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MEMORANDUM FOR

MR. NIXON

DEALING WITH THE OLD ADMINISTRATION

Introduction and Summary

Relations between Presidents and Presidents-Elect of different parties have always been delicate and often strained. Frequently the President's natural disappointment at his party's defeat has been tinged with personal bitterness because his administration and policies have borne the brunt of his successor's campaign salvos. Nor has graciousness been an inevitable characteristic of Presidents-Elect. Even the most sympathetic historians of the New Deal find little to applaud in F.D.R.'s cavalier treatment of Hoover in 1932.

Yet cooperation is essential for several reasons. At least part of the public will be offended if either fails to show courtesy and consideration. National unity is hardly served by permitting a hard-fought campaign to merge into post election feuding. And, of course, much of the machinery for preparing a new President for the transfer of power can be utilized only with the concert of his predecessor. Thus it is in your interest that the interregnum be a time when old hatchets are buried and the grinding of new axes postponed.

Both because he has more to gain and because the task is easier for him, the burden of maintaining good will between Administrators falls to the President-Elect. The outgoing Administration has valuable information, experience, and

advice that you and your team will want to tap. To make cordial advances, to overlook minor irritants, to soothe the President's wounded pride -- all these are small prices to pay for such resources.

Pre-election Period. In order to exploit fully the opportunities for an effective transfer of responsibility allowed by cooperation between the two Administrations, you should consider the following actions:

- Appoint a counterpart to President Johnson's designee, Charles Murphy, experienced in the operations of the Executive Branch and able to bargain with Murphy on equal terms.

- Ask your designee to decide upon the requests to be made of the incumbent Administration.

- Initiate planning for transition matters not directly related to relations with the old Administration.

Post-election Period. Post-election customs are clear. President Johnson will doubtless suggest an early meeting to set the tone of transitional cooperation and lay the broad outlines of the actions you will take together. In summary -- to be elaborated later -- you will want to touch the following points:

- Security clearances: You should make arrangements for expediting security clearances for your appointees.

- Current and background information: You should seek access to such Administration information as daily intelligence reports, briefings and memoranda on current problems, and appropriate "cable traffic." You should also request other information, to be described below, that may be difficult to obtain later or less valuable unless studied in advance and acted upon early.

- National security and budget cooperation: You should plan for early and close cooperation on national security affairs and the budget process.

- Orientation of appointees: You should arrange for the general orientation of your appointees: briefing of new officials by the predecessors, access to career staff and files, clerical and professional assistance, and perhaps ground-rules to be established for an "open office" policy.

I. Pre-election contacts

1. It will be very much to your advantage to accept President Johnson's invitation to begin discussions now about the transition. After Election Day you will want as much cooperation as you can get from the outgoing Administration. The more you get, the more effectively you and your appointees can govern after January 20.

You cannot ask much prior to November 5. Whomever you designate to negotiate with the Administration can, however, lay the groundwork for fulfilling your many post-election requirements.

You must first therefore choose an individual to act for you in these negotiations. President Johnson's appointee, Charles Murphy, is an affable but very tough Southerner, long experienced in Washington. He acted for Truman in the 1952-53 transition, served in Agriculture and on the C. A. B. under Kennedy and Johnson, returned to the White House recently as a Special Assistant, and reportedly represented Johnson in Chicago during the democratic Convention. Your designee must be able to deal with Murphy on equal terms. It seems essential that he possess not only personal shrewdness and bargaining abilities, but also experience in the total operations of the Executive Branch, preferably in the Executive Office.

2. You should develop with your designee a catalogue of your transitional needs. For both political and administrative reasons, these will fall into three general categories: (a) services that can be performed, at least in part, by the outgoing Administration prior to November 5; (b) post-election cooperation that can be plotted and arranged prior to the election; (c) post-election services that need not, or should not, be discussed with the incumbent Administration until after the election. In subsequent sections of this memorandum, we suggest several cooperative efforts and services you may want to request and, where important, try to indicate the time when action is most usefully initiated.

3. Although not directly related to dealings with the old Administration, certain other transitional matters bear a short comment. In order to coordinate later cooperation with the Administration and to make maximum use of interregnum preparation, you should begin thinking about designees to perform two functions. First, you will need some person(s) to direct and organize your transition activities in general. This man would conceivably play much the same role as Henry Cabot Lodge did for Eisenhower in 1952-1953. Second, you may want to select a transition planner, whose task will be to perform "think work" about the transition. The services of Richard Neustadt for Kennedy in 1960-61 suggest the nature of his responsibilities.

