

APPEAL SYSTEM

- I. Any person who is a member of a communist party or who by his words or actions consistently shows himself to support or assist communism must not when known be permitted to enter the public service. When such a person is found within the public service he is to be dismissed, subject to the control procedures set out below. However, security screening of all applicants to the public service will not be undertaken, in order that the facilities for investigation may be more effectively applied.

Comment:

- (a) This change in policy appears to be advisable both because of public statements made by senior Soviet officials and argued at length in a memorandum to Security Officers dated April 17, 1956, and also because the Staples case showed that recruitment of persons with little or no access to classified information was a policy of the RIS.
- (b) It is for the Security Panel to consider whether the definition given above needs to be supplemented by detailed guidance concerning criteria which might be used in arriving at a decision as to whether or not an employee should be dismissed on grounds of communist affiliation.
- (c) Existing facilities and organizational methods simply do not permit massive screening of applicants for positions in the public service. However, since the dismissal of persons described in I above is to be permissible (see II below), an extended service by which the R.C.M. Police will report on any such persons coming to their attention in the public service will serve as an alternative protection.

- II. When any person, who in the opinion of a department or agency is a person described in I above, comes to light within the public service with or without access to classified information, it is proposed that one of the following procedures be employed:

- (i) He will be handed a letter stating that in the opinion of the department or agency he is a person as described in I above and is placed on leave with pay for a suitable period of time, at the end of which his service will be terminated. The letter will include all information relating to his activities that can be given without jeopardizing sources of information. The

investigative agency or agencies which have provided the information will be the final arbiter as to what may be prudently included. The letter will also state that he is permitted to bring his case before an Appeal Board, and that if he wishes to do so he must so inform the department or agency in writing within 10 days.

- (ii) He will in the first instance be handed a letter approximately as described in (i) above, except that it will include none of the information against him. The letter will state that, should he decide to appeal, he will be given a statement in writing of information relating to his activities. Although he will not be so informed, the information to be given will include all information which in the opinion of the responsible investigative agency can be given without jeopardizing sources.

In order not to jeopardize the individual's future employment, before either of the above courses of action are taken he will be given the opportunity to resign.

Comment:

- (a) In order that the new policy may be as consistent as possible it seems essential that the appeal procedure be made available to all persons to be dismissed on security grounds whether or not they have access to classified information.
- (b) The first suggested letter has the disadvantage of revealing information which may not need to be revealed, but on the other hand might deter a person from using the appeal system if he is convinced that his activities are known to the government.
- (c) The advantage of the second type of letter is that it would avoid making available to a person to be dismissed information which, if he does not appeal, need not be given to him.
- (d) The advantage of giving the employee the opportunity to resign in the first instance is that it may in some cases avoid both the necessity of referring the case to the Appeal Board, and the possibility that his future livelihood would be jeopardized by his case becoming public knowledge.

III. When a department or agency is informed that a person to be dismissed proposes to appeal the decision, it will inform the secretary of the Appeal Board who will set a date for a hearing to take place within two weeks. Where the appeal case arises

....3

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in a city outside Ottawa, the government will provide minimum travelling expenses and per diem allowance to enable the appellant to appear before the Board which will sit in Ottawa.

Comment:

It is not expected that over a period of time the Appeal Board would be required to sit very frequently. Therefore it seems advisable to make provision for financial assistance in cases of hardship in order that the Appeal Board may be available to any person entitled to appear before it.

- IV. The Appeal Board will consist of three persons resident in Ottawa, with a part-time secretary to be supplied by an appropriate government department. Members of the Board will be chosen on the basis of merit and reputation, with due consideration being given to their seniority and experience in this field. They will be asked to serve voluntarily and without remuneration. If, however, the Board meets in Ottawa under circumstances which may require a member to travel to Ottawa, that member will be given travelling expenses and, if appropriate, a per diem allowance.

Comment:

- (a) It is for the Security Panel to consider whether any present member of the public service should be asked to serve as a member of the Appeal Board.
- (b) It is not anticipated that the Board will normally meet with sufficient frequency to justify per diem allowances. It is also suggested that there is considerable merit in having its decisions resulting from voluntary service. In order to establish confidence in the public mind both as to the ability of the persons on the Board and the representation of different view points, the most careful consideration will have to be given to the selection of the members.

- V. All information obtained by the R.C.M. Police or any other appropriate investigative agency concerning an appellant will be provided to members of the Board while protecting the identity of sources.

Comment:

It seems important for the Board to be fully informed if it is to function properly.

....4

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- VI. The function of the Appeal Board will be to hear and consider such evidence as they decide is pertinent to the case, and to advise the Minister of the employing department or the Head of the agency concerned whether, on the basis of evidence placed before them by the appellant and the employing department or agency, they find reason to agree or disagree with the decision of the department or agency. The nature of their findings, together with the arguments upon which they are based, will be made known to the Minister or Head of agency, who will take their views into account in the final disposition of the case, and will inform the secretary of the Appeal Board of whatever action is eventually taken.

Hearings will be held in private and without legal counsel available to either party. Witnesses may be called at the Board's discretion when it is necessary to clarify points of evidence; such evidence will not be given in the presence of the appellant. In addition, the appellant may be permitted to name three character witnesses of his own choosing who will be called by the Board.

Comment:

As security is a departmental responsibility, it seems appropriate that the final decision remain with the Head of the department or agency concerned, and that the Appeal Board be informed of the final decision. It remains to be determined as to what if any remuneration should be given to witnesses.

O t t a w a,  
February 11, 1957.

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