

Insular Territories Mtg 12-13 -93

PHOTOCOPY
PRESERVATION

DATE: December 14, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: December 13 Insular Territories Meeting

On Monday, December 13, I attended a meeting of Congressional Delegates from Insular Territories, House and Senate Committee Staff, and officials from the Department of Interior. The meeting was headed by Marcia Hale, and was intended to allow the Congressional representatives to air their differences with the proposed DPC Working Group on Insular Territories. This memorandum summarizes the important issues brought up at this meeting. I have also attached a copy of a letter sent to Secretary Babbitt from the Delegates yesterday.

IMPORTANT ISSUES

Opposition to an Interior-Led DPC Sub-Group

It seems clear that, judging from comments at the meeting and the attached letter, this group has some serious problems with the Department of Interior heading up a sub-group of the DPC (or a sub group of any kind). I believe there are two primary reasons for this resistance:

- First, there is a basic misunderstanding of how the Domestic Policy Council (and Intergovernmental Affairs as well) works. The Delegates and Committee staff seem to think that because the Department of Interior would chair the sub-group meetings, they would somehow centralize their authority over Insular issues. I tried to explain to them that this would not be the case -- that any decisions of the sub-group would filter up to you and other White House Principals for approval -- but I am afraid I was not successful.
- Second, there is a tremendous amount of emotion and resentment that exists from OTIA's (and Interior's) past relationship with the Insular Territories. OTIA is seen as representing the old colonial attitudes that used to permeate US/Territorial relations. This strong emotion virtually guarantees that any arrangement that places OTIA/Interior at the head of a sub-group will be viewed as unacceptable.

Appropriateness of DPC as Home for Sub-Group

There were some questions raised about the appropriateness of DPC as the home for an Insular Territories sub-group. Congressional participants at the

meeting seem feel that most of the issues that they are concerned about fall under NEC and NSC's realm of influence. The attached letter echoes this sentiment, stating on p. 2 that "many of the most important issues are actually within the purview of the other two Presidential policy councils (NEC and NSC)."

Inclusion of Puerto Rico

I believe that the Congressional participants were arguing for inclusion of Puerto Rico in any policy council mechanism that we create, although this was not very clear. Some argued that it made no sense to exclude Puerto Rico given its importance, yet at the same time others pointed out that inclusion of Puerto Rican issues would likely overwhelm the other Territories' issues and concerns. You may want to check with Marcia Hale for a better reading on this point.

Intergovernmental Affairs Involvement

Another misunderstanding arose over the role that Intergovernmental Affairs plays in the White House policymaking process. Strong appeals were made for Marcia and Intergovernmental Affairs to take the lead role in the interagency policymaking process. Marcia did a good job of explaining that her role is one of liaison, not of policymaking, and that DPC was the place for any policy-related body to reside. Hopefully, this point was made clear.

NEXT STEPS

Marcia told the group that she would meet with you and Donsia in the near future to discuss the concerns that were raised at the meeting.

U. S. House of Representatives
Committee on Natural Resources
SUBCOMMITTEE ON INSULAR AND
INTERNATIONAL AFFAIRS
1626 Longworth HOB
Washington, DC 20515



TELECOPIER COVER SHEET

TO: Mike Schmidt **FAX NO.** 456-7628
Domestic Policy Council

FROM: Jeff Farrow

COMMENTS: FYI

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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515-6201

December 13, 1993

The Honorable Bruce Babbitt
Secretary
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

Thank you again for meeting to discuss our objections to the Office of Territorial and International Affairs plan to obtain a role regarding the programs of other agencies as they relate to some of the insular areas and other concerns involving OTIA. We appreciate your commitment to work with us to reach a consensus on the way that matters affecting insular areas are handled and on the appropriate insular functions for Interior now that the insular areas have developed to the extent that they have.

Since our meeting, our staffs have had preliminary conversations about the critical issues involved. Also, Assistant Secretary Turner helpfully provided us with a draft proposal; explained that it was intended to address some of the major problems we had found in the plan; and sought support for the proposal.

