November 15th but does not want the information to be released until then for timing purposes.

Doris assured me that someone will meet with the group if they show up on the steps of the Department, but they will not give Lane that information now. The Solicitor General is willing to meet with lawyers representing the remaining defendants in the case. All inquiries regarding this issue should be referred to Kevin Maroney, in the Criminal Division, (739-2333).

Silberman would like to discuss this matter with you today and would like our support in not meeting with the group, or setting up a meeting for them with another official until after the 15th of November. Any such meeting would be moot at that point.

Ann S. Ramsay

bcc:
Official File-MD/NRES
Len Garment
Don Crabill
John Hill

MD/NRES:ARamsay:djh,x5626,11/6/74



15
FYI
[4/29/75]
Norm

PRELIMINARY REPORT OF THE FEDERAL GRAND

JURY IN RE MATTERS AT PINE RIDGE

MP
Earlier this year this grand jury heard testimony from over 80 witnesses who testified as to specific alleged criminal activities on the Pine Ridge Reservation. From these witnesses' testimony it has become clear to us that not all agencies of the federal government are performing their law and order responsibility in a satisfactory manner. Because of our oath as grand jurors we cannot reveal specific testimony which leads us to this conclusion; therefore, we refer to such testimony generally.

It is apparent that the law enforcement activity currently handled by the Bureau of Indian Affairs is not sufficiently funded to provide the necessary quantity and quality of personnel, equipment, and other human and physical resources necessary to effectuate a good law enforcement system on the reservation. In addition, we learned that the Bureau of Indian Affairs law enforcement command structure precludes professional law enforcement agency and area special officers from direct authority or control over subordinate officers. This condition places non-law enforcement trained persons in command of a highly technical field. Testimony showed that Bureau of Indian Affairs superintendents and area directors are selected on the basis of skills other than any training, experience and expertise in law and law enforcement. Thus, the allocation of personnel and fiscal resources is more likely to reflect a lack of familiarity with the law enforcement programs. In light of this, it would seem appropriate to provide for professional law enforcement officials to have more direct control over law enforcement on Indian reservations.



Testimony also disclosed that there is a confusion of responsibility as to law enforcement on Indian reservations. The question of whether State, Tribal or Federal Courts have jurisdiction over a given situation is still not sufficiently clear. In addition, we have learned that the Department of the Interior, which is principally responsible for law and order, although not primarily a law-enforcement agency, has had to use the United States Marshal Service, Federal Bureau of Investigation, United States Attorneys, and its litigative components in Washington, D.C. to share its law enforcement responsibilities on Indian reservations. This has apparently resulted in duplication of effort, confusion of responsibility, and occasionally friction between the agencies. This condition does not serve the best interest of justice in our opinion. We believe that the law enforcement responsibility should reside within one agency. Because the Department of Justice is charged with the primary responsibility for enforcing the criminal and civil laws of the United States, and because the Department of Interior's Bureau of Indian Affairs is primarily responsible for delivering social services to members of federally recognized Indian tribes, we believe that the Department of Justice, or a similarly obligated federal agency, should be delegated the law enforcement responsibility on Indian reservations.

We are also dismayed to learn through our investigation that the tribal court system is not adequately supported by funds, personnel, or other resources which normally are available to state and federal courts. The most striking inadequacy was the lack of funds to hold jury trials when trial by jury was demanded by tribal court defendants. This apparently has resulted in a large backlog of criminal cases and a long delay in bringing those charged with committing criminal offenses to trial.



It is our observation that persons who live on an Indian reservation in South Dakota, both Indian and non-Indian, are subject to a lesser quality of life, in part due to a certain degree of failure by all branches of the federal government.

Inasmuch as this grand jury has heard numerous witnesses and examined many evidentiary items, and because the situation demands immediate concern by the relevant public officials and agencies, we submit this document as a preliminary report of the grand jury. This grand jury intends to further deliberate these matters and expects to issue a final report.

This preliminary report has been approved by the unanimous vote of this grand jury and transmitted to the Court on the 29th day of April, 1975.

LYLE D. GRUBL

FOREMAN

