

THREE AFFILIATED TRIBES  
TRIBAL BUSINESS COUNCIL  
TRIBAL CHAMBERS

Judicial Committee Meeting  
July 9, 1991

PRESENT: Wilbur D. Wilkinson, Chairman; Titus Hall, Vice  
Chairman; John J. Rabbithead, Jr., Secretary and  
Roberta High Elk, Acting Recording Secretary.

ABSENT: Roger Bird Bear, Treasurer; Austin Gillette,  
Jim Mossett and Theodore Lone Fight, III, Council-  
members.

OTHERS: Homer White Buffalo and Gerald T. Fox, Special  
Investigators, Maynard Young Bear, Assistant  
Prosecutor and Dennis Burr, CEO.

ITEM 01: CALL TO ORDER:  
Meeting called to order at 1:22 PM.

ITEM 02: ROLL CALL:  
Roll called by Secretary Rabbithead.  
Quorum established.

ITEM 03: ITEMS OF DISCUSSION:  
Chairman Wilkinson explained to Mr. White Buffalo,  
there are two items for discussion. They are Cross  
deputization which ties into Commission Cards and  
a personal complaint against you.

#1....Cross Deputization:  
Chairman Wilkinson explained to Mr. White Buffalo,  
we discussed this in the office while you were  
Acting Superintendent on Commission Cards issued  
by the BIA authorizing other Law Enforcement people  
to arrest our enrolled members and during that  
meeting, you told me you were going to issue a  
letter.

Mr. White Buffalo explained Congress passed an  
Indian Law Enforcement Reform Act last year in  
August. This law states that Act requires the BIA  
to obtain consent from the Tribes before it can  
enforce Tribal Law and since then a decision has  
been made that BIA Deputy Special Officer Commis-  
sion Cards are only good for enforcements of  
Federal Law and also states that if the Tribe  
doesn't agree for the Bureau to enforce their law,  
then the BIA would only enforce Federal Law, so  
that means our Deputy Commission Cards issued to  
City Police, Deputy Sheriffs and State Highway

CROSS DEPUTIZATION (CON'T):

Patrols, we can no longer give them the authority to enforce Tribal Law cause we don't have it ourselves. The Law also said that consent by the Tribe to the BIA could be by Tribal Resolution, by ordinance or by Letter of Agreement/Understanding. Before Attorney Johnson left here, we apprised her of it and she stated she had it in Resolution form but since then, it hasn't been acted on.

Discussion: There's some confusion on when this thing takes place. Mr. White Buffalo stated some say, it took place when the Law was passed. The City, Sheriff's and the State Patrol would have to come to the Tribe to negotiate an agreement if they are going to enforce Tribal Law but we no longer have the authority to give them authorization to make misdemeanor arrests or charges.

Chairman Wilkinson stated those arrests are occurring right now. Are they illegal?

Mr. White Buffalo stated the problem is we don't know when it takes effect. They say it's going to be implemented on October 1 or it has already been in effect when the Law was passed. What the Indian Law Enforcement Act does is give statutory authority to BIA Law Enforcement Division. Just the Marshall, FBI, other Federal Agencies have Enforcement services. Up until last August, we only operated under an Appropriation Act. It gives the Superintendent's authority to set up police and kept expanding. If a non-enrolled member was arrested, they challenged it. If the Tribe doesn't consent to BIA Law Enforcement, services enforcing Tribal Law, then we can only enforce Federal Cases. A memo was sent to the Area Director's office stating we should find out what the Tribes' intent is. If they want us to enforce their laws, the option is to contract and if they don't contract and if they still insist, the BIA doesn't enforce their ordinance then the other suggestion made by the Field Solicitor's office is to establish a CFR Court.

Chairman Wilkinson stated the Act you're talking about applies to you. The CI's. Mr. White Buffalo and the BIA uniformed Police cause it gives them authority to carry weapons, make federal arrests and wear uniforms with badges.

CROSS DEPUTIZATION (CON'T):

Mr. White Buffalo stated it states the Criminal Investigators will be put under line authority for a year. After a year, if the Tribes' disagree with it, then they pass a resolution saying they don't want it that way, then it reverts back to the way it is now. The Superintendent is the supervisor to be in charge of the uniformed division. Caption be directed to the Superintendent.

Chairman Wilkinson questioned a Tribe can pass a resolution stating your position will be under the Superintendent?

Mr. White Buffalo stated yes, after a year is my understanding.

Chairman Wilkinson stated the Commission Cards are null and void, right?

Response was no, but the non-enrolled Police Officers cannot use those to enforce Tribal Law, Only to enforce Federal Law or if we request assistance in a Federal violation.

Chairman Wilkinson stated we've had arrests happening right outside of New Town for misdemeanors. Those arrests are illegal.

Response was subject to interpretation.

Chairman Wilkinson stated when you got those Commission Cards, that was you, Superintendent and the Area Director that made that decision.

Response was right.

Discussion on traffic violation.

Chairman Wilkinson stated you made a decision saying that it was not in effect by recognizing that these cards are still valid.

If the Tribe passes a resolution requiring you to investigate tribal misdemeanors then you would do that. The thoughts we are conveying to you today is our position. We're going to require you by resolution to enforce tribal laws and prohibit commission cards without expressed consent from the Tribe so make whoever is acting to be aware

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CROSS DEPUTIZATION (CON'T):

of this. As to validity of any arrests that has happened since the enactment of the Law. There's going to be three issues that will be dealt with.

Discussion on city limits and Police report data. Mr. White Buffalo to give a statistical report on City Government Police Data. These to include

- Cross Deputization
- Tribal Resolution
- City Police going out of City Limits and Statistical Report.

Judge Hale and Maynard Young Bear excused for a Complaint issue. A written statement is provided by the complainants. Mr. White Buffalo stated this was not true.

Chief Executive Burr to prepare resolution for next regular Council meeting.

Mr. White Buffalo questioned is there going to be a resolution authorizing BIA to enforce Tribal Law?

Chairman Wilkinson stated we are requiring you to investigate Tribal Law. It was questioned what about the uniformed police?

Chairman Wilkinson stated the issue is going to be clearly defined in the resolution on commissions. It was questioned is it going to be saying you don't want city police or the others enforcing Tribal Law. Response was that was your responsibility. Mr. White Buffalo stated no, the Indian Reform Act says that only the Tribe has authority to give someone to enforce their law. It was stated that's what you guys are here for. It was questioned is the City Police to be excluded to enforce Tribal Law? Response was we'll deal with that in time-see how this goes. The resolution will state the Commission Cards will not be authorized without expressed consent.

ITEM 04: TRIBAL COURT REPORT:

Judge Hale requested for report on Tribal Court.

He is to set up a meeting with Superintendent regarding Cross Deputization issue. Any person whom the Chief Judge feels needs to be there to be contacted and give an invitation to the Area

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TRIBAL COURT REPORT (CON'T):  
Director and also prepare a letter to the Criminal  
Investigator regarding an opinion.

Maynard to assist Judge Hale at this meeting.

ITEM 05: ADJOURNMENT:  
Meeting adjourned at 3:12 PM.

Approved

John J. Rabbithead, Jr.  
Secretary, John J. Rabbithead, Jr.

Disapproved

7/16/91  
Date

ATTEST:

Wilbur D. Wilkinson  
Chairman, Wilbur D. Wilkinson

7/16/91  
Date