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MAR 10 1975

THE WHITE HOUSE

WASHINGTON

March 10, 1975

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MEMORANDUM FOR THE PRESIDENT

FROM: MAX L. FRIEDERSDORF

The Congressional sentiment at today's meeting on the Judicial pay raise request by Chief Justice Burger can be expected to range from mildly sympathetic to very hostile.

We anticipate both Senator Mansfield and Tip O'Neill will be strongly opposed to such a request.

I am concerned that the Congressional leaders believe that this meeting was initiated by the President and that you are initiating the Judicial pay raise push.

A Judicial pay raise without a companion raise for Congress has no chance at all of passage and with the unemployment rate it is highly doubtful that Congress will face up to any federal pay raise during this session. Chief Justice Burger and his staff have been lobbying very hard for a Judicial pay raise and have gained some editorial support around the country but we see little evidence of any widespread support in the Congress.

MLF:jg

✓ ccc: Jack Marsh



JUL 30 1975

THE WHITE HOUSE
WASHINGTON

Date: 7-29-75

TO: Jack Marsh

FROM: Max L. Friedersdorf

For Your Information ✓

Please Handle _____

Please See Me _____

Comments, Please _____

Other



THE WHITE HOUSE
WASHINGTON

26 JUL 1975

Dear Mr. Speaker:

As you are aware from discussions we have had over the past few months, a serious problem has been developing in the recruitment and retention of senior-level executives and judges in the Federal Government.

This problem has now reached the critical stage. Essentially, it stems from the fact that there has been no pay raise for executive level managers or judges for six years. As a result:

-- Notwithstanding the clear intent of our Federal pay system that the varying levels of responsibility should be reflected in salaries, we now have a situation where some 15,000 employees in top grades (Executive Level V, GS-18, GS-17, GS-16 and even GS-15) all receive the same pay. The reason is that, as employees have received pay increases over the past six years, more and more of them come up against the six-year-old statutory pay ceiling of Executive Level V.

-- More than 20 percent of the Government's top officials are either quitting their jobs or retiring early. From 1969 to the present, the rate of executive resignations and retirements has more than doubled. In fact, employees whose salaries are frozen are retiring early at three times the rate of all Government employees, mostly in the 55-59 age range, depriving the Government of five or ten years of additional service by these experienced workers.

-- Several dozen of the Government's top posts are unfilled at this time simply because many of the executives we want to bring into Federal Service cannot, in fairness to their families, accept the huge cut in compensation that would be involved.

-- Key Government officials are turning down offers to move into Federal positions of greater responsibility in new localities. They cannot afford to uproot their families and bear the expense of moving at no increase in salary. There are hundreds of instances of this problem.

Since March, 1969, when pay for upper echelon Federal employees was last adjusted, the salaries of those not subject to the freeze have risen 50 percent. During this same period, a rise in the cost of living of 47.5 percent has reduced the purchasing power of those with frozen salaries by nearly one-third.

The same problem applies to the judicial and legislative branches. The Chief Justice advises me that as a result of such frozen compensation schedules, a number of Federal judges have left the bench to return to private law practice and many others are planning to do so.

While the salaries fixed in 1969 quite understandably seem more than adequate to many, we must face the fact that such salaries are today far out of line with comparable salaries in the private sector -- and indeed in a growing number of State and local governments -- for skilled, experienced administrators, senior professionals and judges. Actually, executive pay in the private sector and earnings of private attorneys have both increased by about 44 percent since 1969.

The Civil Service Commission has conducted an extensive survey and I am enclosing a summary of its report which contains specifics on this problem. I urge you to read it.

As you know, the Senate Civil Service Committee has reported out H.R. 2559 to extend to employees of the Executive, Judicial and Legislative branches whose pay has been frozen so long, increases commensurate with those granted to other employees whose salaries are not frozen.

This statutory change will not result in any "catch-up" for the last six years and will not solve all of the inequities we now have. But I feel we must move at once in this direction. I consider H.R. 2559 as a vital first step. Further action to solve the problem will be addressed by the Panel on Federal Compensation which I established recently and by the next Quadrennial Commission on Executive, Legislative and Judicial salaries.

The added cost of the compensation adjustments of H.R. 2559 will come to a fraction of one percent of the Federal payroll. In my judgment, this action is essential if we are to recruit and retain qualified and competent senior-level people to conduct our Government's business. I, therefore, urge the Congress to enact this bill promptly.

Sincerely,

Arnold R. Ford

The Honorable
The Speaker
U.S. House of Representatives
Washington, D.C. 20515

THE IMPACT OF THE \$36,000 SALARY LIMITATION

The Civil Service Commission has been gathering data from agencies on the effect the \$36,000 limitation on pay is having on the executive branch's efforts to recruit and retain a high-quality managerial and professional workforce.

The data reveals that almost all agencies are faced with similar problems. Hundreds of the Federal Government's most valuable officials are quitting their jobs or retiring early because of the \$36,000 salary limitation. The result is that many key positions are being left vacant and important services performed by the Government are beginning to suffer. The growing size of the problem is shown by these official figures: The rate of resignations among professional employees has doubled since 1970. Retirements increased by 50 percent in the single year from 1973 to 1974. Early retirements of executives are plaguing many Government agencies. The Internal Revenue Service reports, for example, the average age of its retirees has gone from 62.4 years in 1969 to 56 years currently.

Many critical and important jobs are going unfilled for months. For example: The position of chief actuary of the entire Social Security system has been vacant for 15 months. The GS-18 position of Director of the National Institute on Aging at the National Institutes of Health has been vacant since it was established in May 1974. The positions of Program Director for Chemotherapy and Program Director for Cancer Centers in the National Cancer Institute have been vacant for months. Only three out of 15 vacant positions (due to early retirement) of administrative

law judges have been filled at the National Labor Relations Board. The list goes on and on. In all cases it is clear that the \$36,000 salary limitation is a major reason why positions requiring outstanding qualifications and capabilities, in addition to the assumption of awesome responsibilities, are so difficult to fill.

Another aspect of the problem involved the refusal of key employees to move into positions of greater responsibility. Aside from the assuming of greater responsibilities at no increase in salary, it also generally involved moving to a different part of the country, uprooting of family and in addition bearing the expense that moves generally entail. Even the most dedicated employees must consider this very carefully. For example: The Project Manager for the Apollo Soyuz Test Project refused the Directorship of the Kennedy Space Center, indicating that he could not afford to absorb the cost of moving his family to Florida. At the National Weather Service, a GS-16 employee declined a promotion to the GS-17 position of Associate Director for Systems Development. At the Department of Transportation a GS-17 Regional Director refused reassignment to the position of Associate Administrator for Airports since it would involve moving to Washington, bearing the cost of the move and the disadvantage of living in a high-cost area without any additional compensation. Once again, the examples cited are just a very small fraction of an ever-growing list.

Perhaps the greatest impact of the \$36,000 limitation is felt when attempting to attract outstanding candidates from the private sector to fill top level vacancies. This is especially true in the legal, medical and scientific areas. Applicants who are curious enough to apply, or who are solicited because they are currently in similar positions in the private sector, are quickly turned off by the \$36,000 salary or with the prospect that it represents the end of the road as far as salary is concerned. In most cases, these people are already making far more money in their current jobs.

The general higher level of compensation in the private sector for positions similar in nature and scope of the executive levels in government not only serves as a barrier for halting the flow of executive level types from industry into the government, but at the same time serves as a gateway for government executives to leave government employment for the greener pastures of private enterprise. At the Commerce Department, the Chief Economist of the Bureau of Economic Analysis, GS-16, resigned to take a higher-paying position in private enterprise. At the National Cancer Institute, the Clinical Director resigned to accept a higher-paying position at a University. At the Justice Department, a Supervisory Trial Attorney at the GS-16 level resigned to accept a position in private industry at a substantially increased salary. At the Department of Agriculture, the GS-17 Director of Automated Data Systems resigned to take a \$70,000 position in private industry.

At the same time, at HEW, a candidate rejected the GS-18 position of Director of the Office of Child Development because she was currently making \$50,000 in private industry. At the Department of Interior, a candidate declined the position of Deputy Assistant Secretary for Energy and Minerals to accept a position with a consulting firm paying over \$50,000. At the Commerce Department, a candidate declined appointment to a GS-16 Associate General Counsel position to accept a position paying \$50,000. At the Small Business Administration, a candidate declined the position of Associate Administrator for Finance and Investment because it would involve a loss of \$14,000 of his current salary in the private sector.

