

5/4/79

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memo w/att.	From Brzezinski to The President (8 pp.) re: Rights of Undocumented Workers/ enclosed in Hutcheson to Brzezinski 5/4/79	5/3/79	A

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THE WHITE HOUSE
WASHINGTON

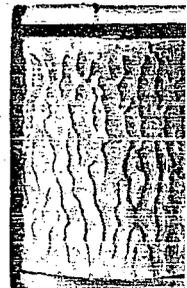
04 May 79

Frank Moore

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

TWO MEMOS ATTACHED



THE WHITE HOUSE
WASHINGTON

- > Fountain
- > Williams
- Moorehead - VP
- Waxman - no
- > Kindness
- Murtha
- Kestneger

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THE WHITE HOUSE
WASHINGTON

Q

April 30, 1979

CONGRESSIONAL TELEPHONE REQUEST

TO:

Cong. Olympia Snowe 2 ?
Cong. Joel Deckard 4
~~Cong. Bill Moorhead 1~~
Cong L. H. Fountain -5
Cong. Tom Kindness 3

*Waxman
Postmeyer*

DATE:

Before close of business Tuesday, May 1

BACKGROUND:

Markup on the Department of Education bill begins on Wednesday, and it is important that you contact the above-mentioned Members to ask their support for the bill. Without a commitment from at least one of these Members, we may be short of the total needed to vote the bill out of the Committee. All have been briefed extensively prior to your call.

Congresswoman Snowe and Congressman Deckard are leaning against the bill, but a phone call from you might nudge them in the right direction. Snowe is being driven by Senator Cohen on this. Deckard has been silent.

Congressman Fountain is leaning wrong, and is unable to join you tomorrow when you meet with other Members of the Government Operations Committee on this issue, so this may be your only opportunity to speak with him. He has raised concerns about too much Federal involvement in education.

Congressman Kindness has been leaning wrong, but it is possible that he might change his mind, even at this late date. He voted for the bill last year. He has concerns about Federal control but has been impressed by our management arguments.

*The Vice Pres
will meet w/
him Wed A.M.*

~~Although you spoke to Congressman Moorhead prior to the Subcommittee vote he subsequently voted no. Some feel however he would not want to be the one to kill the bill. An appeal to him on this basis may work.~~

REQUESTED
BY:

Frank Moore
Terry Straub *mm*

*I will also ask the Speaker to
talk to the Member.
F.M.*

THE WHITE HOUSE

WASHINGTON

THE NEED FOR A DEPARTMENT OF EDUCATION

- o The fundamental issue in the creation of the Department is that of improving the management of Federal education programs. Separation of education programs from HEW will not only focus greater attention on education, but will improve the management of health and welfare programs as well.
- o The proposal will not create more bureaucracy; rather, it will reduce bureaucracy. Savings of \$15-19 million will result in the first few years from personnel reductions. It is anticipated that we can save over \$100 million in the long run by improved management systems.
- o A Department of Education will improve coordination by bringing together education programs that are now scattered throughout the government.
- o This proposal would also increase the accountability of education and related programs to the Congress, President and the public both as a result of increased visibility and more focused responsibility and leadership.
- o You are deeply committed to a new Department of Education, and feel that the country would be best served by this reorganization.

THE WHITE HOUSE

WASHINGTON

May 3, 1979

*Frank -
arrange meeting
me & Ed*

CONGRESSIONAL TELEPHONE CALL

TO: Reps. Wyche Fowler and Ed Jenkins

DATE: May 3, 1979

RECOMMENDED BY: Frank Moore *F.M.*
Bob Maher *BM*

PURPOSE: To get their support for Hospital Cost Containment

BACKGROUND: The Ways & Means Committee has scheduled markup for the Hospital Cost Containment bill Monday. If possible, we need to let Chairman Ullman know if we have the votes before Friday. He has scheduled one other bill and can drop Hospital Cost Containment if we are short votes. It would be better if we can move now, aside from the fact that we would have a win. If Ways & Means considers the bill now, it would add pressure on the Commerce Committee's health subcommittee and have ripple effects on the Senate Committees.

We need 19 votes to get the bill out of committee. Right now we have 16 solid or leaning against us.

Wyche Fowler and Ed Jenkins are both leaning against us. We have met with both. Of the two, we probably have a better chance with Fowler.

Georgia's efforts in cost containment are better than the national average. The state should not be adversely affected by the legislation. Both Members know this. The attached chart shows this. Jenkins' district is above average, but it would be best not to mention that fact.

Last year Fowler was prepared to vote against the bill. This year the bill, however, is different and more flexible.

Jenkins seems more attracted to the financial side of the legislation and the savings which would result. Taxpayers and the government are not getting full value for their dollars because of the inflation rate in the hospital sector. Jenkins represented

a hospital while practicing law in Georgia and complains about regulations. He says his hospitals -- and it appears Jenkins, himself -- distrust HEW's administration of any regulations. He also says that the President has promised fewer regulations. But the hospital industry does not respond to classic economic principles as, for example, airlines do without regulations. And his committee budget includes a savings of \$1.4 billion from the hospital cost containment bill. Where is that to come from?

Despite the valid arguments, I think you are going to have to put this on a personal basis.

CHART

<u>RATE OF INCREASE IN HOSPITAL COST</u>	<u>U.S.</u>	<u>STATE</u>	<u>JENKINS' DISTRICT</u>	<u>FOWLER'S DISTRICT</u>
INCREASE IN TOTAL EXPENSES, 1977 OVER 1976	14.2%	12.2%	17.8%	12.2%
INCREASE IN TOTAL EXPENSES PER ADMISSION, 1977 OVER 1976	12.4%	12.4%	12.5%	11.7%
INCREASE IN TOTAL EXPENSES PER DAY OF PATIENT CARE, 1977 OVER 1976	13.8%	11.4%	2.2%	10.6%
INCREASE IN TOTAL EXPENSES IN SMALL, NONMETROPOLITAN HOSPITALS, 1977 OVER 1976	13.0%	12.3%	14.2%	0.0%
INCREASE IN TOTAL EXPENSES IN OTHER THAN SMALL, NONMETROPOLITAN HOSPITALS, 1977 OVER 1976	13.7%	12.2%	19.0%	12.2%

THE WHITE HOUSE
WASHINGTON
04 May 79

Chairman Campbell
Jim McIntyre

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

Stu Eizenstat
Hamilton Jordan
Frank Moore
Jack Watson
Anne Wexler
Zbig Brzezinski
Landon Butler
Jerry Rafshoon



THE WHITE HOUSE
WASHINGTON

5/3/79

Mr. President:

No comment from Butler or
Brzezinski.

Other views are attached.

Rick

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND
<input type="checkbox"/>	NO DEADLINE
<input type="checkbox"/>	LAST DAY FOR ACTION -

include Stu's memo but
not Frank's

ACTION
FYI

<input type="checkbox"/>	ADMIN CONFID
<input type="checkbox"/>	CONFIDENTIAL
<input type="checkbox"/>	SECRET
<input type="checkbox"/>	EYES ONLY

<input type="checkbox"/>	VICE PRESIDENT
<input type="checkbox"/>	EIZENSTAT
<input checked="" type="checkbox"/>	JORDAN
<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input checked="" type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	WEXLER
<input checked="" type="checkbox"/>	BRZEZINSKI
<input checked="" type="checkbox"/>	MCINTYRE
<input type="checkbox"/>	SCHULTZE
<input checked="" type="checkbox"/>	CAMPBELL

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input checked="" type="checkbox"/>	BUTLER
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	CRUIKSHANK
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	GAMMILL
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
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<input type="checkbox"/>	PRESS
<input checked="" type="checkbox"/>	RAFSHOON
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN
<input type="checkbox"/>	WISE

<input type="checkbox"/>	ADAMS
<input type="checkbox"/>	ANDRUS
<input type="checkbox"/>	BELL
<input type="checkbox"/>	BERGLAND
<input type="checkbox"/>	BLUMENTHAL
<input type="checkbox"/>	BROWN
<input type="checkbox"/>	CALIFANO
<input type="checkbox"/>	HARRIS
<input type="checkbox"/>	KREPS
<input type="checkbox"/>	MARSHALL
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VANCE

United States of America
**Office of
Personnel Management**

Washington, D.C. 20415

April 27, 1979

In Reply Refer To:

Your Reference:

MEMORANDUM FOR THE PRESIDENT

FROM:

Scotty
Alan K. Campbell
Director, OPM

James T. McIntyre, Jr. *Jim*
Director, OMB

SUBJECT: Federal Compensation Reform Legislation

On February 8, 1979, you approved our request to move ahead with the development of comprehensive legislation to reform the principal compensation systems covering Federal civilian employees.

