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PETITION FROM MESSRS. TOSIWO NAKAYAMA, PRESIDENT OF THE SENATE,
AND BETHWEL HENRY, SPEAKER OF THE HOUSE OF REPRESENTATIVES,
CONGRESS OF MICRONESIA, CONCERNING THE TRUST TERRITORY OF THE
PACIFIC ISLANDS

(Circulated in accordance with rule 85, paragraph 1, of
the rules of procedure of the Trusteeship Council)

CONGRESS OF MICRONESIA
Capitol Hill Saipan Mariana Islands 96950

27 December 1976

The Honorable James Murray
President
United Nations
Trusteeship Council
New York, New York

Dear Mr. President:

We wish to take this opportunity to draw your attention to a serious matter of the utmost importance to the people of Micronesia.

This serious matter is what we believe to be a violation of both the spirit and letter of the Trusteeship Agreement 1/ by which the United States of America acts as Administering Authority for the people of Micronesia.

Specifically, we refer to the recent revelation that the United States Central Intelligence Agency (CIA) has conducted electronic surveillance of Micronesians during negotiations on our future political status. In this connexion, we are attaching three documents to this letter: (a) a story which appeared in the 12 December 1976 issue of The Washington Post (see enclosure 1); (b) our joint

1/ Trusteeship Agreement for the Trust Territory of the Pacific Islands
(United Nations publication, Sales No. 1957.VI.A.1).

statement of 14 December 1976 (see enclosure 2); and (c) the reply of Ambassador Philip W. Manhard on behalf of President Gerald Ford dated 18 December 1976 (see enclosure 3).

While we recognize that under Article 5 of the Trusteeship Agreement the United States Government enjoys certain rights pertaining to the maintenance of international peace and security, we firmly believe that these rights cannot be exercised at the expense of the Administering Authority's obligation to promote the political advancement of the people of Micronesia as spelled out in Article 6 (1). In this connexion, we do not interpret Article 7 to allow the Administering Authority to conduct covert electronic (or any other) surveillance against Micronesian citizens to undermine the Micronesian negotiating position or to foster disunity in Micronesia.

While we realize that members of the Seventh Congress of Micronesia, which will convene on 10 January 1977, may wish to address themselves to this issue in an appropriate fashion, we are compelled by our responsibilities as public officials to bring this matter to your attention at this time.

We fully realize that by the time the Council convenes for its forty-fourth session, a new administration will be functioning in Washington, and we fully hope that administration will abjure the practice of conducting surveillance in connexion with negotiations for our future political status, the law of the sea or any other issue.

In this connexion, therefore, we wish to request the following:

1. That you, as president of the Council, request on our behalf an opinion of the United Nations Office of Legal Affairs as to the legal implications of the Administering Authority conducting electronic surveillance against Micronesians; whether, indeed, the Administering Authority has violated the provisions of the Trusteeship Agreement;

2. That the Council be prepared to discuss this issue during its forty-fourth session, and to take a position with regard to past surveillance activities; and

3. That the Council request the Administering Authority during the forty-fourth session to deliver a policy statement to the Council with regards to its position on surveillance of Micronesians in the future.

In conclusion, we ask that copies of this letter, and the attached documents be received as communications to the Council, and circulated to members for their use and information in accordance with the pertinent rules of procedure.

Very truly yours,

(Signed) Tosiwo NAKAYAMA
President, Senate
Congress of Micronesia

(Signed) Bethwel HENRY
Speaker, House of Representatives
Congress of Micronesia

Enclosure 1

Article published in The Washington Post,
12 December 1976

CIA BUGGING MICRONESIAN NEGOTIATIONS

State Department calls it improper, files an objection

By Bob Woodward
Washington Post Staff Writer

The Central Intelligence Agency has regularly been conducting electronic surveillance against representatives of this country's last colony - the Pacific island group of Micronesia, according to reliable sources.

The electronic surveillance has been used in the last four years to learn the Micronesian negotiating position in talks with the United States over the future status and perhaps eventual independence of the group of 2,200 strategically placed islands, which include the Marianas, Carolines and Marshalls.