The Civil Service Commission itself has been hit by premature retirements among its top staff. Many of these key persons retired within months after becoming eligible for retirement. For example: An Executive Director at age 55, A Deputy Executive Director at age 57, A General Counsel, age 55, An Assistant Executive Director, age 55, A Regional Director, 55, Two Bureau Directors, 55 and 56, and two Deputy Bureau Directors at 55. These executives had valuable experience and skills and the ability to render additional valuable service for perhaps five or ten more years. Many of them, in fact, are still working full-time outside of the Federal service.

It is apparent that if the situation remains static, that is, if the \$36,000 limitation remains and at the same time the level of compensation in the private sector remains free to adjust in an open market, we are sure to see the problems of attracting and retaining quality executives become even more pronounced.

Cong. relations

September 9, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
FROM: JACK MARSH

You might want to have Bill Kendall follow very closely the status of the Pay Bill in the Senate.

I am of the view that the President would like to have a written summary of just where this stands and what the anticipated action might be. If Bill or Pat could prepare such a memo, I believe it would be helpful. Also, give copies to Don Rumsfeld and Jim Lynn.

JOM/dl



THE WHITE HOUSE
WASHINGTON

NOTE:

I called and left the message that Mr. Marsh would like to be called after the election when things quiet down a little.

*Carl his
secretary &*

OCT 22 1976

*Lehman Brothers
Incorporated*

*deputy until
after election.
One William Street
New York, N.Y. 10004
(212) 609-3700*

PETER G. PETERSON
CHAIRMAN OF THE BOARD

The Honorable John O. Marsh, Jr.
The White House
Washington, D.C. 20500

Dear Mr. Marsh:

Every fourth year, a Commission on Executive, Legislative and Judicial Salaries is formed to make recommendations to the President on the appropriate level of compensation for positions in the Executive Branch from Cabinet officer through Level V, and for U.S. Representatives and Senators, Supreme Court Justices and other members of the Federal Judiciary. The Commissioners are appointed by representatives of each of the three branches of the federal government; three, including the Chairman, are appointed by the President, and two each by the Chief Justice, the Speaker of the House, and the President of the Senate. The Majority and Minority Leaders of each House are typically involved in this selection process.

The Commission is presently actively studying this important matter of compensation and in mid-November must submit its recommendations to the President, who in turn will make his recommendations in the Annual Budget Message.

To assist the Commission in a significant part of its work, we have asked Carnegie-Mellon University to conduct a research project aimed at understanding why executives do or do not join government service and why they do or do not decide to leave. The study is being conducted by specialists in government and public personnel administration associated with the School of Urban and Public Affairs, under the direction of Arnold Weber, Provost of Carnegie-Mellon. The opinion research firm of Yankelovich, Skelly and White, Inc. has been retained by Carnegie-Mellon to assist in the survey phase of this effort.

We consider participation by individuals such as yourself critical to the success of our efforts and ask your cooperation in this effort if Yankelovich, Skelly and White call within the next two weeks to ask you to assist us. If they



call, it will be to conduct a telephone interview lasting about 30 minutes. This conversation will be treated with absolute confidentiality. Analysis of the responses will be conducted on an aggregate basis.

I realize that you have an extremely busy schedule, but the importance of the issue before the country and the time constraints under which we are operating necessitate my urging your cooperation in helping us complete our task.

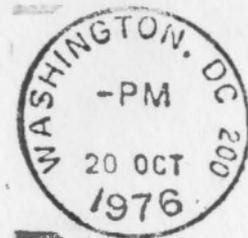
Sincerely,

Peter G. Peterson

Peter G. Peterson
Chairman, Commission on
Executive, Legislative and
Judicial Salaries



Lehman Brothers
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One William Street
New York, N.Y. 10004



The Honorable John O. Marsh, Jr.
The White House
Washington, D.C. 20500

PATRICK J. BUCHANAN THE DIVIDING LINE



To Dick
Jyl
special features -
The New York Times, 229 West 43rd
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FOR RELEASE: Thursday, Nov. 25, 1976 and thereafter

THE BUREAUCRATS PLOT A HOLD-UP

By PATRICK J. BUCHANAN

WASHINGTON -- Picking up my *Post* the other morning, I read that an advisory commission on federal pay has recommended an immediate 50 per cent pay raise -- about \$20,000 more per year -- for senior federal bureaucrats. It was the sort of story, as an old barkeep friend used to say, that makes you want to go down into the cellar and kick the slats out of the coal bin.

The proposed larceny won the blessing of Bishop Severeid. Editorial writers in the Eastern press are calling the raise fair and just. Their fundamental argument, however, is flawed.

"...one must remember that Congress has allowed top-level civil servants only one pay raise (of 5 per cent) in the last seven years. In that same period the cost of living has gone up more than 50 per cent."

But, if one takes eight rather than seven years, one finds that the pay of White House assistants rose from a max of \$30,000 to more than \$44,000, or almost exactly 50 per cent. Comparable pay hikes went to civil servants.

If we do not pony up the fat raises, the threat is made, our bureaucrats will simply pack up, and pick up offers from pursuing and panting corporations. The bureaucracy is running a bluff.

If federal service required such financial sacrifice, why are they lined up 10-deep at the Carter Transition Office?

(more)

To Jack
Maurh

from
Mick

Why are the GOP-appointed Schedule C's scrambling to hang onto their federal jobs? Why are political appointees scheming desperately to get "converted" to civil service?

If federal pay is so cheesy, how come Washington ranks at the top of American cities in per capita income? How come our bedroom suburbs -- Montgomery, Fairfax and Arlington counties -- regularly rank high in the top 10 in per capita income?

Government pay may not rank with the cream of private enterprise. But government workers earn far more than the average American. When it comes to benefits and goodies, there is no comparison.

Many federal employees pay no Social Security tax which next year will run to more than \$900 for the average worker. They have pension programs that are a dream. In terms of annual leave, sick leave, compensatory time, overtime, federal workers make out like bandits.

In the private sector you can find your company out of business one day, yourself on the street the next. Within the civil service there exists a job security which is the breeding ground of mediocrity. During the recession when unemployment was hitting 18 per cent in the auto city, it was running at one per cent in the civil service.

There are able bureaucrats and executives, like a Bill Simon or a Donald Rumsfeld, who could easily earn two to three times in the private sector what they are paid by government. But there are also, by the thousands, dolts, bolos and chowderheads in the bureaucracy who "can't park a bicycle straight," who would starve to death if forced to make a living outside of government. Some of them, simply by virtue of having sat at a desk 20 years, have risen to the top ranks. A pay raise which would push these incompetents far into the top one per cent of all Americans in income would amount to congressional collaboration in white-collar crime.

(more)

In promoting this legalized swindle of the taxpayer, the national press has its own ax to grind. Surveys have shown that the senior bureaucrats are, by and large, liberal Democrats. They share the ideology, the politics, often the friendship of the journalists now demanding their pay be hiked 50 per cent. More than that, it is the senior bureaucrats who provide the leaks which enable the "adversary press" to frustrate the mandate of the American people. To be blunt, editorials calling for a 50 per cent pay hike for federal bureaucrats are the national press' way of paying off its sources.

There should be a disparity in income between private enterprise and government -- on the side of private enterprise. After all, the latter are the men and women who take the risks and create the wealth which government only consumes.

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(c) 1976 Patrick J. Buchanan
Special Features

THE WHITE HOUSE
WASHINGTON

November 29

Mr. Marsh:

Attached is the article by
Causey on Federal pay raises
you asked for.

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Donna
m
vll

MIKE CAUSEY

Office Cooking a Target

Copy for Jack Marsh

THE WHITE HOUSE

WASHINGTON

December 8, 1976

MEMORANDUM FOR: JIM CONNOR
MIKE DUVAL

FROM: ED SCHMULTS
KEN LAZARUS

SUBJECT: Pay Commission Report

Counsel's Office has reviewed the report of the Commission on Legislative, Judicial and Executive Salaries and offers the following:

(1) Overview. As you may be aware, the Commission's powers under its enabling authority are solely advisory in nature. The responsibility of the President under the statute, on the other hand, requires that he include within the upcoming budget his recommendations with respect to the exact rates of pay which he deems advisable for those offices and positions within the purview of the organic act. Although this recommendation is the only legal requirement imposed upon the President, he is, of course, free to go beyond this limited role and comment on related features of the report, i.e., "uncoupling", a code of conduct, etc.

(2) Constitutional Infirmity. The Commission's enabling statute provides that the pay recommendations of the President shall become law unless disapproved by either House of Congress during a period of 30 days following the transmittal of such recommendations. Counsel's Office and the Department of Justice believe that this legislative scheme is unconstitutional. We might note in this regard, however, that our case in opposition to this legislative scheme is weakened to the extent that this legislation contemplates a subsequent appropriations bill carrying forward the increases in customary legislative fashion.