The draft, however, confirmed the reasons for strong reservations about the plan. Its flaws include some of its basic elements and its underlying concept as well as provisions that can be modified. These fundamental defects cannot be rectified by minor revisions or interpretations. They require a different approach.

The most serious deficiency is that the proposal would allow OTIA to assume a lead and paternal role in all federal activities applying to the U.S. insular areas other than Puerto Rico.

OTIA currently has no statutory authority regarding other agencies' programs as they relate to Guam, the Northern Mariana Islands, and Virgin Islands and should not have such authority relating to American Samoa. Giving it a coordinating role regarding policies within the jurisdiction of other agencies would inevitably centralize power...even if that is not what is intended. No language providing assurances to the contrary could prevent other agencies from deferring to it, if only unofficially. This could add a bureaucratic hurdle to decisions.

OTIA once had extensive power over federal and local policies in all of the areas. Almost all of this authority has been replaced as islands have developed. Now that it is about to lose its last responsibility for administering a territory (Palau) it is time to plan Ms. Turner's supportable goal of being the last assistant secretary; not to give OTIA new power or a new lease on life.

The Hon. Bruce Babbitt
December 13, 1993
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Another concern is that the proposal would inexplicably establish a policy coordination mechanism for only four of the five U.S. insular areas. The fifth area, Puerto Rico, raises many of the same issues that the others do. The similarities between it and the Virgin Islands, for example, are often greater than between the Caribbean and the Pacific areas. At the same time, the distinctions among the Pacific areas are substantial. We point out the illogical nature of this aspect of the proposal to challenge lumping in together the areas that are included as much as to question including all but one of the insular areas.

We also have doubts about permitting OTIA to head a part of the Domestic Policy Council. This would exacerbate the problem of OTIA being in a lead role because it would effectively enable OTIA to lead a presidential office in addition to line agencies. Further, many of the most important issues are actually within the purview of the other two presidential policy councils.

After the plan's weaknesses were outlined to your staff, they suggested that we try to jointly identify the essential components of an acceptable structure for Executive Branch handling of matters concerning the insular areas. We agreed and, to keep faith with this understanding, the Committee deferred action on a proposal to essentially terminate OTIA. We, therefore, remain ready to collaborate with you in developing supportable federal policy procedures.

A requirement is that any new arrangement not represent a regression in the treatment of the areas. Hopefully, instead, it will be a promotion in insular political development. What we seek is a way to compensate for the areas' lack of power in the regular federal process. Additionally, while it should enable them to get attention at the level states do, any new system should also provide for individual consideration of the different situations and needs of various insular areas.

To be adequate, a proposal should accomplish the following.

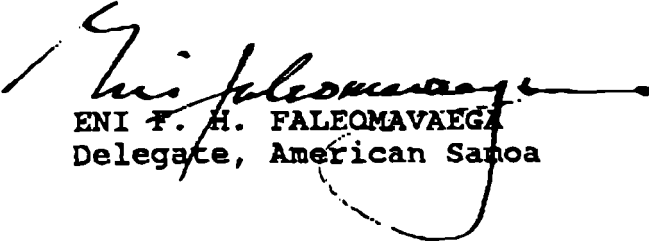
- o It should provide a primary contact point on special problems for the other U.S. insular areas within the Administration at the same level and as central as that for Puerto Rico since all of the areas are now as locally self-governing as Puerto Rico and since the issues involve those handled by the Economic, National Security, and Domestic Policy Councils. (Special questions regarding Puerto Rico are handled by the White House under a decision made by President Kennedy at Secretary Udall's recommendation and, within the White House, by the Office of Intergovernmental Affairs under a decision by Mr. McLarty.)

