



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES
WASHINGTON, D.C. 20240

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February 5, 1965

Hon. Wayne N. Aspinall
Chairman
Committee on Interior and Insular Affairs
House of Representatives
Washington, D. C.

Dear Mr. Aspinall:

This responds further to your request of January 27 for information to supplement that which was developed at the briefing session held by your Committee that morning. I am very glad to respond to your questions, and will be happy to provide further information if the following is inadequate for your purposes.

(1) You ask, first, for information concerning "the method by which the Governors and the High Commissioner, together with the Government Secretaries and the Deputy High Commissioner, obtain their positions."

The Governors of the Virgin Islands and Guam are appointed by the President, by and with the advice and consent of the Senate, and the Secretaries of these territories are appointed by the President, without Senate confirmation. The Governor and Secretary of American Samoa are appointed by the Secretary of the Interior, as are the High Commissioner and the Deputy High Commissioner of the Trust Territory. As you are aware, responsibility for civil administration of American Samoa and the Trust Territory has been reposed in the Secretary of the Interior by Executive Order No. 10264 of June 29, 1951, in the case of Samoa, and by Executive Order No. 11021 of May 8, 1962, in the case of the Trust Territory (see notes following 48 U.S.C., secs. 1662 and 1681). These executive orders have in turn been issued pursuant to the general grants of power to the President to provide for civil administration of the areas, such grants being codified at 48 U.S.C., sections 1661(c) and 1681(a).

Enclosed is a chart showing, with respect to each of the positions about which you have inquired, the title of the position, the officer who makes the appointment, and the appointing authority. You will note from the footnote that the present High Commissioner was appointed by the President, but that since that appointment, the position has become subject to appointment by the Secretary.

(2) The job descriptions of 5 of the 8 executives about which you have inquired are attached. Because the Governors of Guam and

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the Virgin Islands are Presidential appointees, not subject to the Classification Act, there are no official job descriptions for them. The responsibilities and duties of these Governors are provided for in the organic acts, and may be found at Title 48 U.S. Code, sections 1591 and 1422, respectively.

(3) You ask for information concerning the "statutory authority that each one of the top executives has over his Government Secretary or Deputy."

In the case of the Virgin Islands and Guam, the organic acts for each state that the executive power of the territory "shall be vested in an executive officer" whose title shall be "Governor" (48 U.S.C., secs. 1591, 1422). The Governors are thus by Federal law recognized as the superior officers, the supervisors, of the Secretaries of those two territories. Additionally, you will note that the job descriptions of the Secretaries of these territories refer to each as the "ranking subordinate to the Governor".

Inasmuch as the only Federal statutes pertaining to the governments of Samoa and the Trust Territory are the general grants of power cited above, no Federal law touches upon the authority of the Governor or the High Commissioner in relation to the Secretary and the Deputy High Commissioner, respectively. In each case other provisions of law exist which are pertinent, but neither is wholly responsive to your inquiry. I refer to Article IV, section 3 of the Constitution of American Samoa and to section 37 of the Code of the Trust Territory, the texts of which are set out for your information as enclosures to this letter. More pertinent to your inquiry as it relates to Samoa and the Trust Territory are the job descriptions of the 4 executives in question. You will note that the language pattern of the organic acts cited above is used. In the Governor of Samoa and the High Commissioner is reposed the "executive authority of the Government" of their respective areas; and the Secretary and Deputy High Commissioner are referred to as the "ranking subordinate" officers.

(4) You inquire concerning the "chain of authority and its practicality of operation with your office. (In answering this particular question, I would be pleased if you would advise me as to the willingness or unwillingness of each of the executives to take your office into complete confidence in the discharge of his responsibilities)."

The short answer to your question is that no chain of authority runs through the Office of Territories to the Governors and High Commissioner. I am a staff officer and adviser to the Secretary, and the Secretary, of course, has certain supervisory responsibilities where the Governors and High Commissioner are concerned. Such supervisory responsibility has not been delegated to the Director of the Office of Territories, but there have been delegated to the Director certain specific statutory

responsibilities of the Secretary in the general area of territorial administration. The Director has authority, for example, to exercise the Secretary's authority to approve the expenditure of Virgin Islands matching funds, under section 28(b) of the Revised Organic Act of the Virgin Islands; to approve the payment of sums to the Government of Guam for rehabilitation purposes, under section 2 of the Guam Rehabilitation Act; and to grant permits for the use and occupancy of submerged lands and tidelands under section 2(a) of the Territorial Submerged Lands Act. The Director of the Office of Territories does not, however, have authority to issue binding instructions to the chief executives in the territories and the Trust Territory, nor to veto actions which they propose to take. The Director often offers suggestions, however, and in my experience it is a rare case if the suggestion is not accepted.

As a practical matter, this arrangement works well. I am not able to comment knowledgeably upon these arrangements or their success prior to my becoming Director of the Office of Territories last April, but my observations prior to that time, as one closely concerned with territorial matters, indicates that these arrangements have been successful for periods well in advance of that date.

This is probably so largely because the Governors and the High Commissioner have been regarded as the heads of somewhat autonomous governments, answerable in large part to the people of the area which they serve. Consequently, neither the Office of Territories nor others in the Department have interceded in matters which are "local" in character; that is, matters which do not involve Federal law and which do not involve Federal appropriated funds or property. This is not to say that the Secretary has concluded that he is without authority to issue directives to the Governors and the High Commissioner on any and all matters. He of course has such authority, as a matter of law. But he has, as a result of a kind of self-denying ordinance, refrained from doing so in matters local in character, on the premise that this posture comports with the desires of the people of the territories for maximum self-government and with their capacity to exercise competently those powers of self-government which they have been granted.

With respect to the parenthetical portion of your question, I have no doubt as to the willingness of each of the chief executives to take the Office of Territories into its confidence. I will say that, in light of the policy described in the preceding paragraph, we in the Office of Territories do not ask for such treatment as a general rule. But when the matter at issue is a "Federal one", when Federal appropriated funds, or Federal statutes, or Federal agencies are involved, we expect to receive and we do in fact receive the fullest information, cooperation, and deference from our territorial officials. I would add that our means of knowing of developments in the territories and the Trust Territory, so as to be aware of potential Federal matters arising there,

are numerous and effective. In addition to constant correspondence with all of the executives and frequent visits with them, we are reasonably well informed concerning their activities through such devices as scrutinizing local newspapers and reviewing (by means of files sent in on a weekly basis) all out-going correspondence from the offices of the Governors and the High Commissioner. In short, the current arrangements seem to me to permit us to exercise effectively the authority reposed in this Office by the Secretary of the Interior.

If the foregoing does not respond fully to your questions, I hope you will let me know.

Sincerely yours,

(sgd.) Mrs. Ruth G. Van Cleve

Mrs. Ruth G. Van Cleve
Director

Enclosures

cc: Under Secretary Carver
Deputy Assistant Secretary - PLM
Governor of the Virgin Islands (without copy of job descriptions)
Governor of American Samoa " " " " "
Governor of Guam " " " " "
High Commissioner of the Trust Territory " " " "