We have now completed a legislative proposal. The principal features are:

- total compensation comparability (pay plus fringe benefits) for both white collar and blue collar employees;
- locality pay for white collar employees (similar to local wage areas for blue collar);
- blue collar reforms that will get us closer to local prevailing rates; and
- inclusion of State and local government pay plus benefits in comparability surveys for Federal compensation.

Additionally, we have been working with the Department of Defense to link the civilian pay reforms with the military pay and retirement proposals in order to combine the announcement of both proposals as a comprehensive package. They, of course, will be on separate Committee tracks in Congress.

The legislation is ready for transmittal to the Congress. The purpose of this memo is to discuss the politics of civilian compensation reform and to seek guidance on the timing and strategy for pursuing enactment.

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for Preservation Purposes**

CON 114-24-3
January 1979

Pay Caps Versus Pay Reform

In our February 8 memorandum we pointed out that the gap between pay comparability for Federal employees under the current system and the actual rates being paid because of this year's 5.5 percent cap -- a gap which will increase as a result of another 5.5 percent cap this October -- makes it imperative that we move ahead to reform the comparability system. With continued pay caps, the gap by October 1980 could be as high as 12-15 percent, creating a politically intolerable situation with little or no chance of granting a pay increase to close the gap. We risk losing the comparability system altogether, with no satisfactory alternative system in sight, if we do not seek reforms now.

Cost Savings

Implementation of the compensation reform proposal will reduce future Federal payroll costs by the comparison of the total Federal compensation package (pay plus benefits) to private, State and local practices. Annual cost savings which could impact the Fiscal Year 1981 budget amount to \$600 million in the blue collar reforms and at least \$2.8 billion in the white collar reforms. Though no Federal employee would suffer a reduction in salary, the effect of the reform proposal would be to slow down future rates of increases.

Political Support and Opposition

As with Civil Service Reform, there will be very broad public support for this proposal. Significant elements of the business community, i.e., the Chamber of Commerce and the Business Roundtable, are supportive because of the competitiveness of higher Federal salary rates in some areas of the country. State and local public interest groups, Common Cause, the public administration professional community, and academic groups are supportive. Significantly, we expect and indeed have already received in some instances strong editorial support from the major news media, e.g., a recent editorial from the Chicago Tribune. We do not believe the Administration will be in a punitive posture vis-a-vis Government workers by proposing this reform. Though difficult, the argument can be made that abandonment of the comparability principle will have an extremely negative impact on the Federal employee. Also, Federal employees in the highest cost-of-living areas of the country will benefit from the reforms.

Opposition to the proposal will come from the major Federal employee unions. We do not believe that the AFL-CIO will make it a major issue, but rather will leave it to the AFGE and other Federal employee affiliated unions.

Outlook for Passage

We are optimistic that the Congress will enact the proposal in the 96th Congress, though the politics of doing so will be very difficult. Congressional critics of the current comparability system (including the Budget and Appropriations Committees of the House and Senate) will provide a base of support for the proposal. Specifically, there has been considerable pressure from these critics in the past to enact blue collar pay reforms. This Administration is clearly identified with this issue, since we introduced and strongly supported a blue collar proposal (substantially similar to the current package) in the 95th Congress.

The difficulty will be with the substantive Committees in the Senate and House. The prospects in the Senate Governmental Affairs Committee are good, the difficulty being the number of Administration priorities already before that Committee. Chairman Ribicoff, however, has agreed to hold this compensation proposal at the full Committee level with Senator Pryor, Chairman of the Civil Service Subcommittee, chairing the hearings. Preliminary discussions with the Committee staff have been very encouraging. The proposal could be reported from the Committee with possible Senate action late in this session.

Just as with Civil Service Reform, the House Post Office and Civil Service Committee is a more complex matter. Chairman Hanley believes there is a clear need to reform the comparability system now in order to save it. He also believes that it would be a good time to get such a change with the mood of this Congress. He intends to hold the legislation at the full Committee, but may have some difficulty in view of anticipated opposition from Gladys Spellman, Pat Schroeder, and Herb Harris, all of whom chair civil service Subcommittees. We can reasonably expect the Committee to take action either late this year or early next year. Floor action in the Senate and House ought to be favorable, with some opposition coming from Members representing regions of the country where lower Federal salaries will apply (lowest cost-of-living areas) in relation to the higher salary areas. This Congressional situation will require building extensive public and outside support for compensation reform, following to a substantial extent the kind of effort made with Civil Service Reform.

Summary

We believe that a high Administration profile on this issue enhances the likelihood of passage and that Presidential identification is a good 1980 general election issue. To adopt a strategy of low Presidential visibility would be unwise. Federal employees will blame the Administration regardless of the degree of Presidential identification, but the public will give credit only if that identification is clear and unequivocal. This compensation reform proposal is a continuation of Civil Service Reform and easily identified with the continued emphasis on general government reform.

We believe your personal participation in the announcement of both civilian and military compensation reform proposals is essential to their success. We recommend, therefore, that you --

- announce the civilian and military compensation reform proposals at a White House press conference, which we will attend with Harold Brown;
- transmit the two legislative packages, civilian and military, to the Congress on the day of the announcement.

If you agree, we will develop a transmittal message for the civilian compensation reform proposal. We understand that the Department of Defense is working on a separate message for transmitting the military compensation package. We will also work with Defense and the White House staff to develop an appropriate oral statement for the press conference covering both military and civilian reforms.

PRESIDENTIAL ACTION

Proceed with plans for Presidential press conference at which both civilian and military compensation reforms will be announced.

- Approve
- Disapprove
- Other

See DPS memo - J

Also inform Ham & Landon

Chicago Tribune

FOUNDED June 10, 1847

STANTON R. COOK, *Chairman and Publisher*
ROBERT M. HUNT, *President*

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JOHN MCCUTCHEON, *Editorial Page Editor*
WILLIAM H. JONES, *Managing Editor, News*

6 Section 2

Sunday, April 22, 1979

THE NEWSPAPER is an institution developed by modern civilization to present the news of the day, to foster commerce and industry, to inform and lead public opinion, and to furnish that check upon government which no constitution has ever been able to provide.

—THE TRIBUNE CREDO

More civil service reforms

Substantial reform of the federal civil service may well prove to be one of the biggest if least glamorous accomplishments of the Carter administration. Last October, after months of pushing and shoving, Congress enacted and the President signed legislation making extensive improvements in the civil service. Soon a second wave of reforms will be in the news.

Last fall's accomplishments included: making it easier to discharge poor employees; creating a Senior Executive Service offering heightened merit pay, diminished tenure, and easier inter-agency transfers; protecting whistle-blowers against reprisals; and replacing the former Civil Service Commission with two new agencies. These are the Office of Personnel Management and the Merit Systems Protection Board, which divide potentially conflicting responsibilities earlier vested in the head of the Civil Service Commission. It is still too early to judge the results of these reforms, but they should be good.

The next reform wave concerns pay. Comparability is the concept supposedly governing federal compensation. The administration would like to compare not salaries, as at present, but the total package, including fringe benefits. Be-

cause governmental pensions and vacations tend to be more generous than those in the private sector, factoring them in could make an annual difference of three or four billion dollars, according to the administration. This is a clear-cut issue between taxpayers and payrollers.

The administration also would like to take regional variations into account in computing salaries—a proposal that divides the employees, as some would gain and some would lose. Another potential new factor is prevailing pay levels in state and city governments.