(3) Technical Point. We have been advised by the staff of the Commission that a "final report" will be forthcoming next week to improve upon the general format of the draft which is currently before us and to correct certain minor technical errors.



(4) Proposed Response. It is our view that the President should go beyond the bare legal requirements of the organic act and issue a message to accompany his budget on the subject of pay reform. In this regard, Counsel's Office recommends that the President generally support the need for certain pay raises in the Legislative, Executive and Judicial Branches and endorse the general architecture of the Pay Commission's report subject to the following considerations:

(a) Although the recommended salary levels proposed in Table II of the report represent reasonable goals, it would be inconsistent with the public sensibilities on this subject to propose immediate increases of this scale. Rather, we would see these figures as goals to be pursued over a three-year period. Therefore, we would suggest that the President this year formally recommend increases of one-third of the levels of increase proposed by the Commission.

(b) Due to the constitutional restraints the President should also request that these increases be made in the form of affirmative legislation.

(c) The President should generally endorse the concept of coupling reform of our conflict laws with the pay increases. This position dovetails with our comments on the constitutional defect presented here.

(d) By staging these increases over a three-year period, the President can also make clear that there is a necessity for fundamental reform of the general pay schedules of government to insure that people do not receive unwarranted increases as they are caught up in the current of this plan. Stated another way, during recent years, many government people have received grade increases in order to achieve a desirable salary and, in many instances, substantial increases in that level would warrant a reevaluation of their GS rating. A three-year stage of pay increases would allow time for a reevaluation of this situation.



(5) Prospects. In the past, Congress has approved pay raises only in instances where (1) the Congressional leadership was personally lobbied by the President and an agreement reached in advance; and (2) in instances where the rate of increase proposed for Congressmen was equal to the increase received by others in the government. Assuming the President does not meet with the Congressional leadership on the question in advance of his budget message, there would appear to be little or no chance for Congressional silence on the proposed increase since (1) we can anticipate that Senator Allen, Helms or some other fiscal Conservative will bring the question to a vote, and (2) given the fact that Congressional increases would be substantially less than others proposed for judges and Executive Branch personnel, a resolution of disapproval would likely carry. In order to allow for reasonable prospects for any success here, the President would have to meet with the Congressional leadership in order to preclude a vote on his recommendation.

(6) Note: We should also indicate here that Phil Buchen has been approached by the Chief Justice who requests the opportunity to speak to the President on this issue should the decision be reached to substantially reduce the judicial salary levels proposed by the Commission. Moreover, we are being rather heavily lobbied by various bar associations in support of the judicial salary increases and would, therefore, appreciate being kept informed as to any future developments in this regard.

cc: Jack Marsh ✓



THE WHITE HOUSE

WASHINGTON

December 9, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: MAX FRIEDERSDORF *M.F.*

SUBJECT: The Report of the Commission on Executive, Legislative and Judicial Salaries
December 1976

With regard to the Report of the Pay Commission I would recommend the President endorse the findings of the report and include the amounts required in his budget proposal.

I would recommend that the President urge that the Judicial and Congressional salaries be unlinked and considered separately.

I believe that if the President does endorse the Pay Commission recommendation, the President should strongly urge that Congress vote on the pay increase.

The concensus on the Hill is that a vote will be a virtual certainty in the Senate and that most likely a discharge petition will be circulated by Congressman Grassley of Iowa.

However, even though a vote in the Congress seems likely, because of the strong Congressional desire for a pay raise, a pay raise is most likely to pass.

Another sticking point with the Congress will be the Code of Public Conduct section.

There is very strong resentment among the Congress at this time regarding this section.

Congress believes that it should not be constrained in this regard because of the alleged temporary status of a Member of Congress and the high cost of maintaining separate residences and all the other extra cost of living expenses attached to serving in the House and Senate.

Members of the minority with whom I have discussed this matter with, including Minority Leader Rhodes, suggest that the President couple his recommendation for a Congressional vote with a suggestion that the Code of Public Conduct be left to the prerogative of the House and Senate.

However, others in the minority including Congressman Bob Michel, believe that the Code of Conduct provision should be strongly endorsed as a balance to the pay raise.

Bob Michel supports the pay raise and indicates he will probably vote for it if necessary.

However, Michel recommends that the Carter administration be forced to endorse it before the President makes his recommendation.

Otherwise Michel maintains the Democrats in the Congress will use the political argument that the pay raise was a result of the Ford administration's recommendation.

Michel is willing to work through Tip O'Neill to insist that Carter endorse the pay raise before the President makes the decision or sends his recommendation to the Hill.

✓
cc: Marsh, Cheney, Cannon

9 December 1976

Honorable John O. Marsh, Jr.
Counselor to the President
The White House
Washington, D. C.

Jack,

I have read the Report of the Commission and find that I agree with the basic thrust of its findings, as far as they go. However, I am left with several concerns which apply at least to the situation at the Department of Defense, and probably apply to other departments and agencies as well.

First, a general observation: I do not regard the twin issues of inadequate executive pay levels and Civil Service salary compression in grades GS-15 and above as a problem so much as a rare opportunity. The opportunity comes about because it is possible now to use the powerful incentives to redress these two situations as a lever to correct other situations -- situations which not only cost the DoD more than \$2 billion annually, but which introduce management inefficiencies as a result of which still other costs are incurred.

These are my recommendations expressed in the DoD context; in most cases they can be generalized to cover the entire Executive.

1. Executive Pay Increases. There must be a near-term, substantial boost in the salaries of federal executives (both appointees and careerists) if the DoD expects to recruit and retain the executive and technical talent it needs. However:

a. Of the 35 positions in DoD at Level IV (assistant secretary) and above, no more than 22 are required, in my view.

Recommendation: A salary increase for DoD executives should be made contingent upon the elimination of unneeded appointee positions. The Transition is the optimum time to accomplish the necessary DoD staff reorganization, and it can be started simply by not filling certain jobs.

b. In the DoD there are about 1300 supergrade and equivalent positions. In my view, 1000 would meet the Department's needs. If that is true, then it makes no sense to give all of the incumbent supergrades a massive, one-time salary increase, even though some -- in view of their responsibilities -- deserve it.

Recommendation: Resurrect the Executive Service concept proposed by the CSC several years ago. (Bob Hampton could have it ready in a week.) This concept would replace the supergrade group with a pool of executives whose individual salaries could be set by the cognizant department head (working under a maximum average salary constraint). Those in the pool who are careerists and have "tenure" would be guaranteed a minimum salary equal to that of a GS-15.

The current salary compression under which many GS-15's and all supergrades make the same salary is a perfect opportunity to install the Executive Service concept. The jobs in DoD now graded above GS-15 which do not merit supergrade status would then receive very small increases and, while technically being included in the Executive Service, would be at the low end in terms of salary and thus effectively eliminated from "supergrade" status.

2. General Schedule Pay Adjustments. Under even moderate inflation rates, the Quadrennial Concept proposed by the Commission for adjusting executive salaries will simply recreate the compression problem we have today, but at a much higher level of pay.

Recommendation: The period between adjustments should be the same for General Schedule employees as for executives. During moderate periods of inflation, one adjustment every four years is sufficient. More effective use should be made of merit increases and monetary awards in between major adjustments to reward deserving employees.

3. General Schedule Grade Inflation. Over the past 12 years, DoD General Schedule employees have benefited from (1) major "one-time" adjustments in the name of comparability, (2) annual adjustments to reflect pay changes in the private sector, and (3) a totally unjustifiable amount of grade inflation. Until this year, the surveys and calculations upon which the comparability judgments and the annual adjustments were based were poorly constructed; this year (FY 1977) the President saved over \$2.1 billion in payroll costs in DoD alone by requiring his Pay Agent to include secretaries and computer operators in the private sector/government sample job comparisons, and by insisting on proper statistical weighting in the calculation process, both of which dramatically reduced the size of the annual pay adjustment. The clear inference is that over the past several years federal civilian employees have benefited from annual increases larger than necessary to maintain

comparability simply because the Pay Agent didn't use the right sampling and calculation techniques. That situation has now been corrected for the future. However, regarding grade inflation: Between 1964 and 1975 the number of civilian employees in DoD decreased by 8%, but the number of employees in the grades from GS-9 to GS-18 increased by 20%. The number of GS-13's increased by 47%! If DoD had the same civilian percentage grade distribution today that it had in 1964, annual DoD payroll costs would be less by at least \$600 million.

Recommendation: Redress of the pay compression problem should be contingent upon the approval of a multi-year plan to bring average civilian grade structure back down to more reasonable levels. Some inflation may be justified, but not the degree that has occurred in DoD.