Under a United Nations trusteeship created after the Second World War, the United States, as colonial administrator, has governed the islands while being formally committed to promoting future "self-government and independence."

The CIA and the State Department are currently locked in a sensitive, behind-the-scenes dispute over the legality and propriety of the surveillance, which is a relatively small CIA operation involving one or two phone taps and room bugs in Micronesia.

President Ford was informed several months ago of both the surveillance and the dispute. He did not resolve it but forwarded the matter to Attorney General Edward H. Levi for a legal opinion.

The Justice Department acknowledged yesterday that the Attorney General was reviewing a matter concerning Micronesia for the President but said it involved attorney-client privilege and there would be no public comment. The White House was asked for comment Friday but had provided none by late yesterday. CIA and State Department spokesmen could not be reached for comment.

Justice Department sources revealed last week that Levi is expected to leave the sensitive question to his successor in the Carter administration, although the Justice Department has already done substantial legal research on it.

The State Department this summer filed an objection with the White House, arguing that the surveillance is improper, in part because the United States is in effect negotiating with the Micronesians to become United States citizens.

CIA surveillance of United States citizens is prohibited by the CIA charter. The CIA contends that Micronesians are still foreigners and that it is the proper role of the CIA to gather intelligence abroad.

According to the sources, the CIA apparently wants to continue the surveillance in upcoming negotiating sessions.

The sources said United States negotiators have received regular intelligence reports on the Micronesian position, but apparently were not informed that the information was coming from electronic surveillance. This is a standard practice to give negotiators deniability.

Public disclosure of the surveillance, the sources said, could cause an uproar in the United Nations, where the United States has already come under attack for slowness in relinquishing its trusteeship.

Of 11 such United Nations trustee relationships set up after the Second World War, Micronesia is the only one that has not become independent from its administrative authority.

From the record it is clear that the United States has been reluctant to relinquish control over the islands.

Justice Department sources voiced some dismay that President Ford had not as a matter of policy ordered the electronic surveillance halted.

"It's a disgrace," said one. "To look at this issue in narrow legal terms is to miss the 'Ugly American' quality ... for nearly 30 years we've been assigned a paternal role of trust with the islands ... it's like bugging your children's telephone."

Two Justice Department sources made it clear they were willing to discuss the issue because they objected to the surveillance on moral grounds.

Another government source, however, said the issue has broader implications, touching on the role of the CIA in the wake of two years of investigations of the intelligence agencies.

The CIA has taken a battering, this source said, and will try to preserve its traditional intelligence-gathering methods everywhere: "They don't want their wings clipped any more."

Also, some high-level strategic planners believe Micronesia has significant potential military value in the post-Viet-Nam period, thus justifying CIA surveillance if it helps maintain United States control of the islands.

If United States armed forces were compelled to withdraw from Japan, South Korea or the Philippines, the Micronesian islands could become the western-most defense position for United States bases.

Now, the only United States military base in Micronesia is a missile test area centered near the Kwajelein Atoll. The Pentagon has plans to build two more bases.

Micronesia has a population of about 110,000 on a total of about 700 square miles, about two thirds the size of Rhode Island.

However, the islands are spread out over 3 million square miles, an area the size of the United States.

A high commissioner from the United States Government in effect runs the islands, although the people elect a Congress which decides how to allocate some of their \$US 80 million in annual United States aid.

Since last spring's negotiating session, the Micronesians have taken a harder line and seek full independence sooner, while the United States has sought to dissolve the trusteeship more gradually. Under an arrangement called "free association," the United States would continue to manage the islands' foreign relations and defence matters for at least another 15 years.

The most recent CIA electronic surveillance was conducted in May and June 1976 during the period of negotiations between President Ford's personal representative, F. Haydn Williams, and a team of nine Micronesian negotiators to Saipan, according to the sources.

Williams, who has since resigned, said Friday in an interview that he was not aware of the surveillance, but that it did not surprise him.