How about the superior job security of government employees, and their immunity from seasonal unemployment? Probably that, too, should be taken into account. But it would be hard to measure it accurately or to force it on resistant employees. Besides, it would be undiplomatic to raise it as an issue at the same time the administration is seeking to make federal employment less secure and more dependent on performance.

Public employees and their unions may be expected to fight hard against anything counter to their financial interests. But the taxpaying public, the employer of all civil servants, is entitled to the reasonable and equitable relief that the proposed reforms would bring.

EIZENSTAT, WATSON,
WEXLER, RAFSHOON

THE WHITE HOUSE

WASHINGTON

May 2, 1979

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
STEVE SIMMONS *Steve*

SUBJECT: Campbell, McIntyre Memo re
Federal Compensation Reform
Legislation

We have been involved in a great many discussions on the Federal pay reform legislation, and have followed the issue closely. We believe the Campbell/McIntyre memo raises three questions which must be answered.

1. Should the Administration submit compensation reform legislation to this Congress? We know that Frank Moore has raised some important questions about whether we should proceed forward at all with this initiative. Arguments against going forward include its adverse impact on the Federal employee constituency so close to the 1980 election (especially in the South where Federal employees are paid well in comparison with their private industry counterparts) and the great difficulty in passing the legislation. Although Frank has raised some valid political questions, we believe that on balance arguments in favor of going forward are persuasive. These arguments include:

- You have already approved the initiative in an extensive decision memo, which was based on a great deal of discussion and analysis, and we should only draw back from that decision for the most compelling reasons.
- If Federal employees are going to vote against us in 1980 because of "adverse" Administration actions, they will be influenced by the imposition of the 5.5 percent pay caps, civil service reform, and the parking space initiative. It's hard to imagine Federal pay reform losing us any additional Federal employee votes, beyond what may have been lost by these initiatives. Let us add, that Jerry Brown is well known for refusing to give California State employees pay increases, and our record would compare favorably in any primary. It is also difficult to imagine Federal employees voting for Ronald Reagan over you in a general election if treatment of government employees is the issue.

- If pay reform is not passed, the October 1980 comparability gap could be 12 to 15 percent as Scotty and Jim point out. The only way you could deal with that situation would be to impose a pay cap as you did last year on Federal employees' salaries, and you would have to announce such a pay cap, in the budget for FY 80 announced prior to the 1980 election. Such a pay cap decision, which is a positive assertion of your power to limit Federal employee pay, will hurt us more with employees in 1980 than passage of Federal pay reform which arguably simply changes the comparability system. In fact, if Federal pay reform is passed, it's possible that comparability would only demand a 7 to 8 percent pay increase in 1980 which, if given, would actually help us with Federal employees.
- As Scotty and Jim say, pay reform will be politically popular with the general public and with the media, perhaps more so than civil service reform. The public perceives Federal employees as overpaid, and this initiative will ultimately result in a reduction of future Federal employee pay increases as well as a reduction in the Federal budget and deficit (which we can also claim is anti-inflationary).
- Although Federal employees in the South might not like pay reform, it is not at all clear that private businessmen in Southern congressional districts would oppose it. In fact, higher Federal employee pay may act as a pressure on private industry in low paying areas to increase their wages to their own employees, as well as siphon off their low paid employees to the higher paying Federal jobs.
- Although Federal pay reform will undoubtedly be extremely difficult to pass, Scotty's extensive conversations on the Hill as well as our contact with House and Senate staff and members we work with indicate that with an intense effort, pay reform is passable this Congress (although not this year).

On balance, we favor proceeding on course with this initiative.

2. Should you personally announce your message to Congress on pay reform in a White House press conference? Although we do not feel strongly about this, we tend to disagree with Scotty and Jim, and believe that you probably should not personally announce this initiative. To the extent that you are personally identified with this at the outset, it would only additionally antagonize Federal employees who will be worked up by the unions, and will also raise the level of confrontation and awareness of the issue with the unions and their supporters on Capitol Hill.

Also, if the initiative fails to pass Congress, it will be perceived as a less significant loss for the Administration if you are not out front from the beginning. If it appears at the tail end of this process that the legislation is going well, you can step in and gain credit for what your Administration has done for the general public. We believe that Scotty and Jim can announce this on their own in a press conference and handle it well, with continued White House staff involvement. Your time need not be taken up with this initiative, except as White House staff may determine an occasional critical call or meeting is necessary.

3. Should the civilian pay reform be combined with the Department of Defense's military pay and retirement proposals for one joint announcement in a comprehensive package? It is true that a joint announcement would make for a "more comprehensive" pay reform proposal and may have some minimal effect in causing some Federal employees not to feel "singled out" for special pay reform treatment. Scotty has also suggested that when Congressmen and reporters are briefed on the pay issue, it is easier to brief them on both proposals.

Although there is some merit to a joint announcement, we disagree with Scotty and Jim and believe the arguments against the combination are overwhelming. Among these arguments are:

- We have been forcefully told by relevant congressional staff that the military pay reform proposals do not stand any chance of passage during this Congress. The white and blue collar pay reforms, although they will be difficult to pass, do stand a chance. When the military proposals fail, it will be charged that we did not get a very major proportion of our pay reform proposals, i.e., the military part. The military proposals will only drag down the other pay reforms.
- It is commonly agreed that veterans organizations (VFW, Legion, etc.) and miscellaneous service organizations (Association of U.S. Army, etc.) will vigorously oppose the military proposals. By combining them with the other pay reform proposals we only unite the veterans and other powerful relevant military groups with public employee unions against pay reform.
- Substantively, the proposals address different issues. The military reform proposals have been moving in an entirely separate track, and were originally recommended by your Commission on Military Compensation in 1978.

Unlike the other pay reforms, the military reforms primarily address the military retirement system (although there are some minor changes in the current military pay structure geared to increasing flexibility and equity). In addition, military pay proposals bring in the question of funding for the volunteer army and related issues.

- The military proposals will cost an estimated \$500 million annually during the first 5 years, and continue to cost hundreds of millions over the following 15 years. This significantly lessens our claim that our pay reform proposals will save money in the Federal budget. For the first 20 years it cuts exactly the opposite way.
- These proposals go to totally different Congressional committees and there is no legislative reason to combine them.
- The public now will clearly support proposals to lower future Federal employee pay increases and thereby make the pay structure more equitable. The public will have greater difficulty understanding changes that may reduce military retirement benefits.

We recommend that the military pay reform proposals be announced by Harold Brown in a separate press conference at least several weeks apart from announcement of the civilian pay reform proposals.

DECISION

Proceed with plans for a press conference at which the civilian compensation reform initiative is announced.

<input checked="" type="checkbox"/> Approve (Recommended by Campbell, McIntyre, DPS, Rafshoon, Watson, Wexler)	_____ Disapprove
--	------------------

With Presidential participation in press conference.

_____ Approve (Recommended by Campbell, McIntyre, Rafshoon)	<input checked="" type="checkbox"/> Disapprove (Recommended by DPS, Watson, Wexler)
---	---

Announce Presidential message on military compensation reform at Brown press conference at least several weeks apart from announcement of civilian compensation reform.

<input checked="" type="checkbox"/> Approve (Recommended by DPS, Rafshoon, Watson, Wexler)	_____ Disapprove (Recommended by Campbell, McIntyre)
--	--

Although we agree with Scotty and Jim on proceeding with the pay reform legislation, because of the above recommendations on strategy we, Jack Watson and Anne Wexler recommend you check the disapprove box on their memo. Jerry Rafshoon also recommends you check the disapprove box, because of his agreement with us that the military and civilian pay reform announcements not be linked. However, Jerry believes you should announce the civilian pay reforms personally since it is a good issue with the public.

Jack, Anne and we agree that we should stress in the civilian pay announcement that the reform will allow Federal employee pay to be truly comparable to private employee pay so that pay caps are less likely to be imposed in the future.

THE WHITE HOUSE

WASHINGTON

May 3, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: Frank Moore *FM.*

SUBJECT: Federal Compensation Proposals

Scotty Campbell and Jim McIntyre have requested your personal involvement in the announcement of transmittal of Federal Compensation Reform legislation to the Congress.