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- o It should provide for direct handling of day-to-day program matters by agencies and coordination, if necessary, by the appropriate entity in the Executive Office of the President, consistent with the Guam and Virgin Islands Organic Acts.
- o It should provide presidential support for your office's Guam commonwealth bill talks, to facilitate cooperation from other departments, consistent with the President's pledge to have them handled by a presidential representative.
- o It should provide for Northern Mariana Islands relations issues to be negotiated by a Representative of the President, as required by the Covenant with those islands and the law that approved it. The official should be a real representative of the President (as opposed to Interior) and report to the White House. It should also provide for other matters to be handled directly by agencies with the Commonwealth's Resident Representative, as also intended by the Covenant.

In closing, we want to express our hope that you will work with us to establish progressive measures to ensure that the officials really responsible for matters affecting insular areas address insular circumstances as seriously as they would those of the states. We also want to note that because this matter is a vital one in federal-insular relations and because the Constitution assigns Congress primary authority regarding insular policy, we regard it as being of the highest importance to this Committee.

Sincerely,



ENI F. H. FALEOMAVEGA
Delegate, American Samoa



RON DE LUGO
Chairman
Subcommittee on Insular and
International Affairs
Delegate, Virgin Islands



ROBERT A. UNDERWOOD
Delegate, Guam

cc: The Honorable George Miller
The Honorable Thomas F. (Mack) McLarty
The Honorable Marcia Hale
The Honorable Carol Rasco
The Honorable Leon Panetta
The Honorable Juan Babauta
The Honorable Leslie M. Turner

U.S. Insular Areas Relations/Policy Arrangement Criteria

- o No increase in OTIA's role. (OTIA now has no role in the programs of other agencies in Guam, the Virgin Islands, or the Northern Mariana Islands.) Plan a phase-out of OTIA, consistent with an objective to which Asst. Sec. Turner has agreed.**
- o An Administration contact point for Guam, the V.I., the N.M.I. and American Samoa as central as that for Puerto Rico (since all are now as self-governing as P.R.) A White House staff member central enough to provide equal and authoritative access to all EOP policy councils and offices and all agencies.**
- o No OTIA-led committee to centrally oversee or coordinate any matter relating to the four smaller areas together, consistent with the distinctions among them and the reality that they raise many of the same issues that Puerto Rico does. Individual attention to all areas from the appropriate agency or EOP entity.**
- o No functions for OTIA not authorized by law consistent with the Constitution's specific assignment that Congress lead on territories matters. Agreement on any new insular intergovernmental relations/ policy attention arrangement consistent with the role of the Delegates under law.**
- o Presidential support for the Interior Secretary's Office's Guam commonwealth bill talks to ensure attention by other agencies, consistent with the President's pledge to have them handled by a presidential representative.**
- o Handling of Northern Mariana Islands relations issues by a Representative of the President, as required by the Covenant and the Covenant law. (A real representative reporting to the White House as intended rather than an Interior official.)**
- o Agency handling of other N.M.I. issues with the Commonwealth's Resident Representative, as also provided for by the Covenant.**
- o Direct agency handling of program issues with Guam and the Virgin Islands, consistent with the Guam and V.I. Organic Acts.**

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- Territories - Status
 - very excited Clinton -- Kennedy
 - Politically, all Territories same
Guam, VI, PR

Strengthening OTIA -- Unacceptable because of history

- end colonialism - bad history
- hope OTIA phased out over time

choice:

- ① strengthen OTIA - NO
- ② Come to WH

OTIA - PR in WH -- others need to be as well
OTIA wrong vehicle for these times

No personal reflection on Leslie Turner

- not a desire to "be PR" - but why not
he treated like PR to other govt

Structure

- responsibility for Territorial Intergov issues
dealt with out of Marcia Hale's OF.

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

December 10, 1993

DEC 10 RECD

Ms. Marcia Hale
Assistant to the President
for Intergovernmental Affairs
West Wing, Second Floor
The White House
Washington, D.C. 20500

Dear Ms. Hale:

Enclosed is a briefing paper on the proposals for interagency coordination of issues relating to the insular areas of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

I understand that a preparatory meeting is scheduled for 1:30 p.m. December 13, 1993, in advance of the 2 p.m. meeting with members and staff from the House Committee on Natural Resources. I look forward to additional discussion of the issue at that time.