II. The Immediate Post-Election Period

A. Meeting with the President.

4. The President will probably contact you shortly after November 5 and suggest an early meeting. In order to gain maximum lead time for the transition,

you should accept the earliest possible date. Preliminary negotiating at the staff level can settle many details of agenda and format, which then need not occupy the time of the principals.*

5. You and the President may wish to issue a joint statement after your meeting. The ideal statement would leave everything open and yet obviate any appearance of friction which might result if the President later feels compelled to emphasize that his power continues unimpaired until January 20 or if you later wish to disclaim responsibility for interregnum Executive actions. A suggestion follows:

The President and President-Elect had a full, friendly and useful discussion. They and their associates will cooperate in every appropriate way in order to insure a smooth and effective transfer of responsibility on January 20. They will continue to consult as they think desirable and are confident that such cooperation can be achieved without impairing the orderly functioning of the Executive Branch in carrying out the President's Constitutional responsibilities.

B. Principals' tone shapes transition.

6. You and the President will have to take strong and positive action to surmount the impediments to effective cooperation that have traditionally characterized transitions. Many in Government will feel that they and their policies were treated unjustly during the campaign. Some new people will act as if they

* For bargaining purposes, you will want these "White House negotiators" to be aware not only of your various needs for the transition, but of their relative priority. In addition you will want to think about the general format of the meeting. You may wish, for example, to request the presence of key members of both Presidential staffs, either for purposes of coordination or in the hope of exposing subordinates to the spirit of cooperation shown by the principals.

were already in office. New appointees have been known to assume that their predecessors were fools or scoundrels or both and to show no regard for past decisions, present reasons, or future insights. Some incumbents may attempt to "sell" their policies to the new people. And the new people may feel that they are being asked to commit themselves prematurely.

By frankly anticipating these characteristic attitudes, you can try to offset them. Hopefully, so will the retiring President who must set the example of neither preempting his successor unnecessarily nor deferring all action in critical areas. And if he, who has suffered campaign criticism, is willing to act responsibly and constructively, his subordinates can be encouraged to do the same.

You, in turn, cannot be too emphatic in urging your appointees to take advantage of their predecessors' valuable experience in coping with their departments, their constituencies, and their particular Congressional committees. In the past, incoming officials have forfeited much of the advantage to be gained in tapping this source of information and advice. In 1952, for example, Charles Wilson neglected entirely to profit from the experience of Robert Lovett. Eight years later, the Kennedy Administration retained General Andrew Goodpaster through the transition period but made little effort to draw upon his experience. Those of your appointees who served in the Eisenhower Administration would do well to recall how little their own readiness to assist their successors was appreciated. If you can convince your appointees that the advice of former officeholders is a valuable resource not to be wasted, you will have taken a major step toward an effective and efficient transition.

III. Clearance of New Appointees

7. Arrangements must be made for investigating the personal background of your appointees for two reasons. First, some of your appointees will need the immediate security clearances necessary for direct access to classified information of the Johnson Administration. Nor will you yourself wish to entrust classified materials to your people, either before or after the inauguration, without the assurance of at least preliminary clearance. Second, you will probably want to continue the practice of investigating all potential Presidential appointees -- regardless of their need for classified data -- in order to assure yourself of their personal suitability for high government office.

8. The timing problem: Investigations not begun before the election require attention. Obviously, the process should be initiated as early as possible to avoid the delays incident to overloading the investigative agencies.

9. General procedure: (a) The reports on those needing pre-inaugural access to classified information must first be examined by the Administration -- perhaps the White House itself -- which can then relay both its decisions and the reports to you. Exposing such reports to the Administration may be politically undesirable but is probably unavoidable. It seems unlikely that the information thus revealed would be misused by the clearing officials. (b) Unless you receive direct access to the investigative agencies, reports on persons not in the preceding category must also be channeled through the Administration. Here, however, the Administration is merely a conduit to you; it has no need to examine the content of the report. You should arrange for the Administration, therefore, to transmit to you the unopened reports on persons not requiring pre-inauguration security clearances.

