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August 31st, 1977.

MEMORANDUM FOR MR. ROBERTSON

Revision of Personnel Security
Clearance Directive

Attached is a copy of a revision dated July 12, of the draft directive on personnel security clearance, together with a copy of the text that was considered by Ministers last April. The revised text attempts to incorporate the Cabinet decision, which directed that the text be revised with a view to:

- (1) replacing the reference to "common-law partner" in Annex B (Personnel Security Clearance Questionnaire) with a more appropriate one such as "co-habitant";
- (2) including more effective provisions to ensure frankness to individuals in the private sector, particularly mechanisms to provide information and a fair hearing, in cases where individuals might be adversely affected by decisions taken for security reasons, especially where dismissal was involved, and in this respect there should be consultation between the Department of National Defence and the Department of Supply and Services;
- (3) providing a more effective definition, in Annex A (Criteria for determining personnel security clearance), of the criteria relating to loyalty, particularly those set out in I(vi). |

May be a better word because of modern usage otherwise ok.

I would comment as follows with respect to the revisions.

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Annex B. Personnel Security Clearance
Questionnaire: "co-habitant"

This phrase has been substituted for "common-law partner" in the new form in Annex B, and related changes have been made in the text. Ministers wanted a broader term than "common-law partner", but I am concerned that the new expression will be criticized and ridiculed when the directive and form are put into use. (e.g. question 3 on the form solicits information about former co-habitants. This is ludicrously vague.) The present Personal History Form asks for information only about spouses and former spouses, and maybe the limitation should be accepted, and the attempt to broaden the screening base should be abandoned.

Section 25: Firmness and frankness in the private sector

As instructed by Ministers, DND and DSS have consulted and come up with a replacement for paragraph 25 of the former text, which Ministers found unsatisfactory. The new version also involves an additional annex to the document. As you know, at the Cabinet Committee meeting Ministers emphasized the desirability of a single standard for all persons requiring security clearance, and this would involve, for the private sector, an equivalent of the inquiry procedure under the Financial Administration Act for public servants who might be dismissed for security reasons. I doubt if the revision here will seem satisfactory to Ministers, but the kind of provision they favour would obviously go beyond the jurisdiction of a Cabinet directive and would get into employer-employee relations outside the public service. I suggest that the issue be raised, and the considerations set out, in the covering Cabinet document which will be prepared for submitting the revisions.

These best responses would mean getting contract to note freedom to not a priori restricted simply because a clause may touch upon employer/ee relations - in my view.

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Annex A. (Criteria for determining personnel security clearance): revision of I(vi)

You will recall that Ministers were very critical of the provision in this sub-section, and Mr. Dare undertook to supply another version. He did so, and I sent it to Justice for examination. Their view is that the revision is too vague, ~~does not add a great deal to the other criteria,~~ and should be deleted. I agree. I think the Security Service is trying to get at the area of subversion where there is not actually threat of violence, but I suggest that any provision along the lines they propose would not be acceptable to Ministers, and, if it were accepted, and made public, would be greatly criticized.

We have looked at the security provisions of the draft immigration legislation and also at the definition of "subversive activity" in the Official Secrets Act (copy attached). I am inclined at this point to think that the criteria in the "loyalty" part of Annex A could have been scrapped, and a simple reference to "subversive activity" as defined in the Official Secrets Act be substituted. This would have the advantage of basing the sensitive "loyalty" criteria on a definition approved by Parliament. However I guess it is too late for this. It is unfortunate that there are at least three similar but slightly varying statements (Official Secrets Act, immigration legislation, and the directive) which try to define areas of security concern.

Overall revision

Last April, after the Cabinet decision, at your instruction I wrote to Mr. Thorson asking for Justice assistance in revising the document, particularly from the point of view of publication. He turned the task over to the legal adviser to the Privy Council Office and I have

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worked with him and one of his officials. We have made a number of changes tidying up the wording and I think making the document more suitable for publication.

(Section to be inserted on brief of Public Service Alliance after 12 September meeting)

*Very important
message to
member by ICSI*

It is possible that we could get a consensus on the re-draft from the ICSI secretariats, but you may think think there should be a meeting to consider it, perhaps along with the revised paper concerning homosexuality which is with you.

There are two other items which could be included on the ICSI agenda:

- Report on the economic intelligence function - October 1976-May 1977, prepared by the IAC.
~~I do not think it would require much time.~~

? - Advisory Committee on Internments. The Security Service made proposals in relation to the placement of the "Profunc system". ?
We have been trying ever since to get secretarial consensus. The proposals have been generally accepted, but Mr. Yalden has questions about safeguards for the rights of individuals under the proposals and has asked for discussion in the ICSI.

These two items I think could be disposed of quickly.

I will proceed with whatever arrangements you consider suitable.

G. Frazer.

Privy Council Office,
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