Sincerely,

Leslie M. Turner
Leslie M. Turner
Assistant Secretary

Territorial and International Affairs

Enclosure

cc: Carol Rasco
Donsia Strong
Paul Richard

- OPD
- welfare reform - HHS
 - Forest Man. Init - Ag
 - Airline Industry (DOT)
 - EMU ZONES

OEP
DPC NEC - Coordinate Fed Agencies
Policy Development
coord. in dealing w/ issues

Make sure you
are not forgotten

change the old system

staff resources

existing bureaucratic
structure used
to push us away

no one agrees
much --
that's why
then with

INSULAR AREAS
COORDINATION AND CONSULTATION

Background

(1) Executive Branch Coordination & Consultation / Policy-making Involving the Offshore Areas.

- o The basic purposes of an insular areas council (or committee) are twofold: (1) coordinate federal agency actions involving the islands, and (2) consult with island leaders. The net result of this coordination and consultation would be the development or review of federal policy regarding the islands.
- o All, including Senate and House, advocated the establishment of an executive branch council on insular affairs.
 - o During confirmation hearings, both Secretary Bruce Babbitt, and Assistant Secretary Leslie Turner committed to implementing a structure to insure Executive branch coordination of offshore issues.

(2) Early Initiatives.

- o In 1992, Senator Johnston proposed legislation (reprinted as S. 447 in 1993) to establish an Insular Areas Policy Council, chaired by the Secretary of the Interior, with most department and agency heads as members. The council would provide interagency coordination of federal policy and consultation with the insular areas of American Samoa, Guam, the Virgin Islands and the Northern Mariana Islands.
- o In 1992, Congressman Ron de Lugo also proposed a council, but it would have been co-chaired by the President's principal assistants for National Security Affairs and Domestic Policy, and be staffed with White House personnel.

- o In February and March 1993, informal proposals circulated from the House Natural Resources Committee would have placed the council chair in the Secretary of the Interior.

(3) Current Proposals.

- (a) The current **Administration approach** (determined by the White House in a meeting in advance of a Senate hearing) is for the administrative creation of an Insular Areas Committee of the Domestic Policy Council.

- o Purpose: development and coordination of federal policy, and consultation with insular leaders
- o Chair: Secretary of the Interior.
- o Staff support: Each member of the Insular Areas Committee will staff issues as appropriate.

House Comment: Not prevailing with previous drafts, Miller and de Lugo staffs now say:

- o Interior involvement is "colonial."

Interior Reply: Better balance is achieved with an Insular Areas Committee. Insular areas will have improved entre' to all Executive branch agencies. Interior will be one of many members of the Committee.

- o Changes in islands' status mean less need for coordination.

Interior Reply: While Palau is changing its status, it accounts for only 1 or 2 FTEs. Last month, the Virgins Islands rejected any change in status. Guam has been advocating a status change for the past 10 years, with no agreement to date by the Congress or Executive branch. (Guam status is a tailor-made issue for the DPC Insular Areas Committee.) American Samoa is chary of any change.

- o White House Intergovernmental Affairs is better positioned to refer issues than the Domestic Policy Council (DPC).

Interior Reply: An Insular Areas Committee under DPC is appropriate because "policy" is

the main function, and "liaison" is incidental.

Interior Position: If Interior's role is at issue, assign the Chair to DPC.

- (b) The current **House approach** (Committee on Natural Resources) is for White House Intergovernmental Affairs to deal with island issues. No council or committee is included. The plan is sketchy but would likely involve:

- o Intergovernmental Affairs would handle all issues from all the territories, with referral to and follow-up with the Domestic Policy Council, National Security Council, and Departments.
- o Staffing: one Intergovernmental staff person

Comment: The purpose of the Insular committee is "policy," with "liaison" secondary.