10. In both the pre-election and post-inauguration periods, the problem can be mitigated through the use of temporary clearances. You will have to determine the availability, limits, and conditions for such clearances.

IV. Information for the President-Elect and his designees.

A. Current information.

11. You should request the kind of military, diplomatic, and foreign intelligence provided routinely for the President. Such information will give you background for decisions you will have to make after January 20th. Also it should help you to establish early guidelines for distinguishing presidential from departmental "business." And it may permit you to judge the form and adequacy of such information for your needs.

12. You will, of course, need a staff to sit astride this information flow, direct your attention to the matters most relevant for you, and otherwise absorb and use this flow.* Let us emphasize that your most useful and significant information may come not via formal transmissions from the old administration but via your own people working closely with incumbent counterparts -- as discussed later in this memorandum.

13. You should request a channel for obtaining appropriate briefings and memoranda on current problems for yourself and your people. The Administration would probably offer some on its own initiative but you should clear the way for making your own specific requests for information and analysis on both substantive matters and on transitional and organizational topics.**

* Your basic needs for a transition staff were noted in our August 15 memorandum; a later memorandum will address itself to White House organization.

** Whether you should seek authority to request data directly from the departments or to be supplied by the staff is discussed in a later section.

Details are not crucial in your initial dealings with the Administration; they can be worked out later. What you must establish at the outset is the basic proposition that the President-Elect is entitled to full access and that government information should move freely to you and your designees. Whatever you can do to create an atmosphere of willing cooperation and respect for the President's own responsibilities will facilitate the flow of information.

14. One of your most difficult and critical problems during the transition will be the gaining of mastery (insofar as mastery is possible) over national security affairs. You may want to request President Johnson to assign you one or more career officials qualified to brief you during the transition period on military, intelligence, diplomatic and related matters. The person(s) selected would be appropriately cleared, sufficiently knowledgeable to interpret and amplify information received about substantive and agency problems, and sufficiently experienced and senior to be respected by both sides for intelligence and discretion. Such a person would know when it is appropriate to seek further information from the staffs with which he is familiar and when not to do so.

15. You might want to request access to some "cable traffic" into the White House as a preliminary exposure to later responsibilities. Your personal staff for national security matters, to take one example, could serve as an effective recipient of this information to promote their own education and as a conduit to you.

B. Other information, especially from the White House and Executive Office.

16. You should ask President Johnson to arrange some way of giving access (controlled by him) to national security materials that might be available, or readily available, only in White House files which leave with the retiring President.

a) One aspect of this request is easily presented and justified:

Eisenhower-Khrushchev conversations were covered completely only in the White House files which left with President Eisenhower. President Johnson would doubtless agree that a new President must know what the preceding President said to foreign officials.

b) Your request should, if possible, embrace a second and more elusive matter: There might be "limited distribution" or other closely held documents or memoranda that are conveniently assembled only in White House files.*

c) Perhaps you can do no more than to (1) raise the problem, (2) express confidence that President Johnson will do everything he properly can to make sure that his successor is fully informed on significant national security matters, and (3) leave the details to be worked out by your national security adviser(s) and their incumbent counterparts. This reinforces another point: Unlike President Kennedy's adviser, McGeorge Bundy, who did not begin work until January or assemble his staff until later, your national security staff should be appointed early and begin performance as soon as possible.

* It is conceivable, for example, that complete details of various contacts with foreign officials on Vietnam matters may be so sensitive and restricted that full information vital to the new President might not be readily known to carry-over personnel or readily revealed by surviving files. In other cases, important material might be contained in permanent departmental files but yet not readily accessible because dispersed among voluminous other material.

17. You should ask to see Task Force reports prepared for the President and not yet released to the public. You could point out that work by thoughtful people should not be wasted. You should, however, state your willingness to accept any limitations imposed by President Johnson as to acknowledgment, attribution, or quotation, and defer to his wishes regarding any reports which he might issue publicly himself or use in late messages and speeches.

18. You should ask for reorganization studies completed or underway in the Budget Bureau or in the Departments.

19. You will want to specify certain useful personnel information that could easily be assembled by the Bureau of the Budget: available Presidential and Departmental appointments (to the extent not published elsewhere), expiring term appointments, Presidential powers with respect to various classes of appointees, personnel policy decisions that need to be made within the first three months, etc.

