

EXECUTIVE OFFICE OF THE PRESIDENT

182C
BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

APR 27 1970

MEMORANDUM FOR MR. EHRLICHMAN

Subject: Accessibility to Congress of the Executive Director of the
Proposed Domestic Council

In connection with the hearings tomorrow on Reorganization Plan No. 2, we are growing increasingly concerned about the issue of the availability of the Domestic Council's Executive Director to the Congress for various purposes. The House Subcommittee staff has recently indicated that this issue will be a major area of concern and questioning during the hearings.

Substantive Information

Ken Cole has advised me, and we agree, that we should take a strong position against the Executive Director being called before Congress to discuss proceedings of the Council such as individual positions and policies. We will maintain this position. However, there are other areas of accessibility about which we will be queried.

We will take the position that the Council would be neither a decision-making nor an action-taking body, in that the decisions would be made by the President and actions would be taken by the Council members (department heads) having primary responsibility for their respective areas. Therefore, the best source of information concerning either the decisions or the resulting actions is the Council members themselves.

From time to time, however, members of the Congress will need assistance in learning which Council member could best speak to certain issues. Here, we will urge them to utilize Bill Timmons' office, but I would plan to stop short of any statement that the Executive Director's office would never be available for guidance on who to see, or who to call. Just as you and other members of the White House staff now respond to congressional questions, I believe a flat negative position would be unnecessary and unrealistic.

The above position will not be well received by the Subcommittee, and it will, I am sure, press for a position that the Executive Director will be available for full discussion of substantive matters before the Council. However, assuming my interpretation is correct, we will maintain this position and if a specific point appears to be building opposition momentum, I will strive to respond further in writing rather than prolong a public debate.

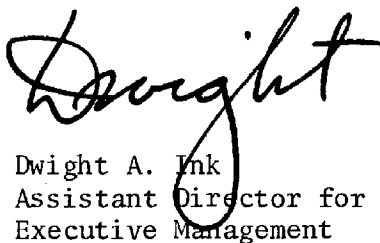
Administrative Information

I believe it will be necessary to indicate that the Domestic Council's Executive Director will parallel the practice of the Space Council, the National Security Council and other such bodies where the Executive Directors are available to testify on administrative matters such as the budget and operating practices. Those officers also provide knowledge on which Council members are most qualified to testify on certain areas.

Existing Practice

Many hypothetical questions could be raised by the Subcommittee to which responses would be difficult in advance of the actual situation. This entire issue is especially difficult inasmuch as existing precedent and practice seems to support availability to the Congress of Executive Directors in agencies established by law. In examples having a parallel to the Domestic Council, the Director of the Office of Science and Technology and the Director of Telecommunications Management are also Special Assistants to the President; however, they are available to appear before Congress. Nor does the National Security Council offer a supportive parallel. Mr. Kissinger wears only one "hat" as Special Assistant to the President on National Security Affairs; he is not a member of NSC staff. Moreover, the NSC's Executive Secretary does appear before Congress, principally to explain its budget and personnel requests.

In view of the above complexities, the Subcommittee may want further clarification of our position following the hearings.



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