

REVIEW AND APPEAL SYSTEM

- I. Any person who is a member of a communist party or who by his words or actions consistently shows himself to support or assist communism or any other ideology which advocates the overthrow of government by force must not when known be permitted to enter the public service. When such a person is found within the public service he is to be dismissed, subject to the control procedures set out below. However, security screening of all applicants to the public service will not be undertaken, in order that the facilities for investigation may be more effectively applied.

Comment:

- (a) This change in policy appears to be advisable both because of public statements made by senior Soviet officials and argued at length in a memorandum to Security Officers dated April 17th, 1956, and also because the Staples case showed that recruitment of persons with little or no access to classified information was a policy of the RIS.
- (b) Existing facilities and organizational methods simply do not permit massive screening of applicants for positions in the public service. However, since the dismissal of persons described in I above is to be permissible (see II below), an extended service by which the R.C.M. Police will report on any such persons coming to their attention in the public service will serve as an alternative protection.

- II. When any person, who in the opinion of a department or agency is a person described in I above, comes to light within the public service with or without access to classified information, his case is to be examined by an interdepartmental Review Board (see section IV below). If the person has access to classified information, the department must immediately deny such access pending the decision of the Review Board, and take such cautionary measures short of dismissal which may seem to be required to protect the classified information in its custody.

Comment:

It is proposed that the department concerned first decide to recommend dismissal and pass the relevant information to the Review Board before implementing its recommendation. In the event that the department does not send forward for review and possible dismissal a case which in the judgement of the R.C.M. Police should be so considered, the R.C.M. Police are at liberty to consult with the security officer of the department and recommend such action to him.

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- III. The interdepartmental Review Board will consist of a quorum of the members of the Security Panel, and will not include the Commissioner of the R.C.M. Police. Its function will be to determine whether or not the case presented falls under the definition given in I above.

Comment:

It is suggested that the Security Panel may, if it wishes, delegate part of this responsibility by an administrative process to the Security Sub-Panel, the latter's recommendation to be confirmed by the Chairman of the Security Panel. Since a decision would have to be made as to what cases were of sufficient difficulty to justify reference to the Panel rather than the Sub-Panel, it is tentatively proposed that this responsibility be given jointly to the secretaries of the Security Panel and the Sub-Panel.

- IV. The review procedure will not be applied to any person who is unreliable because of defects of character since such persons can normally be transferred to posts where there is no access to classified information, and since their presence otherwise in the public service is not a menace to security.

Comment:

However, there will be cases where the unreliability of these persons is such that dismissal will be justified on purely administrative grounds, which will not require a review procedure.

- V. When any person described in I above, whether or not he has access to classified information, is to be dismissed after a decision by the Review Board, it is proposed that one of the following procedures be employed:

- (i) He will be handed a letter stating that in the opinion of the department or agency (an opinion concurred in by an interdepartmental Review Board) he is a person as described in I above and is placed on leave with pay for a period of one month, at the end of which time his service will be terminated. The letter will also state that he is permitted to bring his case before an Appeal Board, and that if he wishes to do so he must so inform the department or agency in writing within 10 days. He will be told that should he do so, he will be given a statement in writing of information relating to his activities. Although he will not be so informed, the information to be given will include all information which in the opinion of the R.C.M. Police can be given without jeopardizing sources.

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- (ii) He will in the first instance be handed a letter approximately as described above which will actually include all information relating to his activities that can be given without jeopardizing sources of information. The R.C.M. Police will be the final arbiter as to what may prudently be included.
- (iii) He will in the first instance be handed a letter as described in (i) above and informed orally by the officer doing so of all information relating to his activities that can be given without jeopardizing the sources of information.

He will at that time be informed that should he decide to appeal, the information given orally will be provided in writing.

Comment:

- (a) In order that the new policy may be as consistent as possible it seems essential that the appeal procedure be made available to all persons to be dismissed on security grounds whether or not they have access to classified information.
- (b) The advantage of the first type of letter is that it would avoid making available to a person to be dismissed information which, if he does not appeal, need not be given to him.
- (c) The second suggested letter has the disadvantage of revealing information which may not need to be revealed, but on the other hand might deter a person from using the appeal system if he is convinced that his activities are known to the government.
- (d) The advantage of the system suggested under (iii) above is that on appropriate occasions it may provide the kind of deterrent suggested in (ii) above without making the information a matter of record.

VI. When a department or agency is informed that a person to be dismissed proposes to appeal the decision, it will through appropriate channels, to be determined later, inform the secretary of the Appeal Board who will set a date for a hearing to take place within two weeks. Where the appeal case arises in a city outside Ottawa, the government will provide minimum travelling expenses and per diem allowance to enable the appellant to appear before the Board which will sit in Ottawa.

Comment:

It is not expected that over a period of time the Appeal Board would be required to sit very frequently. Therefore it seems advisable to make provision for financial assistance in cases of hardship in order that the Appeal Board may be available to any person entitled to appear before it.

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- VII. The Appeal Board will consist of three persons resident in Ottawa, with a part-time secretary to be supplied by an appropriate government department. Members of the Board will be one Justice of the Supreme Court of Canada, the Chairman of the Civil Service Commission and a senior labour union executive. They will be asked to serve voluntarily and without remuneration. If, however, the Board meets in Ottawa under circumstances which may require a member to travel to Ottawa, that member will be given travelling expenses and, if appropriate, a per diem allowance.

Comment:

It is not anticipated that the Board will normally meet with sufficient frequency to justify per diem allowances. It is also suggested that there is considerable merit in having its decisions resulting from voluntary service. The suggested three persons have been chosen with a view to establishing confidence in the public mind both as to the ability of the persons on the Board and the representation of different view points.

- VIII. Information provided by the R.C.M. Police or any other appropriate investigative agency concerning an appellant will be provided to members of the Board while protecting the identity of sources, and may exceed the information given to the appellant.

Comment:

It seems important for the Board to be fully informed if it is to function properly. Nevertheless, it must be realized that on occasion there may be information of a nature which cannot be laid before them. The R.C.M. Police or other responsible investigative agency will be the final arbiter.

- IX. The function of the Appeal Board will be to hear and consider such evidence as they decide is pertinent to the case, and to advise the Minister of the employing department or the Head of agency concerned whether, on the basis of evidence placed before them by the appellant and the employing department or agency, they find reason to agree or disagree with the decision of the Review Board. The nature of their findings, together with the arguments upon which they are based, will be made known to the Minister or Head of agency, who will take their views into account in the final disposition of the case.

Hearings will be held in private and without legal counsel available to either party. Witnesses may be called at the Board's discretion when it is necessary to clarify points of evidence; such evidence will not be given in the presence of the appellant. In addition the appellant may be permitted to name three character witnesses of his own choosing who will be called by the Board.

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Comment:

As security is a departmental responsibility,
it seems appropriate that the final decision remain
with the head of the department or agency concerned.
It remains to be determined as to what if any
remuneration should be given to witnesses.

O t t a w a,
November 29th, 1956.

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