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NOVEMBER 31, 1980

James M. Wall, Editor

407 South Dearborn Street
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312-427-5380 home 312-279-7166



INDEX: JULY-DECEMBER 1980

South Africa's Doughty Black Bishop

Marjorie Hope and James Young

C
/

To Hear the Wind's Song

Jon W. Magnuson

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- 1980's Top Religion News
- Epiphany and Gift-Giving

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THE WHITE HOUSE
WASHINGTON

1/2/81

Jim McIntyre

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

Rick Hutcheson

cc: Stu Eizenstat
Jack Watson

:

	FOR STAFFING
	FOR INFORMATION
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	FOR APPROPRIATE HANDLING
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P 8 only

ACTION
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/	MCINTYRE
	SCHULTZE
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	MOE
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	PETERSON
	PRESS
	RECORDS
	SANDERS
	SHEPPARD
	SPETH
	STRAUSS
	TORRES
	VOORDE
	WISE

THE WHITE HOUSE
WASHINGTON

12/31/80

Mr. President:

Stu concurs.

Jack Watson and Harrison Wellford have discussed this matter with Ed Meese and Bill Timmons of Gov. Reagan's staff. They say that Gov. Reagan will support the OMB recommendation.

Bill



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 22, 1980

**Electrostatic Copy Made
for Preservation Purposes**

MEMORANDUM FOR THE PRESIDENT

FROM: JAMES T. McINTYRE, JR. 

SUBJECT: Recommendations on Increased Executive, Legislative
and Judicial Salaries

Summary

Attached for your consideration is the report of the quadrennial Commission on Executive, Legislative and Judicial Salaries ("Quad Comm"). It contains the Commission's recommendations for substantive increases in the pay of top Government officials. By law, you must send your own recommendations to the Congress in January as part of the FY 1982 Budget. Your recommendations may be the same as, or differ from, those of the Quad Comm. The purpose of this memorandum is to identify for you the major issues and options involved and to provide a vehicle for reaching decisions on what you will recommend to Congress.

Background

As you know, the overall problem of inadequate and compressed executive salaries, in varying degrees, has been with us for many years. The basic cause is the strong reluctance of the Congress to increase its own salaries, and to permit judicial and executive salaries to rise when its own do not. That is why a special procedure for adjusting the pay rates of top officials was enacted in 1967. Under the 1967 law, a special Commission on Executive, Legislative, and Judicial Salaries is established every four years. Three Quad Comms have made pay recommendations to the President under procedures of this law. The President's subsequent recommendations were adopted in 1969, rejected in 1974, and accepted in 1977.

Under the original law, the President's recommendations went into effect unless disapproved by either the Senate or House. In 1977 Congress modified the statute to require that each House conduct a separate recorded vote on the President's recommendations for each branch, within sixty calendar days of receiving them. This provision will be operative for the first time in 1981.

Recent History

Since the above-described procedure operates only once in four years, the rapid inflation of recent years has meant that the Quad Comms have had to propose very large percentage increases. To mitigate that problem, Congress enacted P.L. 94-82 in 1975. It provides for the pay of top officials to be increased each October by the same percentage allowed for General Schedule employees. That law operated in 1975 to give both the GS employees and the top officials a 5 percent increase.

In 1976, however, the operation of the law was suspended by an appropriation rider, largely because many Congressmen did not want to receive a pay increase in an election year. After the election, the recommendations growing out of the 1976 Quad Comm were accepted, so the top officials received increases averaging about 26 percent in February of 1977. In view of the size of that increase, Congress provided that P.L. 94-82 would not operate in October 1977. This meant that none of the 7.05 percent increase received by GS employees in that year was given to top officials.

Since that time, Congress has repeatedly used the appropriation rider device to avoid top-level salary increases. The effect has been that P.L. 94-82 operated each year to raise the legal salaries, while the appropriation rider operated to keep the payable salaries below the legal salaries. As a consequence, the payable salaries of top officials are now 16.8 percent below their legal salaries.

