

Memorandum for:

Mémoire pour:

Doug Rutherford
Fred Jordan

October 30, 1978

cc: W. Hobson
P.W. Halprin
Roger Leclaire

Comments: 2/10/78

Re: Leonard Peltier

As we all are aware, this matter is one of great sensitivity, both legally and politically. We should enable the Minister to respond as quickly as possible. At a minimum we should endeavour to prevent a recurrence of the recent "sit-in" at Vancouver.

Prior to briefing the Minister and prior to replying to the letter addressed to the U.N. Human Rights Committee as well as to Mr. Rush's letter of August 11, 1978, it seems to me that we need to answer the following questions:

- 1) What are the details of the other evidence which warranted extradition? Is there any doubt about the solidness of the case without Myrtle Poor Bear's evidence? Mr. Rush wrote to Mr. Lang saying that Peltier was extradited on the basis of false evidence. Can we reply to the effect that this does not change things one bit?
- 2) Clearly there is no basis for "re-opening" the extradition hearings. Could we please have a memo setting out this legal situation in some detail?
- 3) Did the F.B.I. obtain the affidavit? If, as it appears, this aspect of the investigation was "sloppy", does a basis exist for a public condemnation of the U.S. Government? (as Rush requests) This, of course, is an entirely separate question from the political wisdom of such a move.
- 4) If we sought to complain to or about the U.S. Government, what is the vehicle for accomplishing this? A note from External Affairs? A submission to the U.N. Committee, as Rush suggests?

Handwritten notes:
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Paul

I suppose Messrs. Rutherford & Halprin could discuss the first 3 questions and Mr. Jordan the fourth one. May I ask for an early reply.

Michael Phelps
Special Adviser

ORIGINAL COPY

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

Richard Marshall,

Petitioner,

vs.

CIV 82-4072

Herman Solem, Warden,
South Dakota State Penitentiary;
and Mark Meierhenry,
Attorney General for the
State of South Dakota,

Respondents.

Deposition of PAUL WILLIAM HALPRIN, taken
by Petitioner, taken pursuant to Notice of Taking Deposition, and
taken before Pamela Maron, a Notary Public in and for the County
of Dakota, State of Minnesota, on Friday, the 27th day of May,
1983, commencing at approximately 9:30 o'clock in the morning, at
400 Minnesota Building, in the City of St. Paul, Minnesota.

* * *

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1 swear the affidavits. I drafted them. I introduced the
2 deponents, took -- drafted their evidence, had them come back
3 and they had the opportunity of reviewing the document. They
4 may or may not have made corrections. They were then taken
5 away from me and later sworn. The civilians that I inter-
6 viewed and went through the same process with were, for
7 example, Mr. Schumacher who sold a 1967 Ford Galaxy to Leonard
8 Peltier and that was in South Dakota. In Vale, Oregon --

9 Q Let us just stick to South Dakota. Were there any others in
10 South Dakota?

11 A I remember he bought this car from Alexis Cycle Store. It
12 was a 1967 Ford Galaxy and the salesman came in and we took
13 an affidavit from him.

14 Q Is there anyone else?

15 A I don't believe so.

16 Q Were there any non-law enforcement personnel who were presented
17 to you as potential deponents who you reviewed the material
18 either personally or in writing and determined not to take any
19 depositions or affidavits from them?

20 A When I first came to Rapid City, South Dakota we had a general
21 discussion of what the evidence was against Leonard Peltier.
22 We had a scale mock-up. They had this information prepared
23 generally outlining the evidence. They had told me that there
24 was a potential eyewitness or they told me there was an eye-
25 witness. They never, at the first instance, advised whether

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1 that was a male or female person, but right from day one they
2 told me that there was an eyewitness. That person was not
3 produced to me at the time.

4 Q Nor were you shown any statements or affidavits or reports of
5 interviews with that witness?

6 A That's correct.

7 Q Was the name Myrtle Poor Bear known to you during the four-day
8 period beginning on or about February 20 of 1976 when you were
9 in Rapid City?

10 A No.

11 Q We have already identified as Halprin Deposition Exhibit 1 an
12 affidavit of Myrtle Poor Bear of February 23, 1976 which I am
13 showing you again.

14 A Yes, I see that.

15 Q That affidavit was probably taken at the time you were in
16 Rapid City or bears a date that you were probably in Rapid
17 City? Is that correct?

18 A Apparently from the dating that is correct.

19 Q Is it my understanding that you did not see that affidavit
20 until some time after returning to Canada?

21 A That is correct. It was sent to me in a letter dated March
22 the 22nd, 1976, addressed to myself, signed by Bruce W. Boyd,
23 Assistant U. S. Attorney. It was received in our office at
24 the Vancouver Department of Justice on March, I believe it
25 would be -- It's difficult to read the date stamp. It looks

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1 like March 26 of 1978. It would have been received by the
2 director of the Vancouver office. He saw the letter. I
3 recognize his handwriting notation on the bottom of the letter.
4 It says, quote, capital P, capital W, capital H.

5 Q Are those your initials?

6 A Yes. "Affidavit should at least have photo of Peltier (Sp?)
7 attached as exhibit, should give at least approximate date and
8 time, should specify place, and give at least some details of
9 circumstances of shooting. In fact, affidavit should be
10 recitation (and in narrative form) of what witness would say
11 on stand if giving evidence in chief in court." Initials,
12 S.J.H. Underneath that 26/12/76.

13 Q Mr. Halprin, these letters to which you have referred are
14 Xeroxed and stapled to a letter apparently from you of June 12
15 of 1979, from yourself to Mr. Douglas J. Rutherford. Is that
16 correct?

17 A It is an interoffice memorandum.

18 Q You prefer to keep them stapled in this form?

19 A Yes.

20 MR. TILSEN: I would ask that the three docu-
21 ments be marked as Halprin Deposition Exhibit Number
22 4.

23 (At this time Halprin Deposition Exhibit
24 Number 4 was marked for identification by
25 the court reporter.)

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