4. Wage Board (Blue Collar Employees). As part of the FY 1977 Budget Request, the President proposed major revisions in the method by which adjustments are made in the wages of federal blue-collar employees. The current method, embodied in law, results in pay adjustments far larger than "comparability" requires. The average annual pay increases for blue-collar employees during 1974-76 have been nearly twice the average increase given to General Schedule employees. The annual savings in DoD alone would exceed \$1.1 billion if the President's initiatives were adopted. (The Congress, in response, did nothing.)

Recommendation: Adjustments in federal executive pay, however badly needed, should be made contingent upon passage of the legislation proposed by President Ford to overhaul the pay adjustment process for Wage Board employees.

Bill

William K. Brehm

Jack- These are obviously my personal views, and I have not discussed them with Don.



THE WHITE HOUSE

WASHINGTON

December 9, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH

SUBJECT: Report of the Commission on
Executive, Legislative and
Judicial Salaries

My views on this question are relatively unchanged since earlier conversations at Camp David and the Oval Office. The reservations I have relate to the leadership role assumed by the President in the years of his Administration concerning Federal spending, sound economic approaches and the need to apply discipline in the management of our national finances.

I am of the view that substantial Federal pay increases, particularly for the Congress, will set a bad precedent having a far-reaching, adverse impact nationally as well as erode some of the hard-earned credibility of the President. I feel it is inconsistent with his major statements on economic policy and his campaign posture. I consider the risk great that substantial pay increases will be viewed as one last hurrah for the Washington crowd of which we are a part.

I am of the opinion that the \$12,500 increase in 1969 of Congressional salaries compromised the 91st Congress in making the hard choices that needed to be made by saying no to people in programs to whom no should have been said. These pay increases made it difficult to resist demands for proposed pay increases, increases in veterans pensions, and limiting new social programs as well as restraining spending on existing Federal programs when restraint was critical. It is hard for a Congressman whose income has increased \$1,000 a month to tell a constituent that he cannot vote an increase of \$10 on his veterans pension or increase his Social Security check.



However, these increases ran into billions of dollars. Outside of Government, an example is set that affects price increases for labor contracts nationwide as well as pay structures of State and local governments. This ripple effect must be carefully considered in what the President does.

On the other hand, I am much aware of the critical need the Report seeks to address. There are severe inequities in the Federal pay structure. However, I do not believe the deficiencies that relate to the pay structure, the problems of civil service and many others are being addressed. I am of the view the pressure for pay increases should be used as a vehicle for an institutional correction rather than adopt a temporary expedient.

The Report really deals only with the tip of the iceberg. Its broad impact will be reflected primarily in the senior GS grade structure and secondly, indirectly in the lower grade structure. The proposed action, although relatively small in cost, will include more than 20,000 other senior Federal officials. To adequately compensate for this will mean a pay increase for a substantial group that will ultimately in the years ahead recreate the problem the Report seeks to redress.

The compaction situation is the tortoise and the hare. In 1969 there was a substantial leap in salaries for a very select group in the executive grades. The tortoise which is the rest of the senior grades has moved inexorably to the lowest level of the five executive grades. Unless the situation that produces this type of compaction is remedied it is inevitable that in the next several years we will have to leap the executive grades to even higher salaries and the process of grade creep and compaction will be repeated.

For this reason I consider the Report too narrow in that it focuses only on a narrow band of individuals and thereby provides only temporary relief of the problem.

In reference to the salary structure, I am of the view that the increases are too large. Modest increases for the Congress, but not to exceed \$3,500, would be in order if such an increase would not be perceived as doing violence to the President's position on fiscal restraint.

I am of the view that one of the most critical areas of Federal pay inadequacies occurs in the Judiciary and particularly for District Judges. I would recommend District Judges be paid at the same rate, or perhaps \$2,500 more, than Members of Congress, Circuit Court of Appeals Judges be paid \$2,500 more than District Judges, and that Justices be paid the same rate as that established for Cabinet officers. The Vice President, the Chief Justice, the Speaker and others would follow proportionally as outlined in the Report but less than recommended there.

In reference to standards of conduct, I concur in the view that this needs to be addressed, particularly in the Congress. Its inclusion in this report troubles me because I do not know whether its genesis arises out of the need for reform or whether it is intended to be a ribbon on the pay proposal to make it a more attractive package back home, and, thereby, incur less citizen resentment. Furthermore, there is a sensitivity in this area relating to the separation of powers. Historically, the regulation and discipline of Members of Congress is a power vested exclusively in the respective Houses. The implied coupling of pay and reform runs counter to that separation. I would prefer to see the President address separately the reform issue and call on the Congress to set its Houses in order apart from a proposal for salary increases.

It is essential in the reform issue that the Leaders of the House and Senate, on a bipartisan basis, assume this responsibility. I am of the opinion that the initiative should come from them.

Although that portion of the Report that deals with this question is well done and dedicated to a sincere effort to remedy the present situation, nevertheless it appears from the Charter of the Study Group that this effort is gratuitous and goes beyond their mandate.

If the President takes a position that he should address reform -- particularly for the Congress -- then the proposals for reform should be carefully developed and staffed in the Ford White House system. There are serious questions that need to be discussed as to the scope and nature of the reform, particularly those that may go to what some might consider to be the sterilization of a Members representation by requiring disassociation from many real world contacts. Is the requirement to be disclosure, restriction, or prohibition on outside income? These are different approaches that might be pursued.

As to how to proceed, there are two steps:

1. Development of the President's program, and
2. Laying the groundwork with Congress for its consideration.

In the latter case, the first step must be taken with the Leadership, but how we are to proceed will have to first be determined by what the President decides to do.

Finally, the President should seize this opportunity where there is great pressure for pay increases to insist on a remedy for basic defects in the Federal pay structure that produces compaction and grade creep. Reform of the pay and grade structure should be coupled with his proposal. This will strengthen his call for reform in Congressional and executive standards of conduct. However, I repeat that the demand for Congressional reform must be carefully handled in such a way that the President is not viewed as improperly meddling in the affairs of the Congress. There is a definite possibility that the Congress may take the pay raise and never fully implement reform.

In all events, should you decide to proceed, at least quiet acquiescence in what you propose is an essential requirement from the gentleman from Georgia, and preferably an open, public endorsement for what you send to the Hill.



THE WHITE HOUSE

WASHINGTON

December 11, 1976

MEETING ON THE REPORT OF THE
COMMISSION ON EXECUTIVE, LEGISLATIVE
AND JUDICIAL SALARIES (PETERSON COMMISSION)
Saturday, December 11, 1976
2:00 p.m. (2 hours)
Cabinet Room

From: Mike Duval *Mike Duval*

I. PURPOSE

To receive staff advice on the Peterson Commission Report and develop a plan for additional meetings (if required).

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: The attached memorandum summarizes the report and presents the issues raised.
- B. Participants: Dick Cheney, Mike Duval, Max Friedersdorf, Alan Greenspan, Jim Lynn, Jack Marsh, Ron Nessen, Paul O'Neill, Art Quern (for Jim Cannon who is out of town), Ed Schmults and Brent Scowcroft.
- C. Press Plan: Announced, no press photo

III. AGENDA

You may wish to use the sections on Decisions and Implementation (starting on page 13) in the attached memorandum as an agenda for this meeting.



THE WHITE HOUSE

WASHINGTON

December 11, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: MIKE DUVAL *MD*

SUBJECT: Report of the Commission on Executive, Legislative and Judicial Salaries.

PURPOSE OF MEMORANDUM

This memorandum summarizes the Commission's Report and presents the issues which require your decisions.

First is a background section which describes the history of the Commission and the substance of its report. This is followed by an analysis of the major policy issues raised by the report along with the implications of the alternatives you face. The next two sections respectively deal with the specific, substantive questions raised by the Code of Conduct and compensation issues. The sixth section presents all the issues along with staff recommendations in decision format. The final section discusses the alternatives available to implement your decision.

BACKGROUND

The Organic Statute for the Commission on Executive, Legislative and Judicial Salaries, created a nine member Commission to review the rates of pay of certain high-level government officials from all three branches. (The text of the statute can be found at Appendix A of the attached Commission report which is at Tab A.) The statute requires the following action by the Commission and the President:

"REPORT BY THE COMMISSION TO THE PRESIDENT -- The Commission shall submit to the President a report of the [appropriate pay levels and relationships between and among the respective offices and positions covered by the review] together with its recommendation.



"RECOMMENDATIONS BY THE PRESIDENT WITH RESPECT TO PAY --
The President shall include in the budget next transmitted
69 him ~~to~~ Congress after the date of the submission of the
report and recommendations of the Commission . . . his
recommendations with respect to the exact rates of pay
which he deems advisable for those offices and positions
within the purview of [the Organic Statute]."