The following is provided as a supplement to the Congressional and political assessments included in their memo.

I have also taken the liberty of suggesting that a broader analysis of options be presented to you before you make a final decision.

Outlook for Passage

In February when you were given a memo concerning development of federal pay reform legislation, I noted that chances of passage in the House were dim. I indicated that we did not have a leader the caliber of a Mo Udall to spearhead the efforts. I now believe that chances of passage in the House in this Congress are almost non-existent. The only positive sign we have is an indication from Chairman Hanley that he will try to hold hearings at the full Committee level. If he does it will be in spite of personal opposition to the proposals -- he says they give too much authority to the Executive Branch. Consequently, he would only hold hearings if pushed by us and only if we can persuade him that the effort is worth his riding roughshod over subcommittee chairs Gladys Spellman, Pat Schroeder and Herb Harris. Jim Hanley has not been a strong chairman -- persuading him to do this would not be an easy task.

Other problems on the Committee include convincing Members like Clay, Garcia, Leland and Ferraro who have ties with labor. Bill Ford has promised to galvanize these and others against the proposed blue collar changes; he feels they will hurt minorities. He also says that unions including the UAW and AFSCME will make the defeat of federal pay reform a high priority.

In summary, getting the bill through the Committee would depend on the support of all Republican Members and is unlikely before 1980.

We would then face a very tough floor fight where we would have to depend on the Republicans in an election year. Such a scenario I believe is best left for 1981.

Prospects in the Senate are somewhat brighter. As indicated in the Campbell/McIntyre memo, at least we have a commitment from Ribicoff that he will ask Pryor to chair hearings in the busy Governmental Affairs Committee. Pryor, too, has reservations about the proposals, but will move at Ribicoff's behest.

Political Impact

The Campbell/McIntyre memo suggests that the Administration will not be perceived as being in "a punitive posture vis-a-vis government workers". I disagree. The proposal is already being called "Carter's Seig Heil Plan" by the American Federation of Government Employees.

I am more inclined to accept the following from the summary of Campbell/McIntyre memo -- "Federal employees will blame the Administration regardless of the degree of Presidential identification . . ." -- i.e., by the act of sending the legislation up we will incur the wrath of many Federal employees. I think we should understand that the Federal civilian work force is a significant segment of the nation's population. It includes over 1,800,000 people dispersed throughout the country. Most of them vote and many occasionally write to their Congressmen and Senators -- they are a political force to be contended with.

The following list of Federal civilian workers for a few small and medium-size states is indicative of their possible political impact:

	<u># of Federal Civilian Workers</u>
Alabama	6,804
Florida	14,146
Georgia	16,942
Mississippi	5,002
New Hampshire	9,747
South Carolina	23,465
Virginia	5,013

Blue Collar Employees

Even though the Administration sent up a similar blue collar proposal in the last Congress, we dropped it during the Civil Service Reform legislative fight because of intense union opposition.

I am not now concerned so much about that union opposition in Congress, but about the real impact on people whose economic survival is dependent on their jobs, e.g., maintenance workers, cooks, gardeners, carpenters, plumbers, etc., at military bases.

The message blue collar reform sends them is that they are overpaid by 8-10% so they'll have to settle for half of the normal increase until they fall in line. For people in a wage range of \$15,000 - \$16,000, this could be a disheartening message. I don't believe that we should send it. Instead, I'd rather see us propose a more humane approach -- one with a longer phase-in, one which would not be so likely to send such traumatic shock waves to people living on the margin in this time of high inflation.

Options

Instead of merely considering the question of your personal involvement in an announcement of civilian pay reform and military retirement legislation, I recommend that you direct the Office of Personnel Management and the Office of Management and Budget to expand their options to include:

- Delay of transmittal of blue collar proposals until 1981.
- Alteration of blue and white collar proposals to provide slower phasing.
- Delay of transmittal of the complete package until 1981.

It almost goes without saying that I oppose your personal involvement in any announcement. I also oppose the linking of Federal civilian compensation changes with military retirement changes. In doing so we merely invite linkage between veterans groups and the unions. We need not encourage such united opposition.

ID 791700

THE WHITE HOUSE

WASHINGTON

DATE: 30 APR 79

FOR ACTION: STU EIZENSTAT

FRANK MOORE (LES FRANCIS)

JACK WATSON

ANNE WEXLER

ZBIG BRZEZINSKI *nc*

INFO ONLY: THE VICE PRESIDENT

BOB LIPSHUTZ

JODY POWELL

JERRY RAFSHOON

CHARLES SCHULTZE

LANDON BUTLER *nc*

ALFRED KAHN

SUBJECT: CAMPBELL, MCINTYRE MEMO RE FEDERAL COMPENSATION REFORM
LEGISLATION

Joint memo

4
Cable attached. Hold for separate FYI memo - late Wed/early Thurs

attached
get comments
nc

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM WEDNESDAY 02 MAY 79 +
+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

THE WHITE HOUSE
WASHINGTON

↳ Retain the Fed Compensation

Does not believe That both
civilian & military amounts
should be combined. - Do
them separately.

The Pres should only
announce the Civilian one.

ID 791700

THE WHITE HOUSE

WASHINGTON

DATE: 30 APR 79

FOR ACTION: STU EIZENSTAT

FRANK MOORE (LES FRANCIS)

JACK WATSON

ANNE WEXLER

ZBIG BRZEZINSKI

INFO ONLY: THE VICE PRESIDENT

BOB LIPSHUTZ

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ALFRED KAHN

SUBJECT: CAMPBELL, MCINTYRE MEMO RE FEDERAL COMPENSATION REFORM

LEGISLATION

X@1 FM
SL
HL

+++++

+ RESPONSE DUE TO RICK HUTCHESON ~~STAFF SECRETARY~~ (456-7052) +

+ BY: 1200 PM WEDNESDAY 02 MAY 79 +

+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Bill Cable: The political assessment in the House is in my judgment entirely too optimistic. Bill Ford will join in fighting and we don't have a leader the caliber of Mo Udall to take this on for us.

110213

FM will have full memo on 12m late 5/2 or 5/3 AM

THE WHITE HOUSE

WASHINGTON

April 30, 1979

C
/

MEMORANDUM TO THE PRESIDENT

FROM: BOB LIPSHUTZ *BL*

RE: Call from Georgia State Representative
Grace Hamilton to you concerning the
Judiciary in Georgia

Pursuant to your memorandum, I telephoned Grace Hamilton on Monday relative to her interest in the appointment of Jack Ruffin, of Augusta, to the United States District Court for the Southern District of Georgia.

She outlined the background of the Judicial Selection Commission's activities concerning this particular position, noting that Ruffin had been included both last year and this year among the top five attorneys recommended for appointment. She added that she and many others consider Ruffin to be extremely well qualified for such an appointment.

Her call was prompted by the publicity indicating that the senators had recommended for the one opening in the Southern District Dudley Bowen, rather than Ruffin, and that you would be appointing Bowen. You will recall that Sam Nunn strongly supports Bowen and that you have indicated to Griffin and me that you will make the appointment of Bowen when he has been properly "cleared" by the FBI and the American Bar Association; this clearance process is underway.

I did not advise Grace Hamilton that the Bowen appointment was definite, but I did imply that the senators still have a very strong role in the selection of United States District Court judges, which she does understand.

Please advise if you wish me to do anything further in connection with this matter.

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*Bob Lipschutz -
Call her for
me
J*

4/24/79

Mr. President --

Georgia State Representative Grace Hamilton called and wanted to talk to you about the/a situation in the judiciary in Georgia.

Apparently attorney Jack Ruffin was recommended by the Southern Panel for one of the places in Southern Augusta, but not designated by the list from Senators.

She feels you would agree with her objections/recommended. Feels Ruffin would have a great effect and indication of change throughout the state and region.

Grace felt badly about "imposing", and very sensitive thereto, but felt strongly enough about this to want to call.