20. You should request the preparation of a memorandum on technical operations of the White House, office and mansion -- budget, accounting, permanent personnel, customs, etc. This should be supplemented by personal consultation between incoming and outgoing officials. In addition, William Hopkins, the Executive Clerk, is a great storehouse of information on these matters.

21. The preceding enumeration of reports must not disguise the important truth that your best source of information lies not on paper but in people. Present (and former) members of the White House Staff are perhaps the most valuable resource of all for a new Administration. The unique experience and responsibility of Presidents seem to forge a common bond among them notwithstanding differences

of party or policy. Presidential staffs should find a similar bond arising from the special institution they serve. The insights, experience, and occasionally the negative example of incumbent and former staff members can be extremely illuminating for new people. And a common loyalty to the Presidency should be enough to encourage the future staff to seek and the present staff to offer candid discussion of the Office and its problems.

V. Orientation of New Appointees.

A. National Security and Budget observers.

22. Since you will need to master, at the earliest possible moment, the massive flow of communications and advice relating to national security policy, you should give high priority to obtaining from the outgoing administration permission for your prospective Special Assistant(s) for national security affairs to work with their incumbent counterpart(s), and, if possible, immediately nearby, hopefully in adjoining offices. If such an arrangement is not offered by President Johnson, you should request it. The terms of your understanding with the outgoing President should not preclude your designating more than one person for this function. Even if you choose to centralize responsibility on your own staff, your designee will want assistance to help in learning procedures, in mastering substantive issues, and perhaps in examining files soon to be removed.

23. In addition, your Administration must become familiar -- promptly and in depth -- with the Budget Bureau and its current work on the 1970 budget. Apart from intimate intra-Administration considerations of peculiarly partisan matters,

it would be helpful for your Director (or other designee) and a few key staff to observe as much of the budget preparation process as they can absorb. In this way, your appointees can understand the nature of current issues, can help you make preliminary judgments about the issues you want to re-examine after Inauguration, and can better handle the new or repeated departmental requests confronting them in early 1969. Close cooperation during the transition period has become traditional in Budget, and it is a salutary tradition. In the unlikely event that the Administration fails to offer cooperation in this area, you should request it.

B. General orientation of appointees.

24. To reiterate a key point, you will find no greater resource in the outgoing Administration than the expertise and experience of its staff and appointees. In the past, incoming officials have generally suffered to learn the same lessons time and again because they have not profited from their predecessors' experience. On the whole, this seems attributable more to mistrust of the predecessors rather than to any unwillingness of the latter to be helpful. Of course, not everyone can be equally helpful. Of course, much that is said will have to be discounted by different interests and circumstances. But the fact is: outgoing officials are a valuable resource that should be utilized by the incoming officials during the transition period.

25. You should press the old Administration to encourage Secretaries, Under Secretaries, Assistant Secretaries, Administrators, and other Presidential appointees to receive their counterparts and to acquaint them with the administrative practices and substantive issues of their agencies.

a) You can expect the office of each Presidential appointee to have prepared an appropriate "briefing book" on administrative and substantive matters. Even excessively voluminous and routinely bureaucratic products can be useful to the appointee (or his special assistant). Even the routine product can identify such basic information (often unknown to new appointees) as both the "hot" and recurring issues facing the agency, the identity and arguments of important interest groups concerned with each issue, and the relevant Congressional considerations.

b) On such topics, you should advise your appointees to seek the views of the incumbents. The direct exchange can be more sharply focused and more candid.

c) Furthermore, you should recommend that your appointees ask outgoing officials (on a discreet and informal basis) for their views on the agencies' career people. (We would hope that some information of this type would have been gathered in the pre-election period.) The new official with a different policy outlook may react differently, but incoming and outgoing officials will often have a common reaction -- independent of policy -- to a subordinate's qualities. In time, the new people may learn, as did their predecessors, that a subordinate is analytical, concerned, diligent, articulate, concise, skeptical, discreet, or the opposites. While the new official will not want to be bound by the predecessor's opinions, the latter's views can accelerate the process of testing and appraising. And, of course, subordinates are most useful to one who knows what discounts and premiums to apply to their work.

