

The Case

The year is 1972. For much of American history, the US has pursued a policy of quelling Indian uprisings using whatever force was necessary, and forcibly relocated thousands of American Indians to destitute reservations. In protest of the government's past violence and alleged failure to address dire conditions on many reservations, a militant group of Indians formed the "Trail of Broken Treaties" caravan and traveled to Washington, D.C. They hoped to draw attention to their economic, social, and educational grievances.



Upon arrival in Washington, D.C., the caravan of men, women, and children tried to come to an agreement with the federal government. The purpose of the caravan was to regain treaty-making rights, restoration of lands, a new "Office of Federal Indian Relations and Community Reconstruction," and better legal protections.

Government efforts to negotiate with them did not meet the caravan leaders' expectations. Some of the group was violence-prone and confrontation minded, although the Administration was told by BIA officials that the violent members did not represent the mainstream leadership of the Native American nations.

Caravan organizers had worked with BIA officials and local churches to put together food and lodging, but at the last minute most of these fell apart, leaving the Indians to sleep in a leaky, rat-infested church basement on their first night in DC. A memo written weeks earlier by BIA Assistant Secretary Harrison Loesch had discouraged BIA employees from offering any help to the Indians; many of the Indians felt that memo had created the housing crisis in which they found themselves.

The following day, protests and meetings at the BIA HQ ended with the Indians deciding that since the BIA was "their" agency it would be a fine place to stay, and filled the BIA auditorium and cafeteria. After negotiations with BIA Commissioner Bruce and a representative of the Department of Interior, lodging was found in a gymnasium owned by Labor. The Indians were encouraged to relocate by walking the mile to the gymnasium, only to discover that the doors were locked and nobody there to let them in. Fearing betrayal, they turned and ran back to the BIA HQ.

Breaking glass and shouting GSA guards interrupted the press conference announcing the move to Labor. Becoming angry and more militant, the caravan members seized and occupied the BIA building on Thursday, November 2nd, five days before the 1972 Presidential election. They erected barricades and began creating weapons from whatever was at hand.

Once inside, they began tearing apart BIA headquarters. Estimated at over 1,000 strong, the group of Indian protesters included men, women, and children with no clear leadership and no obvious bargaining requirements with which to negotiate their departure from the building. White House Counsel John Dean and staff from the Justice Department led by Attorney General Richard Kleindienst put together a plan to force the Native Americans out of the BIA building.

With a thousand angry protesters illegally occupying a government building, GSA police already on hand and Metro DC police on the way, a law and order-oriented administration, and an imminent Presidential election, the circumstances could not have been more explosive.

The Decision Maker

As the primary behind-the-scenes contact for the Nixon administration, Egil “Bud” Krogh was actively involved at every level of decision making, ultimately making a fateful final phone call.

Krogh’s involvement in responding to this crisis began on Friday evening, November 3, 1972. Around 7:00 pm, Mayor Walter Washington called Krogh and issued a dire warning that, if the BIA were attacked by the Metropolitan police and federal marshals according to Dean’s and Justice’s plan, the Administration faced a major confrontation with almost certain bloodshed.

Mayor Washington asked Krogh’s opinion on whether Metro police should participate in the plan to extricate the caravan members from the BIA. Krogh told the Mayor that John Dean had relieved Krogh earlier that year of direct responsibility for White House relations with the Department of Justice and the Metro Police Department. Washington said he understood this, but asked for Krogh’s personal opinion as to what Washington should do. Krogh told him that his advice did not represent an official White House posture, but that if it were him, he would send the police home.

About 20 minutes later, Krogh received a call from an angry John Dean, who was extremely upset that the Metro police had withdrawn from the area around the BIA. He asked whether Krogh had given an order to the Mayor. Krogh told John that the Mayor had asked for his opinion—which Krogh had shared—but Krogh had not given a direct order. At this point, Dean expressed his unhappiness using a few choice words, and indicated that it was now Krogh’s crisis to resolve.

Krogh had been the principal White House liaison with the Department of Justice, the Metro police department, and other law enforcement agencies for two years before Dean was appointed counsel to the President. As a result, Krogh was familiar with the jurisdictional structure of the law enforcement community in the District. He immediately put together a crisis management group of White House staff, which continued to receive information from inside the BIA that conditions were deteriorating, and that the caravan leaders’ desire for a violent confrontation was increasing.

On the 4th and the 5th, ambiguities and lack of leadership both on the government and Indian sides continued to plague those already involved in negotiations. Russell Means and Dennis Banks, by now the default leaders of the Indians, announced to Bobbie Kilberg on the 5th that they would never leave the building before negotiations with Interior Secretary Morton. But the government’s two key choices at that point included only forceful eviction or voluntary evacuation followed by later negotiations.



