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Solicitor General

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FROM
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Deputy Solicitor General

SECURITY - CLASSIFICATION - DE SECURITE
CONFIDENTIAL
OUR FILE / NOTRE REFERENCE 6920-3-4 P3262-K
YOUR FILE / VOTRE REFERENCE M4507 4507
DATE NOV 24 1983

T.D. NO. NO. D.T.	33281K
FILE NO. NO. DOSSIER	20-2-3
B.F. A.R.	

SUBJECT
OBJET

SECURITY SERVICE FILE DESTRUCTION

1. You will recall that at the SG-RCMP meeting of September 30, 1983, you asked that a memorandum of advice be prepared on the subject of the Director General Security Service's request for permission to destroy files readied for destruction. The DGSS's request was contained in his correspondence of September 13, 1983, to Michael Shoemaker (Tab A).

FACTORS FOR CONSIDERATION

2. On February 11, 1983, you made public your policy on the destruction of the Security Service files on individuals (Tab B). As well as publicly setting out the new retention standard, you stated that:

"files to be destroyed will be destroyed as soon as matters currently before the courts have been concluded." (emphasis added)

3. In response to the Director General Security Service's proposal that the Security Service be allowed to destroy only the duplicate copies of files held at Area Commands, and in Foreign Posts, you gave your approval on July 14, 1983 for this type of limited destruction.

4. Your February 11, 1983 policy statement noted your intention to request the cooperation of the Privacy Commissioner for assistance in the following two roles:

- (a) to review files retained under the policy, to see if "the provisions of s.4 Privacy Act" had been met; and
- (b) to review files "designated for destruction but of historical value" which consequently are to be transferred to the Public Archives.

You wrote to Dr. John Grace, the Privacy Commissioner on June 16, 1983, requesting his assistance. Dr. Grace replied on June 23, 1983, with an offer to meet with you, at your convenience, to discuss the issue further in relation to the scope and nature of the review (Tab C).

5. As of October 31, 1983, the Security Service reported that it had boxed up 147,807 files for destruction (Tab D). As of November 22, 1983, this figure (according to information orally provided by the Security Service) has risen to approximately 200,000 files. Storage problems are becoming increasingly acute. Additionally, the Security Service report that the physical destruction of files may be prolonged given a lack of sufficient incinerator capacity, once your authority to destroy files is finally received.

THE PROBLEM

6. You have stated publicly that you would not permit files to be destroyed before certain matters currently before the courts have been concluded. On the other hand, the Security Service is experiencing increasing problems at Headquarters as a consequence of the continued lengthy moratorium on destruction. As the Director General informed you at the SG-RCMP meeting on September 30, 1983, this includes concern by DPW regarding structural problems in the present building resulting from file weight.

OPTIONS

7. I consider that you have two options in resolving this problem -

- (a) you could decline to change your policy of February 11, 1983, and authorize the Security Service to take any necessary steps to acquire additional storage capacity; or
- (b) you could authorize the destruction of selected files or categories of files on individuals which, once processed according to your policy, can reasonably be concluded to have no relevance to issues before the courts.

RECOMMENDATION

8. I recommend option (b) for your consideration providing that the destruction is strictly limited to selected files or categories which have no relevance to the court cases.

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There are two basic factors, the time of the creation and the content of files, which provide you with the following four options:

- (a) the content of the file can reasonably be considered to have no relevance to matters before the courts. Five categories of files on individuals have been identified which fulfill this requirement. They are described in table form in the attached Annex. The reasons for recommending these categories for destruction are as follows:
- the [REDACTED] and [REDACTED] categories are exclusively concerned with the security screening of individuals,
 - the [REDACTED] category does not consist of original records, but rather of copies or extracts from other existing files,
 - the [REDACTED] category contains information on Canadians who have travelled to certain foreign states, and
 - the [REDACTED] category contains information on individuals of a known or alleged homosexual orientation;
- (b) the time the file was created demonstrates that the file has no relevance to matters before the courts. Since all the matters before the courts relate to events that occurred prior to 1974, any file opened after that date could not be relevant to the court proceedings;
- (c) a third option is to apply both (a) and (b) resulting in the destruction of pre-1974 files selected by content, and post-1973 files across the board regardless of content; or
- (d) a fourth option, which is a hybrid or combination of (a) and (b) above, resulting in limited destruction in selected categories of files created post-1973.

As a further safeguard, I would remind you that the Commissioner has instructed that, on review, any file in these (or any other) categories which is considered to be relevant to a judicial proceeding, must be retained.

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9. Given the view that any destruction of files opened prior to 1974 may be portrayed as detracting from the ability of the courts to grant fair trials, I recommend that you restrict destruction to files created after 1973. This means adopting either option (b) or (d). A preliminary estimate from the Security Service indicates that within two weeks of your approval of option (d), 139,000 files in the [redacted] and [redacted] categories, dating post-1973, could be destroyed. I therefore recommend option (d).

10. Should you concur with this approach, I leave it to your judgement whether, given your previous public statement of policy, you would wish to issue a further press release modifying the continuation of your absolute moratorium on file destruction, and announcing that file destruction had commenced on a limited basis.



Fred E. Gibson

Attach.

Number Of Files Marked For Destruction as of October 31, 1983	File Number	Formal Description Of File Category	Shortened Title, or Informal Description
9,739	[REDACTED]	"Individual files on persons undergoing security screening where a records check is required in a foreign country."	Foreign records /indices check
122,305	[REDACTED]	"Extracts taken from existing holdings and retained on a temporary basis."	Extracts
7,618	[REDACTED]	"Individual files on persons requiring a security clearance to a level where a field investigation is necessary or where adverse information surfaces."	Security Screening where a field investigation occurred
796	[REDACTED]	"Individual files on those Canadians visiting countries of counter-intelligence interest who may come into contact with a foreign intelligence service."	Canadians travelling to Sino-Soviet Bloc countries
1,521	[REDACTED]	"Individuals known or suspected of having character weaknesses."	Homosexuals