The State Department and its permanent representative on the islands provided him with regular intelligence reports on the Micronesian negotiating position, Williams said. They were useful, he said, because the Micronesians are tough negotiators.

He added, "But I was not aware of any activity by the United States through the CIA or any other agency to gather information covertly or from any surveillance".

Nonetheless, he said, "It doesn't surprise me at all that the United States in any negotiation would use any means to find out the position of the other side". He declined to comment on the propriety of surveillance.

Williams resigned in July to become head of the San Francisco-based Asia Foundation. The foundation, a private organization which provides grants for study, had received money from the CIA prior to 1967, according to Williams.

President Ford has nominated the former United States Ambassador to South Viet-Nam, Graham A. Martin, to take Williams' place as chief negotiator. The Senate Foreign Relations Committee has blocked Martin's appointment, however, in part because of his controversial role as head of the embassy in Saigon during the April 1975 United States evacuation.

According to Philip Manhard, a foreign service officer who is acting head of the United States negotiating team, the Micronesians had asked that the talks resume this week.

Manhard said he wanted to delay the session to January. "We might be able to have a bit more constructive meeting after the new administration comes in," he said.

Other government sources said part of the reason for the delay was a hope for a decision on whether the CIA surveillance would continue.

To a series of questions about the surveillance, Manhard each time said, "I'm just not familiar with that".

In March, the Marianas Islands, part of the Micronesian group, signed an agreement with the United States to become a United States territory in 1981. So the Marianas were not involved in the last negotiating session. Under the agreement, the Marianas' status would be similar to that of Guam, a United States possession.

Paul C. Warnke, a former senior Defense Department official and now a lawyer in private practice here, is the legal counsel for the Micronesians and has been heavily involved in the negotiations.

There is no indication whatsoever that Warnke was a subject of the surveillance or that he was aware of it.

Warnke said yesterday that the reported surveillance was "completely immoral, overreaching and taking unfair advantage of the other side". If the purpose was to divide the Micronesians, it apparently succeeded, he said, noting the separate agreement negotiated with the Marianas.

Warnke's name has been widely circulated as the new head of the CIA in the Carter administration. If he gets the job, he may get to decide whether to continue bugging his former clients.

Enclosure 2

Statement issued on 14 December 1976 by the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia

As the highest elected leaders representing the people of Micronesia (Trust Territory of the Pacific Islands) and the Congress of Micronesia, we wish to express our dismay and extreme disappointment at learning that officials of the Government of the United States of America have conducted electronic surveillance against Micronesian citizens in connexion with negotiations affecting Micronesia's future political status.

There has been speculation in Micronesia in the past that such surveillance activities might have been carried out. This sad suspicion has now apparently been confirmed according to a story appearing in The Washington Post (see enclosure 1 above).

Over the more than three decades that the United States has administered Micronesia, the people of Micronesia have come to know and respect Americans as their friends and their protectors. The people of America, through their Congress, have been generous in assisting the political, economic and social development of the people of Micronesia - a fact which we truly appreciate.

It is therefore most unfortunate that certain government representatives of the American people have acted in a manner which would tend to call into question the good faith and the real intentions of the United States.

We find both ironic and tragic that the United States, as the Administering Authority in a "sacred" United Nations Trust Territory, is acting in what might certainly be considered an underhanded manner with its wards, the people of Micronesia.

The question of future status negotiations with the United States is a matter of concern for the newly established Micronesian Commission on Status and Transition. Therefore, we do not at this time wish to speculate as to what future effect this development might have in that regard.

However, we believe that the past record is clear: the Congress of Micronesia has attempted to protect the best interests and legal rights of the people of Micronesia in the status negotiations. At the same time, we have also recognized and tried to accomodate the important strategic interests of the United States. We have been open and candid with the United States. Despite this approach, we have grown increasingly concerned while representatives of the United States Government have approached the Micronesian delegations in a seemingly adversary manner, which one might expect from a Government dealing with a hostile, or unfriendly nation, but which is contrary to a relationship between a trustee and its ward.