While a House document seen by Interior shows one Intergovernmental staff person, the actual workload would require the White House to hire many more persons.

(4) Relevant Players.

- (a) Offshore Governors. Among the primary missions of the Department of the Interior is the empowerment of the governors of the offshore areas by creating partnership alliances in economic, environmental, and government areas. These alliances can promote better and more efficient use of natural and human resources.

Equally important, these alliances can promote a better standard of living for the offshore populations.

- o Governor of Guam
Governor of American Samoa
Governor of the Northern Mariana Islands

All, except the Governor of the Virgin Islands have expressed support for and interest in an Executive branch council for the insular areas.

- o The Governor of the Virgin Islands has expressed "concern" about the structure, but has essentially maintained a neutral position.

(b) Senate Committee on Energy and Natural Resources.

Senators Johnston
 Craig
 Wallop
 Akaka

- o All of the above senators support the creation of an insular council.
- o They believe that the Administration should have the flexibility to organize the Executive branch as the Administration deems necessary.
- o The senators simply want the Administration to institutionalize a structure and take such action by the end of 1993.

Energy Committee Personnel with interest in the council:

Ben Cooper - Staff Director
 Lisa Vehmas - Counsel
 Jim Beirne - Minority Counsel

(c) House Committee on Natural Resources.

While Chairman George Miller has not personally expressed a particular view, full committee staff members agree with the following approach.

Chairman Ron de Lugo, Subcommittee on Insular and International Affairs, advocates the designation of a territorial contact in White House Intergovernmental Affairs to handle insular issues as they arise.

- o de Lugo strongly opposes the formation of a policy council - which is a reversal of his earlier strong advocacy of council legislation in the Congress.

House staff from de Lugo and Miller offices:

John Lawrence - Staff Director, Committee on Natural Resources
 Richard Meltzer - Counsel
 Lori Sonken - Professional Staff
 Jeffrey Farrow - Staff Director, Subcommittee on Insular and Int'l Affairs

Issue: Should the White House insular areas coordinating body be placed in White House Intergovernmental Affairs, like Puerto Rico, as advocated by a number of persons associated with the House Committee on Natural Resources?

Answer:

- (1) The Miller/de Lugo/House staff positions have continually evolved since February 1993 -- the response is always a different approach from ideas under consideration in the Senate, Interior or the White House.
 - o Most recently, after Interior circulated a draft proposal reviewed by the White House for a "policy" committee attached to the Domestic Policy Council, Miller/de Lugo staff suggested a "liaison" function for White House Intergovernmental Affairs.
 - o This is a change in both location and purpose.
- (2) Puerto Rico's location in Intergovernmental Affairs is cited by House staffers as a precedent.
 - o Over many years, numerous Congressmen from the insular areas have argued that the islands should not be treated as if they were all alike.
 - o Puerto Rico, being large with ample resources, handles most of its affairs on its own, like a state.
 - o House staff members imply that a single staff member from White House Intergovernmental Affairs can handle "liaison" issues involving American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands, which now consume the time of a staff of 40 at Interior.
- (3) There is good reason to continue to treat Puerto Rico separately from the remaining insular areas.
 - o The insular leaders of American Samoa, Guam, the Virgin Islands and the Northern Mariana Islands have warmed to the "council" or "committee" idea specifically because they see access to high level "policy" makers for action on their issues.
 - o "Liaison" through Intergovernmental Affairs, like that for Puerto Rico, does not meet this criterion. The Domestic Policy Council would.

- (4) The Committee is for the Executive branch, not the Congress.
 - o The proposed coordination and consultation is designed to develop rational and consistent Executive branch decisions, within a framework sanctioned by the Congress.
 - o The resulting surefooted decision-making will enhance decision-making in the islands and economic development.
 - o The Congress is capable of asserting its views on specific issues at any time it desires.
- (5) The other insular areas' issues are overwhelmed when Puerto Rico is involved.