It is clear from the statute that you are required to make recommendations with respect to the exact rates of pay which you deem advisable. This could be done with a simple one line statement in your Budget or with as high visibility as a special message to Congress in addition to a recommendation in the Budget.

The statute only refers to Commission work concerning rates of pay. It is clear that the Commission's recommendations concerning a code of conduct are outside the purview of the statute.

The Commission's report makes two key recommendations.

- That there should be substantial pay increases for high ranking governmental officials. (Executive Branch 32%, Legislative Branch 29%, and Judicial Branch 44%.
- These salary increases should be coupled with the imposition of a new code of conduct on all three branches.

The Commission made the following specific recommendations concerning a code of public conduct:

- All individuals (from the three branches) should be required to disclose their financial affairs to an appropriate authority.
- All employees should be prohibited from receiving honoraria, legal fees, gifts, or the proceeds of testimonial dinners, etc. for their personal use, and any other compensation for services rendered which might have, or appear to have an influence in the conduct of the public's business.
- Tight but reasonable provisions should be developed in order to eliminate -- or at the very least minimize -- those conflicts that necessarily arise when the economic investment interest of the individual falls within the scope of the public responsibility.

- There should be more consistency in the availability of legitimate expense allowances in all three branches of the government, including domestic and -- when appropriate -- foreign travel, entertainment granted and received, and gifts. Such allowances must not be used as a substitute for income.
- Restrictions should be imposed so as to ensure the top executives, judges, or legislators do not compromise either their objectivity or total devotion to the job by any arrangements that they may make while in public employment with respect to subsequent employment or other relationships.
- The code of conduct regulations should be broadly applicable across all three branches of government.
- An appropriate body or bodies should be established -- or if an existing one is to be so charged, it should be strengthened -- to ensure that these requirements are fully enforced and that all information disclosed under the Code of Public Conduct is regularly and adequately audited and publicly reported.

The report goes on to suggest a Presidential meeting with the Chief Justice and the leadership of the Senate and House in order to get the following commitments:

- To the principles of the code.
- To prompt action.
- To a new mechanism to implement the recommendations.

The report recommends that we draft legislation to create an intergovernmental commission which would develop a specific Code of Public Conduct and mechanisms to oversee and administer the code. They recommend that the legislation be submitted with the budget message.

The Commission has relied on the following principles concerning compensation:

- Comparability with the private sector is not a suitable basis for setting pay for the Government's top officials. Instead, pay should be set at the lowest rate that will allow the Government to attract and retain the best qualified individuals.

- Pay must be high enough to allow people to serve without other income sources.
- Because of the "psychic income" of higher level jobs (such as the Cabinet) the pay differentials between the Executive Schedule levels should be less as you go up the scale.
- If the pay level is set at the lowest level to attract competent people, it must be adjusted regularly to ensure that it does not fall substantially behind increases in the cost of living.
- Linkages between the three branches should be disregarded because we are dealing with entirely different jobs with different responsibilities and the career anticipation patterns very sharply.

The Commission's report makes the following recommendations concerning compensation:

- In order to alleviate the "cash flow" problem of non career appointees, they should be allowed to defer Civil Service Retirement contributions until after they have served for five years.
- Newly elected Members of Congress and executive appointees should be reimbursed for moving expenses, travel expenses, and subsistence while seeking permanent housing.
- Members of Congress should receive either an allowance or tax deduction of up to \$5000 per year (in addition to the current \$3000 deduction) to reimburse them for the expense of maintaining two residences.
- The following are the recommendations concerning salaries:

The largest pay increases are recommended for the Judiciary because judges tend to make government service a permanent career.

Larger increases are recommended for the lower executive levels than for the higher because of "psychic rewards".

The increases should be all at once, rather than phased because the need is immediate and it is best not to let the problem continue to fester.

A smaller percentage increase is recommended for Congress compared to the other branches, but this is partially off-set by their proposed housing allowance. On a dollar basis, Congress would get \$57,500, plus the \$5000 housing allowance compared to \$60,000 for Level II. Some compression will remain at the top of the GS levels. The Commission believes this is beneficial because it will impose some "cost discipline" on the super-grades. They feel that this is where the cost exposures are greatest and also where they have the least faith in the system's ability to measure need and worth. Also, they question the validity of the supergrade comparability rates primarily because they do not give proper weight to the cost of generous fringe benefits such as the early retirement feature of the pension plan.

The Commission recommends the creation of a permanent quadrennial commission made up of private citizens with significant staff support. Such a commission would address the following types of problems: periodic analysis of total federal compensation, cost of living increases, pension benefits, life insurance, and classification of positions.

Finally, to provide further perspective by way of background information, I have spoken to pollsters Daniel Yankelovich and Bob Teeter. Both agree that this is a highly volatile issue because of a very strong feeling in the country that government officials are paid too much as it is and do not deserve further increases. Both agree that, while your support for the Commission's findings could result in a positive public reaction, there is a likelihood that the opposite would occur.

Yankelovich, (whose polling firm did some work for the Commission) believes that your endorsement of the Commission's findings would greatly add to the symbolism of your final days as President by either showing you as (1) assisting old buddies with a pay increase as you leave or (2) as taking a courageous step which will result in giving the American people a better government.

He points out that the public can be made to understand and accept the concept that good government and elimination of the last vestiges of Watergate require an elimination of the mixed motives that result with outside income sources for government officials and the obvious need to attract the very best people in government and give them a sensible code of ethics to follow. Yankelovich says that public reaction will be largely determined by how your decision is presented. If you decide to accept the Commission's approach, this is an inherently believable conclusion if presented in a firm and sensible way that the people can understand.

Bob Teeter thinks that the general public reaction will be very negative (but you should nevertheless adopt the Commission's recommendations because they are right.) He believes that your best course of action is to announce your decision in a clear and forceful way but time it for Christmas week. He recommends against any middle ground such as a lesser increase without the code of conduct because this will be perceived as a compromise which serves the interest of no one.

THRESHHOLD ISSUES

The following are general questions which are raised by the Commission's report:

1. What are the implications of the President taking an active and visible role in connection with the report?

It is obvious under the statute that you must take some action. Probably the safest course (from a public perception standpoint) is for you to propose further study of the entire compensation question (including non-executive lower level positions) coupled with a very modest increase to cover cost of living in the FY 77 budget and strong endorsement of the principles established by the Commission concerning the code of conduct. You could then participate in several events (such as meeting with Congressional and Judicial leaders) designed to give high visibility to the need for a code of conduct.

On the other hand, you can of course decide to go forward with the fundamental recommendations of the Commission with the understanding that there will be a risk of severe public criticism but the possibility of a positive response depending on how your decisions are communicated.

The following are some arguments of why you should adopt the Commission's approach (major pay increase) which will mean a highly visible role for you:

- There is a need for Presidential leadership to solve this problem which has existed for many years. Many of your advisers believe a large pay increase can be justified.
- Without your strong leadership, a large pay increase is highly unlikely.
- If the press believe the arguments of the Commission, you may be criticised for not demonstrating leadership.

The following are some reasons for rejecting the Commission's recommendations and avoiding a highly visible role concerning the report:

- This may be a no-win proposition and therefore why take the risk.
 - If you do not take a leadership role, the likelihood is that there will not be any major pay increase. This might have the benefit of keeping down the rate of growth of government, and making it likely that people who have achieved private-sector success continue to serve in government.
2. Should the code of conduct be linked with the compensation issue?

As stated above, the Organic Statute does not give the Quadrennial Commission any charter to recommend a code of conduct or otherwise deal with any issue other than the executive pay question. By linking the two issues there is a possibility that the code of conduct proposal will be "contaminated" and the public will view the pay increases as an unfair "price" for code of conduct reforms which should occur on their own merit.

One argument for linking the two is the obvious political reality that this may be the only way to get the necessary pay increase. A substantive argument is the obvious need to know whether outside income is permitted before setting salary levels.

To some extent, public support or opposition will be shaped by how real they perceive the commitment to the new code of conduct.

One way of assuring, at least in public perception, the commitment of both the House and Senate to follow through on the code of conduct, would be by language in your transmittal of the pay package making it clear that acceptance by the Congress -- by not vetoing the pay increase within the 30 days -- will be taken by you and the American people as a commitment of both the House and Senate on the code.

There is another approach which would likely provide very strong evidence of commitment to the new code of conduct. You could make the pay increase contingent upon Congress passing legislation within 30 days to create the ad hoc commission to propose a new code. A varriant of this approach could include a provision which makes the pay increase contingent on the passage of Resolutions in both Houses of commitment to the code of conduct concept.

