

II. SECURITY POLICY - REVIEW AND APPEAL SYSTEM

(CONFIDENTIAL)

2. The Committee had for consideration Security Sub-Panel document SSP-81 dealing with the establishment of an Appeal Board. After some discussion the Committee felt that the establishment of an Appeal Board was most undesirable and felt that the disadvantages of the Appeal Board listed in SSP-81 did not contain the most important disadvantages.

3. The Committee, therefore, discussed amendments to the Sub-Panel document which would be for the guidance of the acting chairman of the Joint Security Committee who would represent the Committee. These suggested amendments are as follows:

Para 3 - Add "and closer personal liaison between security officers and the Panel Secretaries" at the end of the third sentence.

Para 4(d) - Delete this para. It is not accurate and the point is covered in para 4(b).

Para 4(e) - Delete "jurisprudence" and insert "information". Jurisprudence is not a proper word for this type of information.

Para 4(g) - Insert "knowingly" between "employing" and "communists" in line 3. This is more accurate.

Under Disadvantages

Para 4(b) delete and add

- "4(b) The appeal procedures cannot provide the protection which is given to the rights of an individual by a court of law. If a communist or sympathizer is discharged he could, and probably would, cause considerable publicity and claim a violation of civil rights. Each discharge could, therefore, become a matter of public controversy.
- 4(c) The inevitable increase in publicity on this subject would probably cause considerable pressure from both reputable and non-reputable organizations for further protection of civil rights such as the provision of counsel for the accused.
- 4(d) Security risks other than communists and sympathizers are not to be offered the protection provided by the Appeal Board. The Government might be criticized for protecting the rights of disloyal persons and not protecting the rights of loyal citizens with serious character defects who are being removed from classified employment and who cannot be transferred. In addition, employees discharged for any reason could well claim access to an Appeal Board.
- 4(e) Because of the adverse publicity which would result from not following the advice of an Appeal Board, its advice would be almost mandatory. In many cases, therefore, a Department would feel obliged to accept the advice against its own judgement while retaining the responsibility for any harm which might follow.

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- 4(f) The establishment of a Board of Appeal against discharges might give the implication that continuing employment in government service is a right rather than a privilege which would be contrary to the fact.
- 4(g) Adverse publicity which could happen on an individual case could have serious consequences to the discharged individual when seeking new employment.
- 4(h) Differences of opinion between the Appeal Board and Departments could be publicized and exploited by the Communist Party to demonstrate governmental injustice to workers."

Renumber "Disadvantages" (c) and (d) to conform with the above and amend (d) by the addition of "the same could be true with respect to the trade unions and staff associations comprising government employees" at the end of the sentence.

Delete (e) as being inappropriate.

Delete Para 5 and add

"5. As screening procedures cannot be extended to cover all government employees the number of communists or sympathizers discovered in excess of those now in classified employment should be very few. It would not appear advisable to institute an Appeal System simply on their account. The procedures now operating could apply adequately to them. Present procedures are designed to prevent injustice and the number of controversial cases has been small.

6. The Sub-Panel has made an extensive study of Review and Appeal procedures including the types and terms of reference of Boards which would be required and conclude as follows:

a) The extension of discharge procedures to persons in unclassified positions would not cause enough new discharges to justify the establishment of Review or Appeal Boards.

b) The new discharges could be carried out under existing procedures with little or no more controversy than now exists.

c) Review and Appeal procedures now in use give as much protection to the rights of the individual as any Review and Appeal procedures of the US and UK or any that could be established here.

d) That, if the discharge procedures cannot be extended to cover those in unclassified positions without the establishment of Review and Appeal Boards, it would be preferable not to extend them as, on balance, the disadvantages appear to outweigh the advantages.

The Sub-Panel recommends that:

a) The discharge procedures be extended to include communists and sympathizers in unclassified employment under existing procedures; and

b) Measures be taken to improve the selection and training of departmental security officers."

Delete para 6.

Delete Appeal System document and all reference to it in SSP-81.