We are, therefore, especially concerned that the information gathered through electronic surveillance has been used not so much to learn our negotiating position, but rather to exploit differences of opinion within the Micronesian delegation. The fact that the United States successfully concluded separate status talks with the Marianas, and that the Marshall Islands and Palau districts are now actively considering separate talks, is of serious concern to us. We can only hope that the United States did not actively use this surveillance in order to promote disunity within Micronesia, thus making it easier for United States strategists to achieve their goals at the expense of the people of Micronesia and in direct contravention of the responsibilities of the United States under the Trusteeship Agreement.

The people of Micronesia have no secret schemes or contingency plans to hide from the people of the United States. We sincerely look forward to a long and friendly relationship between our two areas. Although we number relatively few in terms of population, we had hoped that the United States would be willing to deal with us on equal terms as people who have the God-given right to exercise their own inherent sovereignty. Such are the lessons of democracy taught to us over the past 30 years, and we firmly believe in them. Therefore, we do not at this point wish to condemn the United States for this alleged surveillance, even though we are deeply disheartened to see that the greatest nation on earth and the leader of the free world feels the need to use morally, legally and politically, questionable tactics against the people of our small islands.

Rather, we would like to take a positive approach and look to the future. We hope that relevation of this incident will have a positive effect on future United States policy towards the people of Micronesia. We would hope that this incident will serve as a lesson to the incoming Administration, and that the new Administration will call for a reappraisal and review of its policies toward its wards in Micronesia who comprise the last remaining Trusteeship in the world.

Micronesians have been ruled by four foreign nations over the past four centuries. Innocent Micronesians died on their own islands caught between Japan and the United States during the Second World War. Micronesians have had their islands destroyed and their people made sick as a direct result of United States atomic testing in the Marshall Islands District. Today, a missile testing facility in the Marshall Islands continues to contribute to the security and defence of the people of the United States.

All that the Congress and people of Micronesia ask is that the United States deal fairly and honestly with us; that we work together in a spirit of co-operation and friendship on an equal basis; that together we seek the best means to terminate the trusteeship on a mutually satisfactory basis and provide for continued and friendly relations between the people of the United States and the people of Micronesia in the future.

Enclosure 3

Message dated 18 December 1976 from the Acting Representative
for Micronesian Status Negotiations addressed to the President
of the Senate and the Speaker of the House of Representatives
of the Congress of Micronesia

The President has asked me to reply to your joint open statement of 14 December.

We appreciate the positive spirit of friendship expressed in your statement and certainly reciprocate fully that spirit. We attach great importance to the continuation of friendship and trust between the United States of America and Micronesia not only throughout the duration of the Trusteeship but also thereafter. Such a relationship will best serve, we believe, the interests of both our peoples.

We have never conducted our negotiations with Micronesia in an adversary manner. We have always sought to be faithful to our responsibilities as trustee and to find the most constructive solutions for the best possible future for Micronesia and its relations with us. It is the policy of my Government to pursue negotiations on the future status of Micronesia on the basis of complete respect for the Micronesian negotiators themselves and their duly authorized responsibility to represent the best interests of all the people of Micronesia. The President has taken steps to ensure that this policy is observed without exception.

I would also like to assure you that it is the policy of this administration to seek agreement on the future status of Micronesia which will preserve, in a realistic way, the unity of Micronesia in accordance with the wishes of its people. As you know, we agreed to separate negotiations with the Northern Mariana Islands only in response to their long-expressed desire for permanent association with the United States.

We welcome and fully support your statement that we should take a positive approach and look to the future. We need to work together on the basis of mutual respect, good will and understanding in order to terminate the Trusteeship on a mutually satisfactory basis and to provide for continued, unimpaired friendly relations between the people of the United States and the people of Micronesia. I can assure you that we approach our negotiations in that spirit.

On behalf of the President, allow me to express my deep respect and best wishes for a bright future to you, your Congress and your people.

Sincerely yours, Philip W. Manhard, Acting Representative for Micronesian Status Negotiations.
