

## MEMORANDUM

## EXTERNAL AFFAIRS



## AFFAIRES EXTÉRIEURES

TO THE UNDER-SECRETARY *me*  
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 FROM Defence Liaison (2) Division  
 De  
 REFERENCE  
 Référence  
 SUBJECT Royal Commission on Security  
 Sujet

SECURITY CONFIDENTIAL  
Sécurité

DATE March 1, 1967

NUMBER  
Numéro

FILE	DOSSIER
OTTAWA	
D.L. (2) Sp. Reg.	
MISSION	

ENCLOSURES  
Annexes

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## DISTRIBUTION

Mr. R. G. Robertson

Mr. Timmerman and I appeared before the Commission this morning between 10.00 and 1.15. We had been specifically requested to deal with the Norman case and we did. We left with the Commission our summaries of three additional cases (chosen in conjunction with the Commission staff over the past two weeks). Attached to our summary in each case were a considerable number of important pieces of correspondence from the files themselves in which, as in the covering summary, the name of the person concerned was blanked out.

2. We spent most of the time on the Norman case and on the general issues outlined below. My representations on these issues were given the most careful and friendly reception by all three Commissioners but, as indicated below, were not accepted. They readily agreed, however, that before reaching their final decision on these issues, they would be happy to discuss them further with you and Gordon Robertson. I had indicated that if they were not able to accept my recommendations on these issues, you and Gordon Robertson would wish to discuss them further.

3. In briefest terms, the three issues were:

- (1) The access of the Commissioners, without consulting a foreign agency, to information provided by agencies of foreign governments whose distribution was specifically limited (e.g., for the RCMP or External Affairs only) by the supplying agency.
- (2) The identification by name of individual cases.
- (3) The physical access of the Commissioners themselves to individual files.

4. My basic presentation had been prepared in advance and copies of that are attached. The material in the attachments therefore formed a base for discussion in which I elaborated at some length in response to questions on individual arguments. On the matter of the identification by name of cases and the physical examination of files, the Commissioners took the position that they thought their obligations to the public would demand that they be able to say that they had unrestricted access to the files, regardless of whether or not they exercised that right. If our arguments were accepted

on the other hand, they felt they would be damaged in the public eye by having to admit that the choice of files was left to this Department and that the selection of material from those files was left to this Department. They admitted that identification by name was not absolutely essential but argued that if they were to have to admit that they had not identified the cases by name, it would be an admission that they did not have unlimited physical access to the files. They did not accept either my argument that at least the persons concerned should be asked if they had any objection to their names going before the Commission although they did not advance any counter-arguments on this score. I would emphasize that the discussion on these points while spirited left no impression whatsoever of hostility. Rather I would characterize their attitude as surprised.

5. The discussion concerning access to material provided under specific limitations on distribution proved somewhat more difficult. The Commissioners questioned me closely on how we handled the administrative problem presented by limitations of this sort. Again they seemed surprised that there might be instances when we would exercise such limitations against quite senior officers of the Department. They pursued this question in terms of whether we would keep information of this sort from the Prime Minister. When I said that of course we would not, they then argued that we should regard them as extensions of the Prime Minister since he had appointed them. They made the other argument as well that we should regard them as senior officers of the Department of External Affairs when dealing with our cases (and, by extension, of the RCMP when dealing with RCMP cases, etc.). They seemed somewhat disturbed that we had already asked for clearance [REDACTED]

[REDACTED] (and which in our judgment we had thought would make our procedures in this case more understandable to the Commissioners). (Unfortunately clearance for use of this material had not arrived prior to my meeting with the Commissioners but came in this afternoon; there will be no difficulty therefore in leaving the brief with them which we had prepared but which I did not leave with them this morning. I was able to inform the Commissioners of this, through the Secretary, this afternoon before they left the city.) I went to great lengths to emphasize at many points in our discussion that we were breaking new ground and that my presentation was designed to point out the difficulties involved in this new area. I said I was sure that the issue of specially limited foreign information was not likely to arise very often and that I hoped therefore they would look at what we were providing in a number of cases before taking any decision in principle. They were however more interested in the principle, as perhaps was inevitable, and suggested that perhaps this principle should be cleared with the Prime Minister. I suggested that an attempt to clear this as a matter of principle might face the Government with a considerably more difficult problem than in fact needed to arise. In other words, to seek in principle a decision that over the whole field of their investigations we should decide to make available to them specially limited material from a foreign agency without seeking the release from that agency of the material might well have repercussions for us over a wide field of information not confined alone to the security field.

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6. The very process of summarizing our discussion may give them a sharper focus than was the case. Nonetheless I believe the above represents the essentials of the discussion. I made it clear, and I am sure that the Commissioners fully accepted that I was not challenging their right to have what they wished, but was simply asking them to consider the problems involved in these areas carefully before reaching a decision. I was asking them as well insofar as the personnel cases in my Department (as opposed to any other security matters under their consideration) to accept a self-denying ordinance on the matter of identification and physical access to files.

7. Arising out of this discussion a number of collateral issues were discussed. Was I arguing, for example, that External Affairs should be treated differently from other Departments? Was the administrative burden involved not impossible if our approach was accepted, etc? I said I was not attempting to do anything but put before them the arguments of my own Department on the points at issue, although I recognized that those arguments if accepted had implications beyond my Department. On the administrative burden I admitted immediately that our procedures would increase the administrative burden but I argued that we thought we could handle it and furthermore that we thought the extra work was worth while in the light of the objectives which we thought were important.