3. Would implementation of the report recommendation result in any constitutional and/or serious policy problem?

Phil Buchen's office points out that there is a Constitutional problem with the basic Organic Statute which provides for the pay increase in your budget subject only to disapproval by either House of Congress within 30 days. However, Counsel's office states that this problem can be ameliorated by your requesting an affirmative vote by the Congress on the pay increase and -- in any event -- there will be subsequent appropriation bills.

Also, there are potential Constitutional problems in developing a code of conduct and implementing mechanisms covering all three branches. These probably can be avoided with careful drafting of the legislation creating the ad hoc commission to develop the code.

From a standpoint of policy, there is obviously the great danger in your making any recommendations to the other branches concerning how they control the conduct of their members/employees. I frankly think that the public would be receptive to your taking a firm leadership role in this area given the fact that you have served for a quarter of a century in Congress and are now viewed as a national leader with no personal stake in the decisions you make in your remaining days as President.

CODE OF CONDUCT ISSUES

The following issues are raised because of the Commission's recommendation that a code of conduct be adopted government-wide in connection with the implementation of their recommended pay increases.

1. Should there be a single set of principles governing a code of conduct for all three branches?

The Commission's report is not clear as to why they believe there should be a common Code of Conduct for all three branches. Although logic suggests that common principles should apply to the conduct of officials from all three branches, the Commission specifically recommends that code of conduct regulations should apply to the three branches.

This may be a problem of semantics because Pete Peterson advised me by telephone that the Commission's intent is that there should be a common set of principles but that each branch would be responsible for the details of its own code of conduct.

2. What mechanism should be used to develop a draft code of conduct?

Notwithstanding Pete's interpretation of the Commission's intent concerning applicability to the three branches of such a code, their report does recommend that you submit specific legislation which would result in the creation of an inter-governmental commission to develop (after consultation with the branches) a specific Code of Public Conduct and set up mechanisms to oversee and administer the code.

This Commission would be under a legislative mandate to submit regulations or legislative proposals where required within 180 days which would set forth precise rules to put the principles of the code into effect.

There is, of course, a great danger in such an approach. As stated in the Peterson Commission Report, there would have to be some continuing mechanism to review compliance with the code of conduct. The creation of such an entity carries with it an enormous risk for abuse.



An alternative approach would be to create an ad hoc intergovernmental commission to study the code of conduct issue and make specific recommendations to each branch separately after developing a common set of principles. Each branch could be charged with the responsibility of creating its own enforcement mechanism with the ad hoc commission recommending certain guidelines such as strict public disclosure.

The Peterson Commission Report suggests that such a commission be given 180 days to complete its work. This may be unrealistic given our experience in developing a legislative alternative to S-495 the "Watergate Reorganization and Reform Act."

3. What subjects should be covered by the proposed code of conduct envisioned in the legislation submitted by the President?

The Peterson Commission recommends that the following subjects be covered in such a code: disclosure, restrictions on outside income, conflict of interest, allowances, post service employment and auditing. Some of your advisors believe that there may be additional matters which should be covered.

4. To what extent should legislation submitted by you guide the ad hoc commission on such issues as what form should the code(s) of conduct take (e.g., by statute) or what mechanism should be used to implement or enforce the code(s)?

This is a complex subject which needs more staff work.

COMPENSATION ISSUE

The Peterson Commission Report raises the following questions concerning compensation:

1. Should you take action to deal with the problem of executive level compensation only or should you insist on total reform of the federal employment system including lower grade levels?

There are obvious problems in the current Executive Branch Civil Service System, such as so called "grade creep", and a strong argument can be made that it makes no sense to improve the tip of the iceberg while leaving the larger problem untouched.

If, however, you decide to take action in this area you probably are going to have to accept a less than perfect solution in order to have a reasonable chance of making some progress. For example, linking the code of conduct with the pay increase may not be a perfect solution but it may be the only practical alternative. Likewise, I doubt it's possible to come up with a reform package for the entire federal employee system between now and submission of the budget. Since the Peterson Commission was permitted only to look at executive pay levels by statute, it makes some sense to deal only with this problem but identify the fact that there is still a great need for additional reform.

2. Should there be linkage between the various jobs within each branch?

As the Commission noted, there is no historical linkage among the various positions and they could not find a persuasive rationale for its rigid application. Undoubtedly the central reason for its existence is the political reality that Congress finds it easier to raise their own salary if they receive pressure due to the linkage factor from the other two branches. Indeed the political argument appears to be the only case that can be made for maintaining linkage.

3. Assuming you decide to propose some increase, at what level should the salaries be set?

Although there has been criticism of the Peterson Commission report, it is generally a visceral reaction to any pay increases for governmental officials. Many of your advisers accept the Commission's figures as as good as any. Several people have suggested that the pay increases could be phased in order to reduce the adverse political impact of such a decision. The problem with this, of course, is that any phasing-in would take you closer to the 1978 elections and this could aggravate rather than diminish the political impact.

Other advisers strongly object to such large increases.

See Tab B for the specific salary recommendations.

4. Should there be a relocation cost allowance and \$5000 annual allowance for the second residence for Members of Congress?

The Commission recommends in favor of both allowances. There seems to be a good case in terms of the realities of private sector competition for the relocation allowance. The principle argument against the \$5000 annual allowance or tax deduction for the second residences of Members of Congress is that this should be included in their salaries directly rather than treating it as an allowance or tax deduction.

5. Should there be a permanent Quadrennial Commission to periodically recommend increases in salary and for other purposes?

The Peterson Commission Report recommends that such a permanent commission be established. This may have resulted from their inability to deal with the question of annual cost of living adjustments. While recognizing the need for some adjustment on a periodic basis, they rejected recommending cost of living adjustments on the grounds that it would be perceived as a bad example to the rest of the country. Indeed none of your advisers urge adoption of a cost of living adjustment for the obvious policy and public reaction reasons.

The major opposition to the permanent Quadrennial Commission idea comes from the Civil Service Commission. Bob Hampton argues that it would be duplicative of the responsibilities that are currently placed in OMB, the Civil Service Commission and the Advisory Committee on Federal Pay.

One obvious alternative is to charge the ad hoc Commission with the responsibility of making a recommendation to the President and Congress as to whether or not a permanent Quadrennial Commission is required.

TENTATIVE POLICY DECISIONS

The following specific issues are listed in generally the same order as presented in the preceding sections. For purposes of presentation only, there is an implicit assumption that each decision is affirmative thus triggering the need to address successive issues.

Also, these are presented as tentative decisions because you may wish to consult with others before reaching final decisions.

See Tab C for staff recommendations and comments. Your advisors have not commented on all the issues identified below but are expected to do so at today's meeting.

GENERAL ISSUES

1) Should you take a highly visible role in connection with the Report?

- Very risky in terms of public reaction, but if you do act, do so boldly and with a very good press plan. (Teeter, Yankelovich)
- May compromise your reputation for fiscal conservatism. (Marsh)

DECISION:

2) Should you adopt the Commission's basic approach, i.e., a substantial pay increase tied to a new code of conduct?

- Most of your advisers that have commented, do not flatly support the Commission's recommendations.
- Jim Cannon supports the Commission while Phil Buchen and General Scowcroft concur in general but question the timing of the salary increases. Secretary Kissinger and Chairman Bob Hampton support the salary increases. Jack Marsh, Max Friedersdorf and Bob Hampton question linking the code of conduct and pay increases.

DECISION:

3) By what mechanism should the pay increase be linked to the code of conduct?

- The Commission recommends direct linkage.

DECISION:

4) Would implementation of the report result in Constitutional problems?

- Bob Hartmann believes that there is a serious constitutional problem in having any single agency monitor the conduct of the three branches.
- Phil Buchen's office says that the basic 30-day Congressional veto procedure is unconstitutional.

DECISION:

CODE OF CONDUCT ISSUES

5) Should there be a single set of principles for all these branches?

DECISION:



6) How should the code of conduct be drafted?

- The Peterson Commission recommends that a new commission be created by statute and draft the code in 180 days.
- Some of your advisers believe each branch should develop its own code, perhaps adhering to a common set of principles.

DECISION:

7) What subjects should be covered by the proposed code of conduct?

- The Peterson Commission recommends that the following be covered: disclosure, restrictions on outside income, conflict of interest, allowances, post-service employment and auditing.

DECISION:

8) Should you propose that the code be statutory or rules adopted by the respective branches and how should the code be implemented?

- There seems to be general agreement among your staff that a detailed code should not be imposed on all branches by a single commission and that implementing power should be controlled by each branch separately. Some intergovernmental entity may be appropriate for limited purposes.