-- ssc

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THE WHITE HOUSE

WASHINGTON

April 30, 1979

MEMORANDUM TO THE PRESIDENT

FROM: Frank Press *FP*

SUBJECT: Science Adviser's Report

TMI - Putting together a highly professional staff is essential for the success of your Commission. Dr. Kemeny has accepted my suggestion that he appoint Bruce Lundin staff chairman. Lundin is a retired NASA senior engineer who investigated the Apollo spacecraft fire and other high technology system accidents; he knows human and systems interactions and their potential for failure. Most important, he knows how to design redundancy and computer monitoring and contingency training for complex systems -- standard NASA procedures not adequately developed in our civil nuclear reactors.

MX - I have reconvened an advisory panel of fully cleared and fully briefed outside experts to analyze options for the missile design and its possible basing modes. This will be a difficult decision for you and an evaluation free from institutional biases might be useful to you.

Industrial Innovation - The year-long domestic policy review, chaired by Juanita Kreps, is nearing completion. Stu, Jim McIntyre and I are now involved in the final draft of proposals for your consideration that would provide incentives for technological innovation. Many important ones do not require large-scale government investments. Declining innovation is a serious problem in my opinion, and represents a good issue for your Administration to act on, for it leads to productivity improvements, more competitive products, new jobs. Our problem will be to keep the agency bureaucracies from emasculating the proposals because of inertia to change, or territorial squabbles.

Energy Security Fund - I believe a small part of the fund should be devoted to innovative R&D, in addition to the large expenditure for SRC, oil shale tax credits and other current technology projects. Examples are deep sea (Glomar Explorer) drilling in potentially new oil provinces beyond the continental margin, cryogenic transmission lines, photovoltaics (improvements in efficiency and costs), energy storage devices, next generation synthetic fuels beyond SRC and oil shale. I am working with Stu, OMB and DOE to see if we can give more attention to innovative R and D in the fund, not covered in the austere FY80 budget.

Institute for S&T Cooperation - This is a difficult year to propose a new agency, especially in the area of foreign assistance. Nevertheless, ISTC was approved in the House with a 100 vote plurality. Henry Owen and I have

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persuaded Senators Glenn and Javits to lead the efforts in the Senate. The fact that ISTC is essentially a reprogramming effort rather than requiring new funds makes its prospects good.

S&T Cooperation with China and USSR - Cooperation with the PRC in space, energy, health, agriculture, student exchange is moving well, within your guidelines of reimbursement when benefits are not mutual. We are keeping USSR/US S&T agreements in a steady state mode (although the Soviets would like to expand them), pending improvements in the climate, and in the treatment of dissidents.

S&T Cooperation with Venezuela and Brazil - The Vice President's suggestion that I lead a delegation to explore new possibilities was well received. This avenue of joint S&T projects, on a reimbursable or mutually beneficial basis, could become an important element in our relations with middle tier countries. I am working with DOS, HEW, NASA, DOE, NSF and OMB to develop proposals.

THE WHITE HOUSE
WASHINGTON
04 May 79

Zbig Brzezinski

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

Phil Wise

1440



THE WHITE HOUSE
WASHINGTON

Mr. President:

This would have to be
scheduled as your last
appointment on tuesday
(3:30 pm)

Phil

	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION -

ACTION
FYI

	ADMIN CONFID
	CONFIDENTIAL
	SECRET
	EYES ONLY

	VICE PRESIDENT
	EIZENSTAT
	JORDAN
	KRAFT
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

MEMORANDUM

~~Confidential~~

THE WHITE HOUSE
WASHINGTON

SCHEDULE PROPOSAL

DATE: April 30, 1979
FROM: Zbigniew Brzezinski
VIA: Phil Wise

MEETING: Call on you by Mike Mansfield, Ambassador to Japan

DATE: April 30 between 11:00 am and 11:30 am, or anytime between 12:30 and 3:30 pm (Mansfield will be attending the EPG meeting on Japan in the White House Situation Room between 11:30 am and 12:30 pm). May 1 - anytime

PURPOSE: To hear Ambassador Mansfield's views on handling of the President's meetings with Prime Minister Ohira, and his assessment of the current state of U.S.-Japan relations

FORMAT: Meeting in Cabinet Room
Participants: The President, Ambassador Mansfield, Zbigniew Brzezinski, Henry Owen, Richard Holbrooke, Nick Platt (note taker)
Time: 20 minutes

CABINET PARTICIPATION: Cyrus Vance

SPEECH MATERIAL: None

PRESS COVERAGE: Meeting to be announced
Photo

STAFF: Zbigniew Brzezinski

RECOMMEND: Brzezinski

OPPOSED: None

PREVIOUS PARTICIPATION: You have seen Ambassador Mansfield each time he has visited Washington on consultations. The most recent meeting was on October 27, 1978.

BACKGROUND: Ambassador Mansfield is in Washington accompanying Prime Minister Ohira. He would like to brief you on the present state of U.S.-Japan relations and give you his views on the handling of the meetings with Ohira.

Approve _____ Disapprove _____

✓
no line
J

DECLASSIFIED

E.O. 12356, SEC. 3.4(b)

WHITE HOUSE GUIDELINES, FEB. 24, 1988

BY NARS, DATE 6/1/90

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

May 3, 1979

EYES ONLY

MEMORANDUM FOR THE PRESIDENT

FROM: Lyle E. Gramley *LEG*

Subject: Employment & Unemployment in April

Tomorrow (Friday, May 4) at 9:00 a. m., the Bureau of Labor Statistics (BLS) will release the figures on employment and unemployment in April. The data provide a major interpretive puzzle.

The civilian labor force declined by 600,000 in April, and employment (as measured in the household sample survey) fell even more, by 668,000. The unemployment rate therefore increased slightly, from 5.7 percent in March to 5.8 percent in April. The rise in unemployment occurred among blacks. The white unemployment rate fell from 5.0 percent in March to 4.9 percent in April; the rate for blacks rose from 11.2 percent in March to 11.8 percent in April.

Employees on the payrolls of nonfarm establishments increased 72,000 in April, but this was far below the 320,000 average monthly rise in the first quarter. Manufacturing employment declined in April by 19,000, with the reduction centered in transportation equipment. Employment also fell by 66,000 in transportation and public utilities.

The length of the workweek also declined in April, especially in durable goods manufacturing. With the workweek and employment both falling, aggregate hours worked in manufacturing dropped 4.2 percent, following average monthly increases of 0.4 percent during the first quarter.

The April declines in the civilian labor force and employment in the household sample survey are very large -- larger, for example, than what occurred in the last quarter of 1974, when the economy was heading into a deep recession. These sample survey data, however, are volatile on a month-to-month basis, and large changes often occur in employment and the labor force that have little to do with ongoing trends in employment and labor supply.

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Part of the reduction in household employment (but not in the civilian labor force) may have been due to layoffs of workers due to the Teamsters strike. This could have accounted for perhaps 50,000 of the fall in employment, but we cannot be sure of this estimate.

Our best guess is that the April figures in the household sample survey are largely a statistical aberration. Janet Norwood, (Acting Commissioner of BLS) concurs, and will so indicate in her regular testimony on the numbers before the Joint Economic Committee tomorrow.

Data in the payroll employment series, which show continued employment gains but at a much slower pace than in the first quarter, were heavily affected by the Teamster's strike and to a lesser degree by the United Airlines and other strikes. About 55,000 more strikers were off the payrolls in April than in March. A special survey conducted by BLS showed 485,000 workers in private industry (mainly in manufacturing) were laid off during at least one day, because of the Teamsters strike, during the week in which the payroll data are collected. How many of these were out of work the whole week (and were therefore not counted among the employed) we do not know, but it could not have been more than around 50,000. The BLS special survey also showed sharp declines in the average length of the workweek, especially in manufacturing, because of the effects of the Teamster's strike.

Another influence on the payroll establishment data is that the week in which they were gathered included both passover and Easter. Shorter workweeks and vacations occur because of those two holidays.

To sum up:

- o The large decline in household employment and the civilian labor force are probably a statistical aberration, but the Teamsters strike may have reduced employment and increased unemployment by around 50,000.
- o Side effects of the Teamsters strike had a very heavy effect on the length of the workweek, and may have reduced growth in payroll employment by up to 50,000. The passover and Easter holidays were also a factor in the decline of the workweek, and may have contributed a small amount to reduced growth in payroll employment.