26. Some incumbent officials may value their successors or their agencies sufficiently to open their offices to their successors -- letting them read much of the paper traffic and to observe conferences and meetings with subordinates and

outsiders. Whether any particular official makes such an offer will depend upon his work and working habits and the mesh of personalities. This assumes that the "open office" approach occurs to him both as a possibility and as one to which the President would not object. It follows, therefore, that if the President makes no mention of the subject to you, you should diplomatically suggest its usefulness. You should urge him, if agreeable, to authorize such cooperation perhaps by mentioning it in a Cabinet discussion of transitional arrangements. Some such approach as this is almost imperative in the State and Defense and perhaps elsewhere, depending on your plans.

27. These approaches are not without this danger: such one to one interaction between incumbents and new appointees may unconsciously and uncritically tend to freeze existing patterns of organization, allocations of responsibility, or ways of seeing problems. We see two possible countermeasures: First, you can make your appointees conscious of the issue, demand critical thinking about it, and warn that organizational arrangements are subject to review and revision. Second, it may be possible to postpone the appointment of some Assistant Secretaries in those departments which can be efficiently managed at the outset without the full complement of Assistant Secretaries. If so, your primary appointees would have more time for a thorough personnel search and for a careful review of effective organizational possibilities within the department.

28. Pre-inauguration access of appointees to the departmental staffs will probably be opposed by the old Administration which might fear a premature transfer of staff loyalty. Because no categorical rule can cope entirely with

individual and departmental variations, such contacts are best left to be worked out agency by agency. At the Presidential level, you should limit yourself to two requests:

a) Your study groups and task forces may feel particular need for access to relevant departmental files and experts. Fully knowledgeable outside experts are, to be sure, often available. But where this is not the case, the government experts may be essential for thorough appreciation of the data and correct analysis. You should specify these situations as clearly as you can and request access relevant to them. (They will be relatively few in number.)

b) You should seek agreement in principle that agencies lend a suitable "expert or two" to the new officials or task forces when they request them and when such aid can be provided without disrupting the current work of the agency.

29. General pre-inauguration access to files (as distinct from staff) might be rejected altogether if sought at the Presidential level. Since permanent departmental files will be available later, the Administration may hesitate to grant early access. You should ask no more than authority to make arrangements on a case-by-case basis with each department. In light of your hopes to include younger men in the intimate workings of Government, you might seek permission to designate relatively junior persons -- prospective special assistants to high officials -- to study relevant files and other background information which they can later bring to bear in giving post-inauguration assistance to their chiefs. In other situations, such work might make it possible to delay the appointment of some Assistant Secretaries, as discussed earlier. This technique could prove extremely valuable

in selected offices where orientation of new appointees is difficult. Possible examples are the Secretariat and a few other offices in the State Department as well as I. S. A. and Systems Analysis in Defense.

30. You should arrange quite early to have at least one incumbent official remain as Acting Secretary in each Department. He will exercise formal statutory power until the new Secretary and his team are confirmed (which might not occur on Inauguration day or the next).

31. There are certain technical areas where you may expect a briefing from the Administration. If one is not offered, you should request the following information:

a) To what extent will departmental office space be available? In 1960-61, ten new officials were housed in State and two in each of the other Departments. To accommodate any larger number might well prove disruptive but if an "open office" policy is in effect, new officials would have to be housed nearby. In other situations location may not be crucial if adequate information is available.

b) What funds are available to the President-Elect under the Transition Act for personnel, supplies, consultants, travel, and office space?

c) To what extent can the various departments help to absorb the expenses of transition by lending office space and clerical and professional assistance?

VI. The Handling of Crises

32. If a crisis arises during the transition and the response of the President will have major continuing consequences (e. g., American response to a Chinese invasion of Vietnam), the President will doubtless want to consult you since yours will be the longer burden.

You probably have little choice but to assume that the President acts in good faith when he calls upon you. The public would expect you to consult with the President in a time of national emergency. You will have been receiving and digesting information before and after the election; your confidence in the data will be proportional to the variety of your sources. Nevertheless, you may hesitate to share the responsibility, even symbolically, without clearly adequate information or time for deliberation, without decision-making authority, and without the inescapable mandate of office.

No one can tell either principal his duty. This much is clear: the President can see that you are kept fully informed and invite you to express your views. You may wish to decline and in most cases this is a real option. However, there may be a crisis of such proportions that silence or the standard formulations of concern are inadequate responses. Then if you have a clear policy view, there is every reason to state it. Beyond this we do not venture.