8. While it was disappointing that I could not gain acceptance this morning of our point of view, I certainly believe that I got a full and sympathetic hearing. I believe furthermore the Commissioners accepted that I had raised real problems even though the solution which I suggested was not necessarily one they could accept.

9. It is my understanding that the Commissioners will be in Ottawa again on March 8 and 9. Can I make arrangements with the staff for you and Mr. Robertson to meet informally with them on either of these days? I am sending a copy of this memorandum and its attachments to Mr. Robertson.

10. I have used the term "they" above for ease of reporting. In most instances the questioner and spokesman was Mr. Mackenzie. I am sure however that his attitude in the main was shared by the other two Commissioners.

  
J. D. McCardle,  
Defence Liaison (2) Division.

MEMORANDUMIdentification by name

We believe we can give you from our Departmental experience outlines of representative cases relevant to your field of study without names attached. In our view the names of persons concerned are irrelevant to your understanding of particular cases or to your survey of the procedures followed in particular cases. On the other hand the knowledge that no names are being used will be of great interest to individuals who have left our service for reasons connected with the application of relevant Cabinet directives on security and who have established themselves successfully in new careers. We would believe that if individual cases not heretofore a matter of public knowledge are to be identified by name, the persons concerned should be asked if they have any objection. We believe that the credibility of our system for the handling of security cases in the future depends on our ability to be able to assure individuals on this point.

2. The working of our personnel security system is dependent upon the willingness of individuals to be completely frank in their discussion with officers of the Department assigned responsibility in this field. Reference has already been made in material presented to you by my Department to our approach to personnel security by way of the reinforced honour system. An essential ingredient of this system on the Department's side is the care it must exercise to protect the confidence offered by its individual members. Such mutual confidence is particularly important in the case where an allegation affecting the security status of an individual is being investigated. Discussions in this context with individuals in almost every instance touch on matters of the most intimate concern to the individual - his character, his private behaviour, his family or his personal beliefs. Specific assurances have been and are given in most cases to the individual that knowledge of these discussions and of their content will be restricted to as few individuals in the Department as are required in order that a fair judgment can be made on the case. Even where such specific assurances are not given, I believe they are assumed on both sides. Files on individuals in my Department containing information bearing on security issues as defined in relevant Cabinet directives have for more than ten years been kept separately from normal personnel files, have been given the highest degree of security protection and have been accessible to a minimum number of persons.

3. Regular reports (not less than once a year) by overseers, the Department's main source of information on the work of its personnel, are made against the same background of confidentiality and would be adversely affected if every reasonable attempt was not made and did not seem apparently to be made to have their confidential assessments handled by as few people as possible. This would be especially the case where adverse information was involved.

4. We are particularly aware in our Department, with a large percentage of its personnel at any one time disposed in small numbers thousands of miles from home and under varied conditions of service, of the need to develop and nurture an esprit de corps, a feeling almost of family relationship. That can only work if the individual believes that any shortcoming he may unfortunately have will be treated with understanding and handled to the maximum degree possible within the family and by those who he knows have to one degree or another shared his experiences.
5. We would hope finally that you would agree as well that in carrying out your terms of reference, and particularly the indication therein that "the Commissioners (will) consider and take all steps necessary to preserve the privacy of individuals involved in specific cases which may be examined", your objectivity as a Commission can only be enhanced in the public mind if you are in a position ~~to~~ making your report to indicate that, except where individuals themselves came forward to give testimony, or where their names had already been a matter of public knowledge, you made no attempt to identify cases by name.

#### Examination of Files

6. The points made above are relevant as well to the production of case files for your scrutiny. In addition, however, the production of files for your scrutiny would raise other problems.
7. Some case files, although concerned primarily with an individual, contain information on other persons. These may be persons who while public servants have no more than a perfectly innocent association with the subject or the events dealt with in the file. They may be persons who may have no connection with the Government and are not the concern of my ~~Department~~ and be seen to be made. We believe it essential that every effort be made to minimize the possibility of even accidental involvement of these persons as security cases.
8. Some files may contain information provided by a foreign government or agency whose agreement may be required if a specific piece of paper is to be passed beyond the Department. We believe we can provide a summary of most such files which will meet the Commission's requirements within the terms of our undertakings to foreign agencies. Because we are in so many fields a net receiver of sensitive foreign information, it is in our interest to keep to a minimum requests for wider dissemination of information than that provided for under the terms of our original receipt of it. I have mentioned earlier the importance to the credibility of our system in terms of Departmental personnel of maintaining most careful control of personnel information. The other aspect of this same credibility relates, as indicated above, to the confidence which foreign agencies have in the ability of the Canadian system to give their sensitive information the maximum protection.

MEMORANDUM

Distinction between Commissioners and Staff

Quite frankly, we do see a distinction between the Commissioners and the senior staff members, and believe that in the mind of those who may be concerned that their particular cases are subject to scrutiny, such a distinction will be appreciated. The Commissioners are appointed from outside the public service for a limited period. They will return when their Commission work is completed to their normal work where the limitations placed on the public servant working with classified information are not a part of their regular experience. They will be in the public eye throughout the course of their work and when their report is made and will be subject to public enquiry. The senior staff members on the other hand are career public servants, are likely to remain so, and consequently to be constantly reminded of the limitations placed on them by reason of their continued access to classified governmental information. Staff members will not be exposed to the same kind of public enquiry as will inevitably be the case for the Commissioners.