The April data may be indicating more moderate growth in labor demand during the second quarter, following unusually large employment gains earlier this year. Economic expansion does appear to be slowing, and eventually that has to influence labor demand. Given the variety of special factors affecting the numbers in April, however, we cannot be sure that a significant moderation of employment growth has begun.

As you know, the first quarter growth rate of real GNP was very low -- 0.7 percent at an annual rate. The press may interpret these April employment figures as implying that the economy is already heading into a recession. We do not believe that is true. On the contrary, there is still good reason to expect a bounce back of real GNP growth in the second quarter.

THE WHITE HOUSE
WASHINGTON
04 May 79

Attorney General Bell

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

Stu Eizenstat
Bob Lipshutz

1829



FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
LAST DAY FOR ACTION -

ACTION
FYI

ADMIN CONFID
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RAFSHOON
SCHNEIDERS
VOORDE
WARREN
WISE

ADAMS
ANDRUS
BELL
BERGLAND
BLUMENTHAL
BROWN
CALIFANO
HARRIS
KREPS
MARSHALL
SCHLESINGER
STRAUSS
VANCE



Office of the Attorney General
Washington, D. C. 20530

cc: Griffin -
I agree. It
is important!
J

April 30, 1979

MEMORANDUM TO THE PRESIDENT

Particularly in light of our celebration of Law Day tomorrow, I wanted to send you a copy of the Law Day address I gave Saturday at the University of Georgia. I consider it to be one of the most important speeches I have made as Attorney General in establishing the leadership role of the Justice Department in enhancing and restoring confidence in our legal system.

Jimmy Carter

Attorney General



Department of Justice

LAW DAY ADDRESS
OF
THE HONORABLE GRIFFIN B. BELL
ATTORNEY GENERAL OF THE UNITED STATES
BEFORE THE
UNIVERSITY OF GEORGIA SCHOOL OF LAW

SATURDAY, APRIL 28, 1979
11:00 A.M.
ATHENS, GEORGIA

Our concept of law may be inseparable from our concept of government in the United States. As long ago as 1835, Alexis de Tocqueville observed: "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question."

So, in a sense, what I am about to say about the law can also be said about government in general in this country. The frustration felt by the private sector and by the average American citizen about the sprawling and seamless web of government regulation is a direct reflection of their concern over a major part of our legal system as well. More specifically, it is my sense that both government and law as reflected in government regulation and litigation are close to losing sight of a very basic goal -- fundamental fairness.

Some of you may recall then-Governor Carter's speech here at Law Day in 1974. In that address, he said his own view of the role of law in society was colored by the philosopher Reinhold Niebuhr, who had written that there is no way to establish or maintain justice without law, that laws are constantly changing to stabilize the conflicting demands of an

ever-changing society, and that law is, in essence, the final expression of government's role and structure. In my own view, law is the guardian of our freedoms and of our most sacred institutions. I am proud to be a part of our nation's legal system, and I take it as a personal challenge, as all lawyers should, to see that the law is itself a fair and just mechanism for society. Indeed, to allow the law to be abused or even warped is to place our liberties in peril.

There is an area of unfairness in the government's legal relations with the public which we must begin to face. Civil litigation of any sort with the government can cost a small -- or even not-so-small -- fortune today. Yet, even if the private litigant prevails and has affirmatively demonstrated that the government took an indefensible position in the civil law suit or agency proceeding, that litigant must still bear much of the cost, including attorney's fees. That result seems unjust, and it is probably the worst feature of the so-called "American rule" on attorney's fees and costs.

The Department of Justice, at my direction, is now examining the possibility of legislation which would cure this defect. This proposal would be based on the recent Supreme Court

opinion in Christiansburg Garment Co. v. E.E.O.C., 434 U.S. 412 (1978). Under this proposal, the government would be liable for attorney's fees if it acts in a manner that is "arbitrary, frivolous, unreasonable, or groundless." The burden of proof would be on the prevailing party and be subject to a separate motion at the conclusion of the litigation. I believe that such a proposal, if adopted, would do much to curb the growth of any unreasonable or unwarranted governmental civil action or agency proceeding, and would also restore a measure of fundamental fairness in litigation between private persons and government.

As government officials, we do our best to limit our cases to those which are proper and justifiable. But on occasion there may be a case which slips by us, and our error should not be at the cost of those private litigants or defendants who are the subject of this abuse. The object of our attorney's fees legislative proposal would be to give some fair measure of redress to those persons but without imposing a crippling cost to the federal treasury or chilling the vigor of federal attorneys. Again, our goal is to ensure fundamental fairness to all the parties, the government as well as the private persons. Moreover, after a period of experience, it may well be just to extend this approach to unfounded criminal prosecutions.

In the same vein, I call to your attention a rule of procedure often neglected, Rule 11 of the Federal Rules of Civil Procedure. That rule states in pertinent part: "The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay."

In citing this rule to you, I take note first of the tremendous power exercised each day by lawyers over the affairs of their clients. Whether the client is the government or a private individual or entity, the client must depend upon the lawyer to file such papers as he or she deems necessary and appropriate. My concern in this regard is that, in the interest of advocacy, Rule 11 is too frequently ignored. How often does a lawyer stop -- just for a moment -- to reflect on the presence or absence of "good grounds" for the filing? And how many motions and discovery proceedings are commenced, not in aid of truthseeking, but merely to put off the ultimate day of reckoning in court? Or, in another situation, how many appeals are taken by lawyers who know that there is an absence of "good grounds" for appeal, or that the appeal is "interposed for delay."

I cannot give you precise answers to these questions, but it is my impression as a lawyer, former federal judge, and Attorney General, that Rule 11 is often violated by lawyers. Again, this violates the principle of fundamental fairness: fairness to the client, fairness to the opposing party, and, as importantly, fairness to the legal system. Abusive filings clog the courts and enhance the public misimpression that lawyers foster unnecessary litigation for their own interests. They divert judicial resources from consideration of truly meritorious filings. They obviously increase the costs of dispute resolution.*

And it is important to note here that there is not even a Rule 11 requirement for criminal cases or for appeals.

There is, however, the requirement in the Code of Professional Responsibility that a public prosecutor or government lawyer "shall not institute or cause to be instituted criminal charges when he knows or it is obvious that the charges are not supported by probable cause." (DR-7-103(A)). As stated in the

* Incidentally, I have just read the April 18, 1979 opinion by U.S. District Judge Robert L. Carter in the Southern District of New York, in which the court awarded \$50,000 in attorney's fees and expenses to be taxed against a law firm and its client for bringing a "baseless" lawsuit "in bad faith, vexatiously, wantonly and for oppressive reasons" in violation of Federal Rule of Civil Procedure 11. Nemeroff v. Abelson, (77 Civ. 1472, April 18, 1979).

applicable ethical consideration to this rule, "The responsibility of a public prosecutor differs from that of a usual advocate; his duty is to seek justice, not merely to convict." (EC 7-13). In one of my first meetings as Attorney General with the attorneys of the Department of Justice in the Great Hall of the Department, I read to them Mr. Justice Sutherland's admonition in Berger v. United States, 295 U.S. 78, 88:

"The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer."
(emphasis supplied)

This Rule 11 problem or lack of a Rule 11 has prompted me to draft an Attorney General's policy that will bind all lawyers within the Justice Department. I intend to hold each and every lawyer responsible for his or her pleadings, and positions taken orally in court. If we determine that a lawyer has knowingly violated the Rule 11 concept, we will take appropriate action against the attorney and, in addition, confession of error or such other judicial disposition of the

Very
good!

offending pleading or position as may appear proper. And we will notify every government agency whom we represent that this policy will be applied to every proposed filing or position in their behalf.

