

Extract from the Minutes of the

13rd Meeting of the

JOINT SECURITY COMMITTEE

held 11/12/57.

II. SECURITY POLICY - REVIEW AND APPEAL SYSTEM

2. The Committee had for consideration a document called "Security Policy - Review and Appeal System" prepared by the Secretariat of the Security Panel. This document was prepared at the direction of the Security Panel who wished to see a draft of review and appeal procedures before deciding whether or not to recommend dismissal of Communists and Communist sympathizers from the public service, when they are not employed on classified information.
3. The Chairman informed the Committee that he understood the Security Sub-Panel would forward all the advantages and disadvantages of the review and appeal system along with the document to the Security Panel.
4. Wing Commander Hollies stated, in his opinion, there would be no reason why the procedures in this paper could not be employed by uniformed personnel of the Armed Services.
5. Wing Commander Hollies also stated that he doubted the advisability of setting up a quasi-legal organization such as the Appeal Board described in the document, as people would expect the provision of safe-guards which are guaranteed them under normal legal procedure. The appeal procedures described in this document provided no such safe-guards and he felt that the Bar Association would probably object.
6. It was brought out in the discussion that review procedures are now in effect, as any department is entitled to consult the Security Panel when an individual is to be discharged for security reasons. Procedures in each of the Armed Services provide for as much review as the proposed Review Board

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provides. In addition, a Redress of Grievance Procedure is provided for in the Armed Services and in the Civil Service and there is as much protection for the individual in this procedure as the proposed Appeal Board provides.

7. The Chairman suggested that the document be discussed paragraph by paragraph and the following are the comments:

Paragraph 1: The sole purpose of a Review Board is to ensure uniformity of procedure in discharges for security reasons and this cannot be done on the meagre criteria set forth. A more detailed list of criteria is required. In addition, one of the weaknesses of the whole procedure is shown here, i.e. clearance procedures cannot be extended to cover the unclassified positions.

Paragraph 1. Comment (a): The Committee is not too sure this consideration still applies in view of the change in the attitude of the USSR and in any event it would be preferable to relate the advisability of the policy to something more concrete than a changing International situation. It could quite easily be related to the impropriety of the Government employing persons who advocate the over-throw of the Government by force.

Paragraph 2: This paragraph appears to be at variance with the long established principle that each department is responsible for its own security. The Committee disagrees with the centralization of authority as expressed here.

Paragraph 2. Comment: This comment is again at variance with the principle of departmental responsibility and the Committee does not agree that the RCMP should follow up their reporting of personnel cases to this extent. The RCMP is only a reporting organization on security of personnel cases and should not be given the responsibility of forming judgements or taking follow-up action.

Paragraph 3: This paragraph and its comment, in effect, set up two Review Boards and leave it to the discretion of the Secretaries of the Panel and Sub-Panel which Board should be used. This seems to place an undue responsibility in the hands of the Secretaries of the Panel and Sub-Panel and the comment places a certain amount of responsibility in the hands of the Chairman, Security Panel. The Committee feels that the Security Panel, by virtue of its position as adviser to the Cabinet, is probably an inappropriate group to act as a Review Board. If a Review Board is necessary it should be formed separately.

Paragraph 4: This paragraph states that people with character defects can usually be transferred within a department rather than be dismissed. While this would appear to be true in theory, it is not so in practise. In a department such as this with so many specialist branches and types of employment, it is usually quite impossible to carry out a transfer to an unclassified position unless the person to be transferred loses rank in the process. This paragraph also shows a basic weakness in the procedure by denying loyal citizens with character defects the same protection which it provides for Communists and Communist sympathizers.

Paragraph 5(1): It has been our experience that the information which could be given to such persons is usually very limited. If dismissals are made public the resulting publicity would be harmful. It would be generally believed that the information revealed was all that was available to the department and on that information a man was being discharged. In addition, when a Communist is being informed of the reasons for his dismissal he will probably use the Appeal Board as a sounding board to express his Communist ideology and cause all possible embarrassment to the Government.

Paragraph 7: Wing Commander Hollies pointed out that it would be inappropriate to ask a member of the Supreme Court to act on an Appeal Board, as at that level Justices do not consider evidence. If a member of the judicial system is required for an Appeal Board, it should be a Judge of the Exchequer Court.

Paragraph 8: Since all of the information concerning the man is not going to be given to the Appeal Board nor to the man himself, the Appeal Board would appear to be unable to exercise its only function, that of ensuring that no injustice is done to the individual.

Paragraph 9: The only purpose of an Appeal Board is to ensure that no injustice is done to the individual. Since the hearing is held in private, the man may not have legal counsel and the evidence of witnesses will not be given in the presence of the appellant, protection against injustice would appear to be very limited.

Paragraph 9, Comment: The first part of the first sentence appears to conflict somewhat with some of the provisions of the document which sets up mandatory centralized procedures, allows the RCMP to form their own judgement on cases and follow up their information. It also sets up boards to make recommendations which Departments would find very difficult to ignore.

8. The Joint Security Committee conclude:

- a) that any review procedures which will ensure uniformity but do not invalidate the principles of departmental responsibility would be desirable and the Committee feel that such procedures can be developed throughout the Government where they are not now in existence. They also feel that the procedures described in this document are undesirable since they deviate from the principle of departmental responsibility and do not provide adequate uniformity;
- b) that any appeal procedures which could be worked out, which will guarantee that no injustice is done to the individual, and still maintain security, are most desirable. Since Security Services cannot disclose information which would compromise their sources, appeal procedures can provide very little, if any, protection;
- c) that Communists and Communist sympathizers should not be employed in the Government service at all, however, the disadvantages inherent in the procedures described in this document are such that it would be better to maintain our present policy of relating discharges on security grounds to access to classified information.