DECISION:

COMPENSATION ISSUES

9) Should you take action to deal with executive pay only or should you insist on total reform of all pay levels?

- Jack Marsh argues that these matters should be addressed together -- not executive pay alone.

DECISION:

10) Should there be linkage between the various jobs within each branch?

- The Peterson Commission recommends against linkage.
- Bob Hampton believes Congress may object to this, thus defeating the pay increase.

DECISION:

11) Assuming an increase, at what level should the salaries be set?

- NOTE: Phil Buchen notes that the Chief Justice wants an opportunity to speak to you if you are considering a substantial reduction in the judicial salary levels proposed by the Commission.
- Jack Marsh, Alan Greenspan do not support the recommended pay increase.
- Buchen's office and Greenspan suggest that an increase be phased in.

- An alternative favored by some on your staff is to raise judicial salaries in accordance with the Commission's recommendation and give the Legislative and Executive Branches a modest cost of living increase.

DECISION:

12) Should there be a relocation cost allowance for government officials?

- The Commission proposes this and there have been no specific objections raised.

DECISION:

13) Should Members of Congress receive an additional \$5000 allowance for second residences? Should it be in the form of a tax deduction?

- The Commission recommends this but Greenspan opposes.

DECISION:

14) Should there be a permanent Quadrennial Commission to periodically recommend salary increases and for other purposes?

DECISION:

IMPLEMENTATION ISSUES AND DECISIONS

You probably will have to make a decision concerning the Commission's recommendations for a pay increase prior to departure to Vail in order that it will be reflected in the Budget. If you decide to sever the code of conduct and compensation issues, there is no need to deal with the former until January. However, as a political reality you probably cannot announce your decisions on the Budget in January without making some public statement concerning the Peterson Commission recommendations concerning a code of conduct.

On the other hand, you may wish to consult with Congressional and Judicial leaders both on the question of whether or not the two proposals should be linked as well as the specific merits of each. In this case you will probably will want to have such meetings next week which will allow your decisions to be reflected in the Budget.

The following issues will need to be resolved concerning pre-decision consultation (to occur next week):

- Do you want Jack Marsh, Max Friedersdorf and others to take informal soundings on the Hill?
- Should you consult with Congressional and Judiciary leaders as a group?
- If you decide to separate the Congress and the Judiciary, should you meet separately with House and Senate leaders?
- Should you meet with any outside groups such as the Peterson Commission?
- Should you meet with additional Administration officials such as Bob Hampton?
- Should you seek any commitment from Governor Carter before announcing your decisions?

If you decide to go forward with a major pay increase linked to some action on the code of conduct, we will have to develop a very effective press plan in order to avoid the risk described by Yankelovich and Teeter.

THE WHITE HOUSE
WASHINGTON

November 29

Mr. Marsh:

This is just to confirm the 4:00 meeting with the President in the Oval Office today re "Peterson Commission."

FYI -- attached is a letter to you from Peterson concerning a phone survey. You will recall you wanted me to call and delay the survey until after the election, which I did. Peterson's office said they would get back with us.

Donna

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: December 6, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

Bob Hartmann

Jim Cannon

Jim Lynn

Max Friedersdorf

Jack Marsh

Bill Seidman

Alan Greenspan
FROM THE STAFF SECRETARY

Paul O'Neill

Brent Scowcroft

DUE: Date: Wednesday, December 8

Time: c. o. b.

SUBJECT:

The Report of the Commission on Executive, Legislative
and Judicial Salaries
December 1976

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

The President has asked for senior staff comments on the attached report focusing on the following:

- (1) Overall structure of the report
- (2) Salary Structures recommended
- (3) Standards of Conduct
- ((4) How do we proceed?

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

**Commission on
Executive, Legislative
and Judicial Salaries**

1750 K Street, N.W.
Washington, D.C. 20006

December 2, 1976

The Honorable Gerald R. Ford
President
The White House
Washington, D. C. 20500

Dear Mr. President:

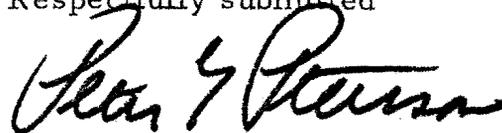
It is my privilege to present to you the attached report of the Commission on Executive, Legislative and Judicial Salaries.

All recommendations in this report have the unanimous support of the distinguished Americans who constitute the Commission. This unanimity reflects the urgency of the Commission's concern with a genuine crisis of public confidence in the quality and integrity of our Government.

We fear that the twin trends of ebbing public trust and the increasing difficulty of attracting and retaining high quality people may soon be irreversible -- unless the kind of actions suggested in this report are undertaken as soon and as vigorously as possible.

We further believe that the American public will understand that a small investment now in terms of increased salaries and a large investment now of conviction, time and effort in reform -- in the form of a new Code of Public Conduct -- will pay large public dividends in the building of a competent, full time and trusted government.

Respectfully submitted



Peter G. Peterson
Chairman, Commission on
Executive, Legislative and Judicial
Salaries

*Mr. President -- on behalf of my fellow commissioners,
we thank you for this opportunity to contribute.*

December 14, 1976

Dear Bill:

Good at all times
This is to acknowledge the photostat of your letter to the President concerning the Report of the Commission on Executive, Legislative and Judicial Salaries.

I did bring this to the attention of the President personally when this matter was being discussed. He appreciated your taking the time to give him the benefit of your thoughts and suggestions.

With Season's best wishes and kindest personal regards, I am

Sincerely,

John O. Marsh, Jr.
Counsellor to the President

The Honorable William L. Scott
United States Senate
Washington, D. C. 20510

JOM/dl



United States Senate

WASHINGTON, D.C. 20510

December 7, 1976

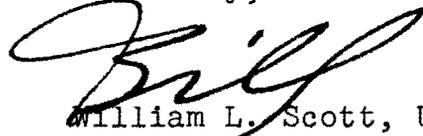
Mr. John O. Marsh, Jr.
Counsellor to the President
for Legislative Affairs
Executive Office Building
Washington, D. C. 20500

Dear Jack:

Enclosed is a copy of a letter to the President with regard to executive pay. I know this is a complex and difficult decision for him to make but I hope you will bring my views to his personal attention.

With kindest personal regards,

Sincerely,



William L. Scott, U.S.S.

WLS/del

Enc.





United States Senate

WASHINGTON, D. C.

WILLIAM L. SCOTT
VIRGINIA

December 6, 1976

The President
The White House
Washington, D. C.

Dear Mr. President:

I have reviewed the report of the Commission on Executive, Legislative and Judicial Salaries now before you, and would like to express strong disagreement with some of its proposals.

As you are well aware, our Government is composed of three co-equal Branches, the Legislative, Executive and Judicial, each intended to act as a balance against the exercise of excessive power by the others. Americans also tend to equate the authority and prestige of a given individual or group by the compensation paid for their services. Therefore, it would seem reasonable that the pay of the principal officeholders in each of the three Branches of Government should be the same.

I have no objection to placing the Vice President, the Chief Justice, and the Speaker of the House in a privileged class, although a salary of \$70,000 would probably attract the same calibre of persons as the higher salary recommended by the Commission. However, it would seem to me that Members of the Cabinet, Justices of the Supreme Court, and Members of the Congress should receive



The President

(2)

the same compensation. I doubt that any lawyer would decline to serve on the Supreme Court because the pay was only \$63,000 per year, and therefore I would suggest that Executive Level I be set at \$63,000, with Supreme Court Justices, Members of the Cabinet, and Members of Congress all placed within Executive Level I. In effect, this would continue the rate of pay of Supreme Court Justices at the same level, would amount to a decrease in pay of \$4500 for Cabinet Officers and an increase in the pay of Congress by \$18,400. In my opinion, Federal Appellate Judges should be placed in Executive Level II with a salary of \$60,000, amounting to an increase of \$15,400, and Federal Judges at the trial level should be placed in Executive Level III at a rate of \$57,000 representing an increase of \$15,000 per annum in their compensation.

I know that the Chief Justice has urged increases in the compensation of the Judiciary, but it would not appear reasonable to have their salaries above those paid Members of Congress who must advise and consent to those recommended by the President. It would also appear that the relative pay schedule suggested would further encourage the courts to usurp legislative authority and to consider themselves in a more rarified atmosphere than the Legislative Branch.

Level IV could well be placed at \$53,000 and Level V at \$50,000, leaving adequate space for any necessary adjustments in the compensation of the higher Civil Service positions.

As you know, I have had thirty-six years of Government service, and served on the House Post Office and Civil Service Committee for six years. And I share the great respect I know you have for the Congressional institution.