As you know, some members of Congress tried to have the recently-enacted continuing resolution omit any provision keeping the payable rates below the legal rates, but this effort failed.

In another complicating development, the judges recently won a Supreme Court decision involving two years in which Congress enacted its appropriation rider after the October 1 date on which P.L. 94-82 operated. The court ruled that Congress could not constitutionally take away salary increases for the judges which already had taken effect. This means that the payable salaries of judges will now rise to the legal salaries.

Quad Comm Report

The Commission has done a good job of documenting the several inter-related and critical problems we all know to exist regarding lost purchasing power, pay compression, recruitment and retention difficulties, diminished mobility, etc. The report graphically describes the serious effects of these problems and concludes that the nation is faced with a "quiet crisis" in terms of attracting and retaining people of "outstanding ability and achievement to fill the top positions in our government." It cites growing evidence that inadequate salaries are a

major reason both for talented people to decline key Federal positions and for a massive exodus of top officials resigning or retiring early. (The Quad Comm found that, for the twelve month period ending in March of this year, a startling 75 percent of career executives in the 55-59 age bracket who were at the executive pay ceiling and who were eligible to retire, did so.) Based on its findings, the Commission concludes unanimously that "salary increases are urgently needed and long overdue" for the high positions which come under its purview.

The report particularly analyzes the effects of inflation in enlarging the disparity in compensation between top officials in the three branches of the Federal Government and those in other sectors of the U.S. economy. Since the last quadrennial adjustments in 1977, top level salaries have risen only 5.5 percent. During this same period, General Schedule salaries have risen by 31.9 percent (consistent with your recommendations), private sector salaries by 35.7 percent, and private sector executive salaries by 49.1 percent. The CPI has risen by 44.9 percent, which means that the purchasing power of top level Federal salaries has declined by an average of about 31 percent.

The Quad Comm's recommended salary schedules are shown in Tab A. The percentage increases over current payable rates for most Executive level positions and for the Congress average about 40 percent. While the recommended salary rates for judges are only slightly higher than those for Members and executives, their percentage increases are significantly lower (about 28 percent) because of the recent Supreme Court decision which raised judges' payable rates to equal their legal rates.

Linkage

Since 1969, the salary schedules for top officials of the three branches of government have been "linked" together by setting the salaries of Members of Congress, officials at Executive Level II and Judges of the Court of Appeals at exactly the same rate. Over the years, however, as the 1976 Quad Comm observed, Congress "has served as an anchor... dragging down the 'links' and preventing any increase anywhere."

One effect of the Commission's pay recommendation would be to change this linkage by raising the judges one notch. That is, District judges would now be linked with Members of Congress and executive branch officials at Level II, while Circuit Court judges would get \$5,000 per year more. At the same time, however, the Commission also recommends that all Members of Congress be granted a special expense allowance of up to \$10,000 per year, designed to cover actual documented costs related to the need to maintain dual residences and to expenses of representing constituents. The linkage of Members of Congress and Executive Level II's would remain.

While the Quad Comm has a few other significant recommendations, we do not regard them as particularly controversial. In any case, you need to make decisions at this time only on linkage and salary increases.

Options on Linkage

You have only two real alternatives on linkage, regardless of the size of the increases you decide to propose: either accept a change in linkage as proposed by the Quad Comm or retain the current linkage.

The arguments for change are:

1. Changing or breaking the linkage is a very appealing idea, because the traditional reluctance of Congress to raise its own pay otherwise unfairly limits and compresses salaries in the other two branches of Government.
2. Many authorities outside Congress favor breaking the linkage. There is no persuasive rationale for linking these positions; these are entirely different jobs with different career patterns and salary needs.
3. The approach proposed by the Quad Comm--appearing to change rather than break linkage while at the same time recommending a special expense allowance only for Members of Congress--would be an important first step toward achieving the goal of setting top-level salaries on a more rational basis.

