

Letter re-typed 16 Feb 78

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Ottawa, May 4, 1970.

My dear Colleague:

I regret that it has not been possible for me to reply earlier to your letter of December 16, 1969, concerning security organization, which was in response to my letter to you of November 12, 1969. The subject is a very important one, and raises so many questions where assessment and decision are difficult, that I wanted to be sure the whole matter received the attention it deserves. Having now had the opportunity to study your letter in detail, I have concluded that there are certain areas of misunderstanding which must be clarified if we are to get the structure for the handling of security on the soundest possible base.

Concerning the degree to which the Government Organization Act, the R.C.M.P. Act, and the R.C.M.P. Regulations and Orders allocate security functions to the R.C.M.P., under the direction of the Solicitor General, it seems to me that the law and regulations are quite clear. They would appear to be the basis for the statement of the Royal Commission on Security that "the R.C.M.P. is the main federal operational and investigative body in the field of security", which is fully consistent with the position set out in the third paragraph of my letter to you of November 12.

It is possible that some misunderstanding may have arisen over your interpretation of the remarks,

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Hon. George McIlraith,
Solicitor General,
Ottawa, Ontario.

*with JPM KSG
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which you quote in your letter, made by then Prime Minister Pearson in the House of Commons on March 7, 1966, and particularly of the words "under a Minister who will have responsibility for the R.C.M.P. and for security matters." I take it that the other statements which you cite, by Mr. Pearson, Mr. Pennel and myself, are cited as supporting this general statement as to the intent of the legislation.

It is clear from the statements you cite, and from my own recollection of the circumstances at the time, that one of the purposes of the legislation was to enable a Minister to devote a good deal more attention to security problems than had been done when the R.C.M.P. came under the authority of the Minister of Justice. I think, however, that it is equally clear that Mr. Pearson's use of the words "and for security matters" was not intended to be all-inclusive in the manner you suggest. In order to be quite certain of his intentions at the time, as this legislation was introduced at his own initiative, I have consulted Mr. Pearson on this point. He has confirmed that it was not his Government's intention that the legislation be interpreted as allocating to the Department of the Solicitor General the specific and exclusive responsibility for security matters, bearing in mind the extent to which security problems affect a wide range of other departments and agencies. He thinks that it would be wrong in principle to have such an exclusive and total allocation of responsibility to a single entity. While it is not conclusive, presumably the fact that Mr. Pearson made no suggestion about transference of the small security unit in the Privy Council Office is some indication that he did not consider that location for the particular security functions involved to be inconsistent with the plan intended under the new law.

In summarizing one of the further points in my letter, you state as follows:

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"(c) Protection of the state in security matters must be balanced against 'a host of other matters' and the Security Secretariat of the Privy Council, 'under the general direction of the Prime Minister and the Cabinet Committee on Security and Intelligence' is the logical locus of this activity."

The implication of this summary statement would seem to be that the Security Secretariat, under my direction and that of the Cabinet Committee, would have an overall responsibility for "protection of the state in security matters." I have carefully re-read my letter to you of November 12, and I cannot find in it any statement or statements that would support your summary as quoted above. In any event, I can assure you that it was not and is not my intention that any Security Secretariat be given that degree of responsibility and authority.

It seems to me that the proposals in your memorandum of October 24, 1969, and your letter of December 16, 1969, come very close to making the Department of the Solicitor General a "Department of Security", responsible for the formulation of security policies and procedures as well as for the investigative and operational aspects of national security. For the reasons stated in my letter, I believe such an arrangement would be wrong in principle, despite the checks and balances which you cite. In saying this, however, I am not suggesting in any way that the Solicitor General and the R.C.M. Police, having the primary responsibility for the investigative and operational aspects of security and for "the protection of the state against deliberate subversion or violence or armed revolution", do not also have a major responsibility in the formulation of general security policies and procedures.

I am sure you will agree, however, that this latter responsibility must be jointly assumed and shared by all departments and agencies whose efficient

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functioning depends to a significant degree upon adequate security measures. As these measures will necessarily vary in accordance with departmental functions, there is clearly a need for a representative body of officials to coordinate the formulation of security policies and procedures, to present them to Ministers for approval, and to advise departments and agencies on their implementation. This function has, as you know, for many years been carried out by the interdepartmental Security Panel, assisted by the small Secretariat in the Privy Council Office to which I have referred.

As you state in your letter, the Royal Commission on Security concluded that the effectiveness of these arrangements was "more apparent than real". The Commission then went on to recommend that the present Secretariat be "formalized", and given "adequate status, resources and staff to formulate security policy and procedures in the general context of general governmental policies, and more importantly, with effective authority to supervise the implementation of government security policies and regulations and to ensure their consistent application." Concerning the effectiveness of the Security Panel and its Secretariat, of which I now have some direct personal knowledge, I am not convinced that the Commissioners were entirely correct in concluding that effectiveness has been more apparent than real. Nor am I persuaded that the Security Panel should be replaced by a "formalized" Secretariat of officials, whether they are located in the Privy Council Office or elsewhere.

If we are to arrive at a satisfactory resolution of this matter (and it is my hope that we might do so in the near future), it would seem desirable that we set out with some precision where responsibility for the various aspects of national security should lie, and ensure that our colleagues in the Cabinet are in agreement with that allocation. I would suggest that the allocation might be along the following lines.

