

SOLICITOR GENERAL



SOLLICITEUR GÉNÉRAL

Ottawa 4, October 24, 1969

MEMORANDUM TO THE PRIME MINISTER

SECURITY

One fundamental feature of Canadian government is that of responsibility - in the first instance responsibility of government to the House of Commons and ultimately through the House to the people of Canada. Within government we find executive officials responsible to individual Ministers who, in turn, are primarily responsible to the Prime Minister for efficient control and discharge of their portfolios while at the same time sharing a collective responsibility to their colleagues of Cabinet.

With responsibility, in its broadest sense, emerges the concomitant aspect of accountability. Possession of authority brings in its train an inherent duty that someone must be held personally accountable for executive action. Hence, while it is clear that you have the overall responsibility for security matters, the specific responsibility and personal accountability for security, since the Government Organization Act, 1966 rests with the Solicitor General, a fact also recognized by the Royal Commission on Security and the Government itself.

What has been concerning me, for some time, is the implementation of policies forecast by you in your Statement to the House of Commons on June 26, 1969. The first point related to the Security Service, under the Commissioner of the R.C.M.P., becoming increasingly separate in structure and civilian in nature; the second dealt with the Security Secretariat and the third with the Security Review Board. Dealing now with these three vital areas will allow the Government to move in the direction that it has forecast.

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R.C.M.P.

The matter of the appointment of the Commissioner and a civilian Deputy Commissioner has been settled and, in my view, will set the course to implement largely what the Government had in mind. It will be a matter for the Solicitor General to see that, on a systematic and continuing basis, Cabinet decisions regarding the Security Agency are implemented.

PRESENT HANDLING OF SECURITY MATTERS

The Royal Commission on Security made quite a critical assessment of the Government's handling of security matters. It went on to say that

"the present Canadian security structure is diffuse, and consists of a number of disparate elements including the Cabinet Committee on Security and Intelligence, the Security Panel, the Privy Council Office, the Solicitor General and his Departments, the Minister of Justice, and the Department of Justice, and the R.C.M.P."

To remedy this situation, the Commissioners propose in paragraphs 49 and 50 the establishment of a formalized Security Secretariat in the Privy Council Office:

"On the level of policy formulation, the Secretariat would make recommendations to the government after consultation through a formal or ad hoc committee structure with interested departments. These recommendations would not then be the formal product of the deliberations of an interdepartmental committee, at which some of the requirements of security may not have been given adequate weight, but would instead be the product of a specialized secretariat advised by interdepartmental consultation. The Secretariat would also be responsible for the preparation, coordination and enforcement of government regulations on security. In these functions it would be advised by a protective security branch of the Security Service."

Should this recommendation be implemented, it would be the antithesis of ministerial responsibility and, I respectfully submit, would perpetuate the weaknesses of diffuseness diagnosed by the Commissioners.

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CABINET SECRETARIAT

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The functions described for such a Secretariat should come under the direct control of the Solicitor General but it would not detract from the need of a small security secretariat in Privy Council Office to record Cabinet Committee meetings, to ensure the security of the Prime Minister and Cabinet as well as to monitor security arrangements in Royal Commissions and Federal-Provincial Conferences and the like.

CABINET COMMITTEE ON SECURITY, SECURITY PANEL

On this basis, the approval of Security policy should be by the Cabinet Committee on Security, chaired by the Prime Minister with the Solicitor General as Vice-Chairman. The Solicitor General would recommend security policy and procedures which should, in some instances, be examined (before approval or submission to the Cabinet Committee) by a Security Panel made up of Deputy Heads under the Chairmanship of the Secretary to Cabinet.

CIVILIAN SECURITY SECRETARIAT

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Once security policies and procedures are approved, the Solicitor General would be responsible for their implementation (subject always to the Prime Minister's overriding responsibility and concomitant access to the Commissioner of the R.C.M.P. and the Head of Security). To do this, a Civilian Security Secretariat (headed by an experienced officer such as Ambassador G.G. Crean) would monitor the application of approved policies and procedures by Deputy Heads of Departments and Agencies. Should serious weaknesses become apparent, these could be resolved at the initiative of the Solicitor General on a Minister to Minister or on a Cabinet basis or by amending policies or procedures. The Civilian Security Secretariat would also be responsible to the Solicitor General for advising him on policies and procedures that may need updating. Such a Secretariat would have close relations with the Civilian Security Agency and would help the Solicitor General ensure that the Government's views on the activities of the Civilian Security Agency are carried out.

CIVILIAN SECURITY REVIEW BOARD

To ensure that the rights of the individual (public servants, appellants from citizenship or immigration rulings based on security considerations) are preserved to the fullest

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possible extent, a Civilian Security Review Board should be set up as soon as possible. The duties of the Board would be to review any individual appeals from rulings based on security reasons which may adversely affect the individual. As a result of cases reviewed where the Board felt that the individual's rights had been jeopardized, it could recommend to the Prime Minister or, if he so decides, to the Solicitor General, amendments in procedures better designed to meet equitably the government's policies on security.

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Initially, the Civilian Security Review Board would not need to be a full-time Board. It should probably consist of three members. The Chairman could be a person experienced in matters affecting the nation's security, such as Mr. Elgin Armstrong, Deputy Minister of National Defence. It would be important that the Board should have quick, secure and direct access to the Civilian Security Secretariat and to the Security Agency at all convenient times and, I would think, it should be located in the same building as the Department of the Solicitor General.

George J. McLlraith

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