As I have indicated, it is equally important that we approach federal criminal prosecutions with the same sense of fundamental fairness. The Attorney General's policy directive that we are drafting will also ensure that no indictments are recommended by a federal prosecutor unless the evidence presented to a grand jury would be at least likely to produce a conviction. We will not go forward, absent highly unusual circumstances, where we have only enough evidence to withstand a motion to dismiss the prosecution at the close of what would be the government's case at trial. This standard, which is even higher than the "probable cause" standard in the Code of Professional Responsibility, will govern both the decision to prosecute and the selection of specific charges to bring against a defendant. The public will then have greater confidence in the good faith of our prosecutions, and potential defendants will be spared the agony and expense of indictment and trial where the government's case is, at best, only marginal.

Through this new approach, I will be giving notice to the entire government that we will adhere to the principle of fundamental fairness in our dealings with the courts and with the public.

I have often thought that the government's lawyers should set the highest standard of conduct for themselves and for the legal profession. This policy will hopefully set an example for the entire bar, and will enhance credibility and confidence in our legal system.

Moreover, we will be carrying out the spirit of the inscription that is carved on the rotunda of my office in Washington: "The United States wins its point whenever justice is done its citizens in the courts."

The Justice Department is taking the lead in developing these unusual approaches to law practice problems because it is our ethical duty to do so, and because the legal profession requires improvement. We must remember that Canon 8 of the American Bar Association's Code of Professional Responsibility states that every lawyer should assist in improving the legal system. Indeed, paragraph 8.1 of that canon makes this observation:

! |

"By reason of education and experience, lawyers are especially qualified to recognize deficiencies in the legal system and to initiate corrective measures therein; thus, they should participate in proposals and support legislation and programs to improve the system without regard to the general interests and desires of clients and former clients."

Thus, nothing could be more appropriate than that the Attorney General, the chief lawyer for the people, and his assistants, take a leading role in improving our legal system. In fact, President Carter created the Office for Improvements in the Administration of Justice in the Department. This new office is staffed by 20 lawyers and headed by eminent scholars, and its sole task is to develop proposals for enhancing justice. This is one way in which we discharge our ethical duty under Canon 8.

I should also add that improving the system by way of these policies and practices will meet Chief Justice Burger's oft-cited criticisms of the trial bar. The changes I have described are actually the second set of innovations that have the specific aim of improving the quality of legal practice in the federal courts. The first was the expansion of the Attorney General's Advocacy Institute,

which now trains over 600 lawyers a year in the fine art of civil and criminal trial practice. The Institute also gives dozens of advanced courses in specialized fields.

Through the Institute, we are not only training the government lawyers of today but also the private lawyers of tomorrow. Better performance by government attorneys may tend to raise the levels of trial advocacy generally. And as some of these better-trained young lawyers leave government service, they will spread their training and experience throughout the private bar for years to come.

Now in closing, let me turn to history.

The Roman Emperor Caligula posted the laws of his time in small print and in high places so as to keep the populace from knowing the laws. This was an example of the worst kind of legal system. But there is also a Roman example of the best.

Centuries ago, the Roman Emperor Justinian said:

"Justice is the earnest and constant will to render to every man his due. The precepts of the law are these: to live honorably, to injure no other man, to render to every man his due." It is my belief that the overwhelming majority of lawyers abide by this injunction of Justinian. That is why we are proud to be lawyers and to be able to serve in a nation whose foundations rest on the rule of law.

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THE WHITE HOUSE
WASHINGTON

4 May 79

Hugh Carter

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson



FOR STAFFING
FOR INFORMATION
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WARREN
WISE

ADAMS
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BERGLAND
BLUMENTHAL
BROWN
CALIFANO
HARRIS
KREPS
MARSHALL
SCHLESINGER
STRAUSS
VANCE

THE WHITE HOUSE

WASHINGTON

May 3, 1979

*Hugh
make
quarterly
J*

ADMINISTRATIVELY RESTRICTED

MEMORANDUM FOR THE PRESIDENT

FROM:

HUGH CARTER *HC*

SUBJECT:

Security Violations

Attached for your information are the security violations for the month of April, 1979.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE

WASHINGTON

May 3, 1979

ADMINISTRATIVELY RESTRICTED

MEMORANDUM FOR:

STU EIZENSTAT

FROM:

HUGH CARTER *HC*

SUBJECT:

Security Violations

The President has asked that I make you aware of the following security violation(s):

<u>Date</u>	<u>Name</u>	<u>Nature of Violation</u>
4/27	Stu Eizenstat	Folder containing Secret papers found on desk top

cc: The President

THE WHITE HOUSE

WASHINGTON

May 3, 1979

ADMINISTRATIVELY RESTRICTED

MEMORANDUM FOR:

DR. BRZEZINSKI

FROM:

HUGH CARTER *HC*

SUBJECT:

Security Violations

The President has asked that I make you aware of the following security violation(s):

<u>Date</u>	<u>Name</u>	<u>Nature of Violation</u>
4/4	Jessica Matthews	Safe containing classified material found open

cc: The President

THE WHITE HOUSE

WASHINGTON

May 3, 1979

ADMINISTRATIVELY RESTRICTED

MEMORANDUM FOR:

FRANK PRESS

FROM:

HUGH CARTER *HC*

SUBJECT:

Security Violations

The President has asked that I make you aware of the following security violation(s):

<u>Date</u>	<u>Name</u>	<u>Nature of Violation</u>
4/23	Lorene Emerson	Safe containing classified material found open

cc: The President

THE WHITE HOUSE
WASHINGTON

04 May 79

Frank Moore

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

EV *original*
Please send ~~it~~ to Bill
Hefner.

1827



FOR STAFFING
FOR INFORMATION
FROM PRESIDENT'S OUTBOX
LOG IN/TO PRESIDENT TODAY
IMMEDIATE TURNAROUND
NO DEADLINE
LAST DAY FOR ACTION -

ACTION
FYI

ADMIN CONFID
CONFIDENTIAL
SECRET
EYES ONLY

VICE PRESIDENT
EIZENSTAT
JORDAN
KRAFT
LIPSHUTZ
MOORE - to Hepler
POWELL
WATSON
WEXLER
BRZEZINSKI
MCINTYRE
SCHULTZE

ARAGON
BOURNE
BUTLER
H. CARTER
CLOUGH
COSTANZA
CRUIKSHANK
FALLOWS
FIRST LADY
GAMMILL
HARDEN
HUTCHESON
JAGODA
LINDER
MITCHELL
MOE
PETERSON
PETTIGREW
PRESS
RAFSHOON
SCHNEIDERS
VOORDE
WARREN
WISE

ADAMS
ANDRUS
BELL
BERGLAND
BLUMENTHAL
BROWN
CALIFANO
HARRIS
KREPS
MARSHALL
SCHLESINGER
STRAUSS
VANCE

THE WHITE HOUSE
WASHINGTON

5/4/79

rick--

don't know who brought
in attached...but
presume jody would be
the appropriate one to
send it out over his
signature to hefner

thanks--susan clough

Hefner Thinks President Deserves To Be Re-Elected

By HARVIM BURY
Independent Staff Writer

Declaring that President Carter is doing as well in the office as any man could under the circumstances, 6th District Congressman W. G. "Bill" Hefner Friday called for the re-election of Carter in 1980.

Speaking to the Friday luncheon of Cabarrus County Democrats, Hefner said that "whether you personally agree with him or not" Carter had seen through to completion a treaty with Panama over the Panama Canal and the Strategic Arms Limitation Talks (SALT), and has succeeded in getting the Arabs and Jews to "at



HEFNER

least sit down together" and discuss a Mideast peace, culminating that with signing of a peace treaty between Egypt and Israel.

Hefner said that while the \$4.8 billion mentioned in aid and loans to Egypt and Israel seems like a high price to pay, it is a cheap investment for stability in the Mideast, considering that the last four wars have cost the United States \$27 billion.

He said that the Egypt-Israel treaty is costing the United States approximately \$1.5 billion in aid, "which they are already getting, anyway," and \$3 billion in loans.

"Not many people realize how vital stability in that part of the world is to us (the United States) and the free world," the three-term Democratic congressman said.

He said there is "a lot of negativism" in the nation, but, while there are many problems, Americans have lots to be thankful for.