Your Challenge

As Bud Krogh, your job is to solve this crisis. On the 3rd of November, you were handed a crisis that you didn't cause, but had certainly influenced by suggesting the removal of DC police.

Inside BIA HQ are 1,000 Indians seemingly intent on getting concessions from the federal government who have trashed the building and prepped it with gasoline for a deadly conflagration should they be attacked. The BIA Commissioner has been cut out of the negotiations, there is an unclear leadership structure within the group of occupying Indians, and the Presidential elections are tomorrow.

By all indications, President Nixon will win re-election in a landslide. He and your direct boss, John Ehrlichman, are in California celebrating the expected victory. They have been kept informed of ongoing events, but are counting on you—the man on the ground, and the one currently closest to the action—to advise them of the correct course of action.

In the real event, a phone call was made. It is your job now to write down what you believe should be said to Ehrlichman and Nixon about this hostile takeover of a government facility, and why.

Keep in mind the following real considerations:

- i. President Nixon has campaigned on a law and order platform
- ii. Dating back to his American Indian football coach, President Nixon has a deep respect for Indians
- iii. Tomorrow is the Presidential election
- iv. Both the Indians and federal officers are prepared for violence

Also keep in mind the courage of your own convictions. Good luck.



Update

It is the early evening of Monday, November 6, 1972, a few hours before election day. At 5:00 pm that day, after hours of intense and sometimes anguished deliberations among several White House staff members, Krogh decided to call John Ehrlichman, the President's chief domestic policy adviser, in San Clemente, California. The reason for the urgency of the call to Ehrlichman at 5:00 pm was the potential impact of enforcing an order from District Court Judge Pratt. At the direction of Acting Attorney General Richard Kleindienst, the Department of Justice had secured a cease and desist order requiring the caravan members to leave the BIA building by 6:00 pm that Monday or be forcibly evicted. If Krogh and his team decided against an armed attack, they had one hour to act.

News of the contempt order, which was issued at 2:30 pm that afternoon, had triggered further destruction in the building. Federal marshals were at the ready to carry out the order, and to take over the BIA building by force.

Ever present in Krogh's mind since the Kent State shootings on May 4, 1970, was the need to do everything possible to prevent law enforcement officials from triggering violent confrontation that could lead to death. When Dean handed him responsibility for resolving the BIA takeover, a nonviolent solution became of paramount importance. Krogh remembers asking the question, "How can we solve this crisis without people getting killed?"

The crisis team knew that Kleindienst had cleared the strategy of getting the court order with Ehrlichman in San Clemente. As a purely law enforcement matter, securing such an order was the appropriate thing to do. But the occupiers had ignored an earlier court order to vacate the building, and had continued to destroy furniture and fixtures within the building. Useful negotiations with them had collapsed.

When Krogh and the crisis management team called Ehrlichman, he and other top staff members were with the President at the "Western White House," relaxing after the final push in the 1972 Presidential campaign. It was absolutely clear that the President would ultimately be held responsible for the outcome of this crisis. Nixon had staked much of his reputation on creating a "law and order" Administration; allowing lawlessness and apparent terrorism on election eve would do much to undermine that reputation.

The White House team in California emphasized that much more than law enforcement interests were involved. The President's strong policies and programs to aid and support the Native American nations would be not only at risk, but could be irreversibly damaged. The President had been a major supporter of initiatives to return lands to Native Americans and other programs to aid the poorest of the tribes. Especially, he had supported Native American self-determination efforts while trying to help preserve Native American communities, and supported increased BIA funding that more than doubled health funds.

The crisis group knew what was at stake with this call to Ehrlichman. If he and the President agreed with what Krogh was about to propose, there was a chance to avoid bloodshed and death. If he disagreed and decided to follow Kleindienst's approach, the crisis group was convinced a major tragedy was inevitable. Many Native American children, women and men would be severely injured.

Several would probably die. Federal marshals and Metro police would be at risk of injury or death. A federal building would burn.

The question the crisis group in Krogh's office asked was simple:

Should the government risk injuring and killing Native Americans and law enforcement personnel by carrying out an eviction using force?

The circumstances certainly seemed to justify forceful law enforcement action. The occupiers were in a state of continuing unlawful trespass. Important government functions in the BIA had been shut down. Over a million dollars in damage had been inflicted on government property. Angry and hostile rhetoric continued to spew forth from the takeover leadership, and rather than abating, the violent mood was intensifying.

Also of concern was that if the Administration backed down the President would be attacked for caving in to this militant group. A "law and order" Administration, known for being tough on crime, would be condemned for "wimping out." And the White House staff, Krogh's office in particular, would be accused of wrongfully taking over responsibility for this crisis from the proper authorities in the Departments of Interior and Justice.

On the other hand, the damage so far had been restricted to property destruction. No lives appeared to be in imminent danger. Deadly force to outsiders had not been threatened or used.