The arguments for retaining linkage are:

1. The change in linkage could be so unpopular in Congress as to preclude totally the possibility of any increases whatever. If you consider supporting the implied Quad Comm recommendation on linkage, you may wish to have Congressional Relations or other White House staff explore whether Congress might be willing to accept the approach proposed.
2. The Quad Comm approach does not change the linkage for the President's own executive subordinates. This may tend to weaken the case for making a change, since the problems caused by the current linkage are equally severe in both the executive and judicial branches.
3. The fundamental problem is Congressional reluctance to provide regular, modest increases; not linkage.

Salary Increases

There seem to us to be four major options regarding the size of recommended salary increases. Details of the increases and their costs are shown in Tab A. The total costs shown below for each option include increases in the General Schedule and Senior Executive Service that result from lifting the pay ceiling.

Option I -- The Quad Comm's Salary Recommendations (\$292.3 million)

Pro

1. The distinguished members of the Commission reached their conclusions after considerable study and debate.
2. The size of the increases recommended can be statistically justified on the basis of the Commission's evidence.
3. The proposal of any salary increase for top officials will be the focus of attention and opposition; if you are going to take on the controversy, you may as well aim for a solution that justifies the effort.

Con

1. The Quad Comm's recommendations involve such large percentages, in some cases, that they may intensify the controversy and criticism. The percentage increases over current payable (as compared to legal) salary rates sound especially large.
2. The sizes of the increases exceed tolerable percentages which more characteristically have been supported by your Administration.

Option II -- Increases to the Legal Rates (16.8 Percent) (\$183.1 million)

Pro

1. This is far less than the Commission's recommendations and is the least that you logically can propose. It would simply eliminate the present discrepancy between legal and payable rates for executives, Congressmen and certain judicial branch employees unaffected by the recent court decision. The elimination of that discrepancy is very desirable.
2. It would alleviate somewhat the financial situation of our executives, and it would give them reason to feel that their predicament is not entirely ignored or unappreciated.
3. It would provide some relief of the existing managerial problems (e.g., compression, attraction, retention).

Con

1. In terms of public and Congressional opinion, no proposed increase (as noted above) will be popular. The officials involved already are at salary levels which look very substantial to the average citizen.
2. This would stir up the inevitable controversy without satisfactorily resolving the managerial and personal problems, even for the short run.
3. It merely brings the payable salaries up to the current legal salaries without addressing the need for future adjustments.

Option III -- 16.8% now plus 5.5% Next October (\$219.1 million)Pro

1. By recommending 16.8% now and strongly urging that Congress allow the annual P.L. 94-82 adjustment process to operate next October and in succeeding years, you would couple the lowest immediate increase with a long-run solution to the recurring problems arising when increases occur only once in four years.
2. This option would merely provide top officials the same percentage increases received by General Schedule employees during the past two years. (This recommendation would not negate the original purpose of the freezes, of course, since the top officials would not recover the income lost during that period.) Also, it would be consistent with your other pay increase recommendations for the last two years.
3. It is significantly lower than the CPI (44.9 percent) and average wage movements in the private sector (35.7 percent) during the period.

Con

1. This has the same disadvantages as the other options in terms of public reaction.
2. This course will not fully resolve the serious managerial and personal problems described by the Quad Comm.

Option IV -- A Combination of Option I for Judges and Option III for Executives and Congressmen (\$237.7 million)Pro

1. The Attorney General has urged that we present this option because it is becoming increasingly difficult to attract to the bench the very best from the highly paid legal profession.

2. Because judges cannot supplement their salaries through outside income or increased allowances, as Congressmen can, judges do require larger increases.
3. Because judges are expected to make careers in the Government, it is necessary to pay them more than Executive level appointees who expect to stay for shorter periods and then replenish their finances.

Con

1. Many members of Congress feel very strongly--even emotionally--about retaining linkage with the Judiciary, perhaps even more so than with the executive branch.
2. Many Congressmen are convinced from experience that there are plenty of qualified candidates for judicial vacancies.
3. This option would be regarded by Congress as an even less palatable change than the Quad Comm contemplated, since linkage would be broken altogether.
4. The rationale for this option likewise applies to career executives, yet they would be given smaller increases.