"Bad as inflation is in this country, most every other country has twice our rate (of inflation). Only two countries in the world pay less for gasoline than we do — Venezuela, where the government subsidizes it, and Abkhidab, which exports it. In some countries gas is \$2 to \$2.50 a gallon. God forbid we'll ever get that high, but we must realize that the end to the era where we have cheap energy has come."

Hefner said nuclear energy with safeguards may be the key to future energy needs but he admitted that last week's accident at the Three Mile Island nuclear power plant in Harrisburg, Pa., and the conflicting statements made by the government, the Nuclear Regulatory Commission and others have set nuclear power back.

He said everyone wants nuclear

See HEFNER On Page 2A

power but in some other country.

Hefner said that personal attacks on Carter and charges America has lost its leadership are uncalled for, but that personal attacks on the presidency go back to Truman and Eisenhower and are nothing new. He said Carter has had the fortitude to meet controversial issues head-on.

He joked that "some of the reasons for supporting Carter for re-election are Reagan (Ronald), Baker (Howard), Kennedy (Ted), Ford (Gerald), and Connally (John)," all mentioned as candidates for president in 1980.

Hefner continued, "Despite what Helms (North Carolina Sen. Jesse Helms) or Reagan says, there are no simple answers to inflation. While it's true the government causes a great deal of the problem through deficit spending, there is an awful lot of greed out there contributing to the problem."

He said it is hard to hold the line when corporations are making profits of 25 to 30 percent or more; however, nobody wants wage and price controls, he said.

"It would be nice to relive the 'good old days' but we must face reality. We live in a real world . . . (that is) smaller than it was 50 years ago. We cannot influence or dominate events all over the globe; and we certainly cannot police the globe," he said.

Robert L. Wall, director of Cabarrus Memorial Hospital, will be the luncheon speaker next Friday at noon

Kannapolis Daily Independent
To Bill Hefner
Thank you!
Jimmy Carter

THE WHITE HOUSE
WASHINGTON

5/19/79

Mr. President:

Bob Strauss called last night to suggest that you call Sen. Ribacoff and urge him to reconsider his announcement yesterday that he would not run for re-election.

Phil

*Sent note
J*

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

04 May 79

Zbig Brzezinski

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

forwarded to
for handling

1823



THE WHITE HOUSE
WASHINGTON

5-4-75

Zbig -

Send a personal
message to Mrs

Thatcher from me -

I'll try to call
her from A71 -

~~Propose~~ Express need
for early meeting -

J

THE WHITE HOUSE

WASHINGTON

May 3, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu E.*
SUBJECT: Level of Beef Imports

We had originally intended that you would announce your decision on the level of beef imports in Iowa, where it would be extremely popular. Jerry Rafshoon and Fred Kahn now feel that it would be preferable not to make the announcement in Iowa. While it would be popular there, ** the national press following you might use the announcement as an example of our not taking a step perceived as anti-inflationary (i.e. letting more beef into the country).*

This is a close call, but I agree with Jerry and Fred. I think that we have enough good things to say about our efforts to help livestock farmers without making this particular announcement.

In the end, we will get as much political benefit in Iowa if the announcement is made by USDA next week. Such an announcement would not receive undue attention from the White House press corps, but would be valued in beef producing states.

** general election is 18 months away
Ia. caucuses are #1, in Jan. -
I disagree with above -
T.K.*

THE WHITE HOUSE

WASHINGTON

May 3, 1979

*No action
J*

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: DOD "Up or Out" Policy and Underrepresentation
of Certain Faiths Among Military Chaplains

You asked for a brief summary of the issue of military promotion policy as it relates to the supply of Chaplains. You have received a number of Congressional letters regarding this issue.

The Defense Department generally maintains a policy of requiring separation of officers twice passed over for promotion. There are a few exceptions to this general rule, most notably for medical specialists in short supply. DOD defends the policy as essential to maintain the quality and esprit of the officer corps.

Until now the policy has been applied to chaplains. This has resulted in the mandatory separation of 162 chaplains over the last nine years, or less than 1 per service per year.

Religious groups whose faiths are underrepresented in the Service (compared to the number of personnel of their faith) have complained that the "up or out" policy has led to separations of chaplains in underrepresented faiths. This is primarily of concern to Catholics who have experienced a shortage of clergy both in and out of the service. Many concerned groups have recommended that chaplains in underrepresented faiths be exempted from the "up or out" policy.

DOD has resisted this plan, but the Air Force has developed a policy of considering the issue of chaplain needs during separation proceedings. The Air Force program does not mean chaplains in underrepresented faiths are automatically retained, but it does allow this factor to be taken into account.

I believe this issue is something of a tempest in a teapot. Only 24 Catholic chaplains have been separated in the past nine years, while there is a need for 150 additional Catholic chaplains in the military. However, in light of the interest and feeling generated, it might be worthwhile to encourage DOD to take chaplain shortages into greater account during mandatory separation proceedings.

**Electrostatic Copy Made
for Preservation Purposes**

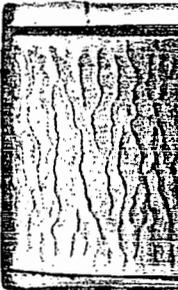
THE WHITE HOUSE
WASHINGTON

04 May 79

Frank Moore

The attached was returned in
the President's outbox today
and is forwarded to you for
your information.

Rick Hutcheson



THE WHITE HOUSE
WASHINGTON

*Not done
J*

May 2, 1979

CONGRESSIONAL TELEPHONE REQUEST

TO: Chairman Jack Brooks
Congressman Dante Fascell
Congressman Frank Horton

DATE: By close of business today. *F.M.*

RECOMMENDED BY: Frank Moore *FM*
Terry Straub *TS*

PURPOSE: To thank them for their hard work in helping the Department of Education bill to be voted out of the Government Operations Committee.

BACKGROUND: The bill was voted out this afternoon, 20 - 19.

It should be noted that Brooks has worked with us most closely and has lobbied on our behalf; that Fascell has been one of our steadiest supporters; and that Horton's consultations with freshmen helped us greatly.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON
04 May 79

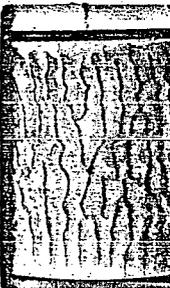
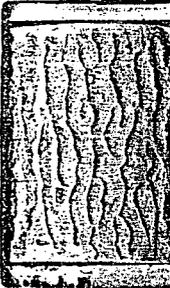
Jerry Rafshoon

The attached was returned in
the President's outbox today
and is forwarded to you for
appropriate handling.

Rick Hutcheson

Jerry--please give copy
to Speechwriters.

1825



THE WHITE HOUSE
WASHINGTON

5/4/79

rick--

probably goes without
saying, but i presume
you'll make some good
copies for jerry and
speechwriters....
and keep original for
handwriting file

thanks--susan

*perox copies - send to
Jerry up rate asking
him to give to
speechwriters*

THE WHITE HOUSE
WASHINGTON

5-3-79

To Jerry & speechwriters

- a) Do not begin so many sentences with "I think," "And" or "but".
 - b) Do not overuse "decalé".
 - c) Avoid split infinitives
 - d) " ending sentences with prepositions
 - e) Minimize use of commas.
 - f) Minimize contractions - (let me put them in)
 - g) It is not "with Terry and I"
 - h) Original drafts are invariably too long
 - i) Clear text with Jody and Ste before I get it.
- J. C.

THE WHITE HOUSE
WASHINGTON

rick hutcheson--

please hold attached
as confidential

thanks--susan

regular foreign affairs breakfast

5/4/79

THE WHITE HOUSE
WASHINGTON

5.4.79

For All breakfast

- > Pacific summit - confidential
- > Mid E. talks - Jim Leonard - ^{Sadit re} settlement
- > SALT → Summit (6/11?)
- > Rhodesia
- > Soviet embassy - held firm
- > PRC - monitor, port calls, etc.
- > British elections
- > N/S Korea - Uldokhejin
- > Under workers
- > Oliva visit +
- > Turkey
- > Liberia - some help
- > Portugal - MAP?
- > Lebanon - embassy