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- (a) That the Cabinet Committee on Security and Intelligence, subject to ratification by the Cabinet, be responsible for approving basic policies and procedures in all areas of security;
- (b) that the Solicitor General, in accordance with his statutory responsibilities under the Government Organization Act (1966) and the Royal Canadian Mounted Police Act, be responsible for the overall direction of the R.C.M. Police, including the investigations and operations performed by the Directorate of Security and Intelligence in accordance with Security policies and procedures agreed upon by the government;
- (c) that the Department of the Solicitor General be responsible for:
 - (i) assisting the Solicitor General in whatever manner he may wish and direct in reviewing and developing security policy in relation to changes in threats to Canadian security, in the light of problems that emerge from the operations of the R.C.M.P. from the application of existing policies by departments or agencies or in regard to any other aspect of security;
 - (ii) pursuant to (1), formulating for examination by the Security Panel, proposals for general security policies and procedures to ensure the security of classified information in the Public Service of Canada, and to ensure the loyalty and reliability of members of the Public Service who require access to such information;
 - (iii) long-term research into the basic problems posed by espionage and subversion in Canada, and into the effectiveness of the policies and procedures devised to deal with these problems;

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- (iv) in conjunction with the R.C.M. Police and the Secretariat of the Security Panel, assisting in the training and education of departmental and agency security officers;
- (d) that the Director General of Security and Intelligence of the R.C.M.P. be responsible for the following tasks:
 - (i) to collect, collate and evaluate information or intelligence concerning espionage and subversion, and to communicate such information in such manner and to such Ministers and officials as the Solicitor General considers to be in the public interest, and as would be consistent with basic security policy;
 - (ii) to be responsible for the direction, co-ordination and implementation of counter-espionage and counter-subversive investigations and operations in Canada;
 - (iii) to undertake, at the request of departments and agencies of government and the Public Service Commission, security investigations concerning civilian personnel employed, or being considered for employment, by the Government of Canada in positions which require access to classified information;
 - (iv) to be responsible for the inspection of physical security precautions in departments and agencies of Government as requested and for the provision of training and advice on matters of physical security;
 - (v) to be responsible for the operation and co-ordination of technical security measures and counter-measures.

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- (vi) to cooperate and conduct liaison as necessary with domestic and foreign police and security services;
- (e) that the Interdepartmental Security Panel under the direction of the Cabinet Committee on Security and Intelligence,
 - (i) consider and provide coordinated advice to the Cabinet Committee upon proposals for security policies and procedures put forward by any of the departments and agencies represented thereon and on any matters referred to it by the Cabinet Committee;
 - (ii) formulate, for the approval of the Cabinet Committee, general regulations and procedures for the protection of classified material in all departments and agencies of government;
 - (iii) provide assistance and advice to all departments and agencies on the application of such general regulations and procedures, including the review of individual cases or incidents prior to their referral to the Security Review Board;
 - (iv) provide, as necessary, a link between the investigative and operational security service and government departments and agencies;
 - (v) provide advice and guidance for the resolution of conflicts between the interests of security and departmental and other interests.

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You will note that, under these arrangements, the Security Panel would continue to be a purely advisory and coordinative body, without executive authority. It would examine, as you suggest, security policies and procedures recommended by the Solicitor General; it would also consider recommendations by other departments and agencies with significant security responsibilities, and would in turn make coordinated recommendations to the Cabinet Committee. This would not, of course, prevent the Solicitor General (or indeed other Ministers) from making recommendations directly to the Cabinet Committee when that seemed appropriate.

As to the staff work of the Cabinet Committee and the Security Panel, I believe this should continue, as is customary with all Cabinet Committees and important supporting committees of senior officials, to be done by the officers of the Privy Council Office under the immediate direction of the Secretary to the Cabinet and under my responsibility as Prime Minister.

In the light of the suggested allocation above, I hope it may be a bit clearer what I had in mind in suggesting in my letter of November 12 that it would be "wrong in principle to place the responsibility for all of these security functions under one Minister." I did not intend to suggest the proposition referred to in the second paragraph of page 4 of your letter that the Solicitor General, as a "Cabinet Minister who has operational control over a subject matter by virtue of his portfolio" should be "divested of his responsibility to formulate policy". That would be quite wrong. The questions are: "What is the subject matter vested in the portfolio?" and "If there are aspects of security that relate to more than one portfolio, should the consideration of these be coordinated through a central agency?" On the first, the position seems to me to be clear. The

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Solicitor General is responsible for the items listed in Section 4 of the Government Organization Act (1966) both in respect of operational control and for the formulation of the policies that are to govern. None of these appears, however, to add up to a total and exclusive allocation of "security". Other agencies are actively involved in measures for its protection-- especially National Defence, External Affairs and Supply and Services--and very many have a lesser degree of concern. In such a situation, the reply to the second should, I think, be the one I have indicated. I do not see how, properly interpreted and applied, this can involve the security service in "having to serve two masters". Nor do I see that the Security Secretariat would be in any different position in relation to Ministerial supervision than are the secretariats that serve in helping to coordinate the development of economic policy, social policy, policy on external affairs and defence--and the many other ranges of policy that involve the work and action of several agencies. I hope that, on consideration, you will agree that what is being proposed here is not a departure from our basic principles of organization and coordination, but rather the application of them.

As to the scale of the Security Secretariat and any "formalization" of it, I have already indicated that I entertain some doubts. However, I think these matters should be considered in relation to the other recommendations of the Royal Commission on Security which still have to be studied by the Cabinet Committee.

Yours sincerely,

Original signed by

P. E. TRUDEAU 8/5/70

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