Recommendations

OMB favors Option III, and the retention of the traditional linkage with Congress.

Informal checks with six Cabinet officers or their Deputies revealed that all favor at least the increases suggested in Option III, and some favor more. Several favor the full Quad Comm amounts, and Attorney General Civiletti favors Option IV.

Lloyd Cutler favors the full Quad Comm amounts for the judges, and urges that you add something along the following lines in your recommendations to the Congress:

"The case for a significant increase in the salaries of the Federal Judges is especially strong. Unlike legislators and senior executive branch officials, who are elected or appointed for specific terms or serve at the pleasure of the President, the Constitution wisely provides that Federal Judges be appointed for life. The founders believed, and experience has confirmed, that lifetime service enhances the integrity and independence of a judge's performance. It also enhances public confidence that judges possess these qualities and public respect for their decisions.

When lifetime judges leave the bench because of inadequate salaries, the public loses more than their experience and efficiency. The public also loses the confidence in the judicial process that is central to the success of our Constitutional system, and that lifetime service enhances.

I strongly recommend that Congress concur in the salary increase I have recommended for all branches of government. But if Congress should conclude that reductions must be made in some salaries, I urge that my recommendations for judges be accepted even if the recommendations for officials in the other two branches are reduced.

I also urge that Congress give consideration to a salary scale for judges that would explicitly recognize the public importance of continuous judicial service; for example, by an annual or periodic increase for longevity in addition to the cost of living adjustments that are made from time to time.

Because the Quadrennial Commission has just completed the exhaustive study set forth in its report, I am asking the Commission to submit its further recommendations on this questions."

DECISION

Linkage

- Change linkage as Quad Comm proposes.
- Retain current linkage. (OMB recommendation)

Increases

- Option I Quad Comm's full recommendation
- Option II To the legal rates (16.8%)
- Option III 16.8% now plus 5.5% next October (OMB recommendation)
- Option IV Combination of I and III (23 to 50%)

Attachment

**EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES
COMMISSION RECOMMENDATION AND ALTERNATIVES**

	Actual Salary Rates	Payable Salary Rates ^{1/}	I Commission Recommended Rates	Percent Increase over Payable	II Legal Rates (16.8%)	Percent Increase over Payable	III Legal rates plus Oct'81 Increase	Percent Increase over Payable	IV Combination of Options I and III	Percent Increase over Payable
<u>EXECUTIVE BRANCH</u>										
Vice President.....	\$79,125		\$120,000	51.66%	\$92,400	16.78%	\$97,500	23.22%	\$ 97,500	23.22%
Executive Level I.....	69,630	S	95,000	36.44	81,300	16.76	85,800	23.22	85,800	23.22
Executive Level II.....	60,662.50	A	85,000	40.12	70,900	16.88	74,800	23.31	74,800	23.31
Executive Level III.....	55,387.50	M	80,000	44.44	64,700	16.81	68,300	23.31	68,300	23.31
Executive Level IV.....	52,750	E	75,000	42.18	61,600	16.78	65,000	23.22	65,000	23.22
Executive Level V.....	50,112.50		70,000	39.69	58,500	16.74	61,700	23.12	61,700	23.12
<u>LEGISLATIVE BRANCH</u>										
Speaker of the House.....	\$79,125		\$120,000	51.66%	\$92,400	16.78%	\$97,500	23.22%	\$ 97,500	23.22%
President Pro-Tem, Senate.....	68,575	S	95,000	38.53	80,100	16.81	84,500	23.22	84,500	23.22
Majority and Minority Leaders.....	68,575	A	95,000	38.53	80,100	16.81	84,500	23.22	84,500	23.22
Senators, Representatives.....	60,662.50	M	85,000	40.12	70,900	16.88	74,800	23.31	74,800	23.31
Comptroller General.....	60,662.50	E	85,000	40.12	70,900	16.88	74,800	23.31	74,800	23.31
<u>JUDICIAL BRANCH</u>										
^{2/} Chief Justice.....	\$92,400		\$120,000	29.87%	\$92,400	-0-	\$97,500	5.52%	\$120,000	29.87%
^{2/} Associate Justice.....	88,700		115,000	29.65	88,700	-0-	93,600	5.52	115,000	29.65
^{2/} Judges - Circuit Court of Appeals...	70,900		90,000	26.94	70,900	-0-	74,800	5.50	90,000	26.94
^{2/} Judges - U.S District Court.....	67,100		85,000	26.68	67,100	-0-	70,800	5.51	85,000	26.68
^{3/} Judges - Court of Military Appeals..	57,500	60,662.50	90,000	48.36	70,900	16.88	74,800	23.31	90,000	48.36
^{3/} Judges - Tax Courts.....	54,500	57,497.50	85,000	47.83	67,100	16.70	70,800	23.14	85,000	47.83