The President

(3)

We are both aware of the reluctance of a number of Members of the Congress to vote themselves pay raises of any kind. But I believe these suggestions would be no more costly than those submitted by the Commission, and that they would tend to re-establish the Congress as a co-equal Branch of Government rather than having it further degraded as it would be by following the recommendations of the Commission's report.

With kindest personal regards, and with best wishes for the Holiday Season,

Sincerely,

A handwritten signature in cursive script that reads "Bill".

William L. Scott, U.S.S.

WLS:ecm



pay
increases

December 14, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH

Senator-elect John Melcher called to urge in strongest terms that on the pay increases there be retained a comparability and linkage between the Congress and the Judiciary.

He favors the pay raise but if the judicial salaries move above the Congressional level he will oppose it and indicates there are other who will do likewise.

cc: Dick Cheney
Max Friedersdorf

JOM/dl



December 14, 1976

pay increases

MEMORANDUM FOR: THE PRESIDENT
FROM: JACK MARSH

Below follow my recommendations on the salary levels:

Vice President	\$75,000
Chief Justice	
Speaker of the House	
Associate Justice	\$70,000
Executive Level I	
President Pro-Tem	\$65,000
Majority Leaders	
Minority Leaders	
Judges--Circuit Court of Appeals	
Senators	\$50,000
Representatives	
Resident Commissioner of Puerto Rico	
Judges--Court of Claims	\$48,000
Judges--Court of Military Appeals	
Judges--Court of Customs & Patent Appeals	
Judges--U. S. District Court	
Judges--Customs Court	\$45,000
Judges--Tax Court	
Executive Level II	\$49,000
Comptroller General	\$49,000
Executive Level III	\$47,000
Assistant Comptroller General	\$45,000
Dir., Administrative Office-- U.S. Courts	\$45,000
Executive Level IV	\$43,000



*pay
increases*

I have not gone below the pay chart for Executive Level IV. However, I would recommend raises that are commensurate with the increases shown above.

I do, however, think a 20% increase for Bankruptcy Judges is sufficient.

JOM/d1



THE WHITE HOUSE
WASHINGTON

December 14, 1976

MEMORANDUM FOR:

PHIL BUCHEN
JIM CANNON
DICK CHENEY
MAX FRIEDERSDORF
ALAN GREENSPAN
BOB HARTMANN
JIM LYNN
JACK MARSH
PAUL O'NEILL
ED SCHMULTS
BRENT SCOWCROFT
BILL SEIDMAN

FROM:

MIKE DUVAL *Mike*

The President specifically has asked for your recommendation on the salary levels he should approve for those positions covered by the Peterson Commission Report (see Exhibit I attached).

The President has asked to receive your recommendations by dollar amount per position by tomorrow morning. It would be very helpful if you will send your recommendations to my office by close of business today. (You may find it convenient to indicate your recommendation on the summary chart attached as Exhibit II.)

Attachments



TABLE 2
 COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES
 RECOMMENDED SALARY LEVELS

	PRESENT	RECOMMENDED	PERCENT INCREASE
Vice President	\$65,600	\$80,000	22.0%
Chief Justice	65,600	80,000	22.0%
Speaker of the House	65,600	80,000	22.0%
Associate Justice	63,000	77,500	23.0%
Executive Level I	63,000	67,500	7.1%
President Pro-Tem, Majority and Minority Leaders	52,000	65,000	25.0%
Judges - Circuit Courts of Appeals	44,600	65,000	45.7%
Judges - Court of Claims	44,600	65,000	45.7%
Judges - Court of Military Appeals	44,600	65,000	45.7%
Judges - Court of Customs and Patent Appeals	44,600	65,000	45.7%
Judges - U.S. District Courts	42,000	62,000	47.6%
Judges - Customs Court	42,000	62,000	47.6%
Judges - Tax Court	42,000	62,000	47.6%
Executive Level II	44,600	60,000	34.5%
Comptroller General	44,600	60,000	34.5%
Senators, Representatives, Resident Commissioner of Puerto Rico	44,600	57,500	28.9%
Executive Level III	42,000	57,000	35.7%
Assistant Comptroller General	42,000	57,000	35.7%
Director - Administrative Office - U.S. Courts	42,000	57,000	35.7%
Executive Level IV	39,900	53,000	32.8%
General Counsel - GAO	39,900	53,000	32.8%
Librarian of Congress	39,900	53,000	32.8%
Public Printer	39,900	53,000	32.8%
Architect of the Capitol	39,900	53,000	32.8%
Commissioners - Court of Claims	37,800	53,000	40.2%
Deputy Director - Administrative Office - U.S. Courts	37,800	53,000	40.2%
Bankruptcy Judges (full time)	37,800	53,000	40.2%
Executive Level V	37,800	49,000	29.6%
Deputy Librarian of Congress	37,800	49,000	29.6%
Deputy Public Printer	37,800	49,000	29.6%
Assistant Architect of the Capitol	37,800	49,000	29.6%
Bankruptcy Judges (part time)	18,900	26,500	40.2%
Board of Governors, U.S. Postal Service	10,000	10,000	0 %

	PETERSON COMMISSION RECOMMENDATION	RECOMMENDATION BY: _____
VICE PRESIDENT	\$ 80,000	
CHIEF JUSTICE	80,000	
SPEAKER	80,000	
ASSOCIATE JUSTICE	77,500	
EXECUTIVE LEVEL I	67,500	
PRESIDENT PRO-TEM, MAJORITY AND MINORITY LEADER	65,000	
COURT OF APPEALS JUDGE	65,000	
DISTRICT COURT JUDGE	62,000	
EXECUTIVE LEVEL II	60,000	
SENATORS AND REPRESENTATIVES	57,500	
EXECUTIVE LEVEL III	57,000	
EXECUTIVE LEVEL IV	53,000	
EXECUTIVE LEVEL V	49,000	

TABLE 2
 COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES
 RECOMMENDED SALARY LEVELS

	PRESENT	RECOMMENDED	PERCENT INCREASE
75 { Vice President	\$65,600	\$80,000	22.0%
75 { Chief Justice	65,600	80,000	22.0%
75 { Speaker of the House	65,600	80,000	22.0%
70 Associate Justice	63,000	77,500	23.0%
65 Executive Level I	63,000	67,500	7.1%
65 President Pro-Tem, Majority and Minority Leaders	52,000	65,000	25.0%
Judges - Circuit Courts of Appeals	44,600	65,000	45.7%
Judges - Court of Claims	44,600	65,000	45.7%
48 { Judges - Court of Military Appeals	44,600	65,000	45.7%
48 { Judges - Court of Customs and Patent Appeals	44,600	65,000	45.7%
48 { Judges - U.S. District Courts	42,000	62,000	47.6%
45 { Judges - Customs Court	42,000	62,000	47.6%
45 { Judges - Tax Court	42,000	62,000	47.6%
49 Executive Level II	44,600	60,000	34.5%
49 Comptroller General	44,600	60,000	34.5%
30 ✓ Senators, Representatives, Resident Commissioner of Puerto Rico	44,600	57,500	28.9%
49 Executive Level III	42,000	57,000	35.7%
43 Assistant Comptroller General	42,000	57,000	35.7%
43 Director - Administrative Office - U.S. Courts	42,000	57,000	35.7%
43 Executive Level IV	39,900	53,000	32.8%
43 General Counsel - GAO	39,900	53,000	32.8%
43 Librarian of Congress	39,900	53,000	32.8%
43 Public Printer	39,900	53,000	32.8%
43 Architect of the Capitol	39,900	53,000	32.8%
43 Commissioners - Court of Claims	37,800	53,000	40.2%
43 Deputy Director - Administrative Office - U.S. Courts	37,800	53,000	40.2%
→ Bankruptcy Judges (full time)	37,800	53,000	40.2%
Executive Level V	37,800	49,000	29.6%
Deputy Librarian of Congress	37,800	49,000	29.6%
Deputy Public Printer	37,800	49,000	29.6%
Assistant Architect of the Capitol	37,800	49,000	29.6%
Bankruptcy Judges (part time)	18,900	26,500	40.2%
Board of Governors, U.S. Postal Service	10,000	10,000	0 %

pay raise

December 28, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JACK MARSH

I send the attached news article without comment.

Attachment

Article from the Washington Post, "Metro Section",
entitled "Applicants Exceed U.S. Jobs, 30 to 1"
12/28/76

JOm/dl



Washington Post

"Metro Section"

Tuesday, December 28, 1976

*Applicants
Exceed U.S.
Jobs, 30 to 1*

By Kathy Sawyer
Washington Post Staff Writer