^{1/} These are the salaries certain Judicial Branch personnel not covered by the recent Supreme Court decision are eligible to receive.

^{2/} Judges affected by the recent Supreme Court decision.

^{3/} Judges apparently not affected by the recent Supreme Court decision since they were not covered by the Constitutional provision which protects certain Judges against a reduction in pay.

COST ESTIMATE
 ALTERNATIVE EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARY INCREASES
 (in millions)

	I Commission Recommendation	II Legal Rates (16.8%)	III Legal Rates plus Oct' 81	IV Combination of Options I and III	Number of people affected
Officials Whose Salaries are Increased					
Executive Branch	\$ 17.8	\$ 7.2	\$ 10.7	\$ 10.7	800
Legislative Branch	13.3	5.6	8.3	8.3	546
Judicial Branch	<u>32.0</u>	<u>5.9</u>	<u>13.4</u>	<u>32.0</u>	<u>1,641</u>
Subtotal	<u>\$ 63.1</u>	<u>\$ 18.7</u>	<u>\$ 32.4</u>	<u>\$ 51.0</u>	<u>2,987</u>
Officials Whose Salaries are Impacted By the Above Increases					
General Schedule and Similar	\$ 77.3	\$ 72.2	\$ 75.1	\$ 75.1	19,655
Senior Executive Service	93.7	48.4	62.7	62.7	6,942
Dept. of Medicine and Surgery, VA	26.9	26.1	26.7	26.7	4,575
Foreign Service	27.8	14.6	18.8	18.8	2,367
Judiciary	.9	.8	.9	.9	140
Military	<u>2.6</u>	<u>2.3</u>	<u>2.5</u>	<u>2.5</u>	<u>532</u>
Subtotal	<u>\$229.2</u>	<u>\$164.4</u>	<u>\$186.7</u>	<u>\$186.7</u>	<u>34,211</u>
Total	<u>\$292.3</u>	<u>\$183.1</u>	<u>\$219.1</u>	<u>\$237.7</u>	<u>37,198</u>

EIZENSTAT COMMENT

THE WHITE HOUSE

WASHINGTON

December 29, 1980

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT 
SUBJECT: McIntyre Memo on Increased Executive,
Legislative and Judicial Salaries

I concur in both of OMB's recommendations regarding the report of the Quadrennial Commission on Executive, Legislative and Judicial Salaries.

First, linkage should be retained; the Commission's recommendation for partial separation of judges fails to address the problems of senior executive branch employees, and elevates the judiciary to a level unacceptable to Congress.

Second, regarding the level of salary increases, Option III is preferable. Option I, the Commission's full recommendation, would be extremely controversial and would be inconsistent with the level of increases you have previously supported. Option III brings executive level increases into line with those given to General Schedule employees over the past two years, and coupled with a recommendation to permit annual adjustments, provides an acceptable long-run solution. Option IV, to give judges the full increase, is unacceptable because linkage would be broken entirely and because the life tenure of the judiciary balances against the potential for outside income for Congress and executive appointees.

Finally, I agree with Jack Watson that you should recommend no increase unless President-elect Reagan makes a firm commitment to publicly support the salary increases you support.