

The memorandum recommends that each of the three military services adopt regulations to implement the policy set forth in the memorandum. Up until now we have been unsuccessful in obtaining copies of their regulations. Each of the three services, in response to our inquiries, has stated that it would not supply them to us because they were "internal management guides."

Our interest was prompted, not by reason of idle curiosity (which should not make the slightest difference) but because we have had a number of cases involving individuals interviewed by investigators reported to us in which the strictures of the Skallerup memorandum have been most flagrantly violated.

The Subcommittee on Constitutional Rights of the Senate Judiciary Committee has recently conducted extensive correspondence with all agencies concerning their practices in permitting individuals being interviewed to have with them counsel or friends or relatives. Practices very tremendously according to a monthly report of the subcommittee. Nevertheless, the few attempts we have made to obtain the specific regulations from each of the agencies governing this extremely important constitutional right have been fruitless.

Whether exemption (e) (2) which exempts matters "related solely to the internal personnel rules and practices of any agency" would give the power to the three services to withhold the regulations under which their investigators are now operating is unclear. Likewise, it is unclear whether exemption (e) (5) "inter-agency or intra-agency memorandums or letters dealing solely with matters of law or policy" would have this effect. We would like to see a clear expression of legislative intent that would insure that all regulations and instructions to investigators covering their practices and procedures during interviews would be available as public record.

The revocation of a security clearance to a Government employee or military personnel is an extremely serious matter. Nevertheless, present practices and procedures leave much to be desired. Individuals who have their security clearance revoked are not entitled to know the basis for the revocation. To give one illustration: An Army private, after undergoing extensive training for over 6 months with the U.S. Army Security Agency, was unaccountably removed from the training in January 1964. Since then he has persistently attempted to find out the reason for his removal from training. The Chief of the Personnel Clearance Division of G-2 not only refused to give him any information but also stated that regulations forbade him from doing so. Efforts by a Congressman for further information were equally unsuccessful. We were finally able to obtain some more information concerning the reason for the revocation but this was almost on a "favor" basis.

In addition, we wrote for a copy of the Army regulations which allegedly prohibit disclosure of the basis for denial or withdrawal of security clearance. We have not been able to obtain them. We have been informed that "current Army regulations on this point have been given differing interpretations. The regulations are being amended to provide in all cases for disclosure to the subject and an opportunity for rebuttal, except when to do so would jeopardize national security." Of course, the adoption of these regulations would be a major improvement over present procedures; nevertheless, we still cannot see any basis for withholding copies of the current Army regulations.

Exemption (e) (6) of the bill providing "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" would seem to be a desirable exception. It should mean, as in this case, that the individual directly involved would be able to obtain information concerning his case but other individuals could not. It would seem that this is a necessary distinction that must be drawn in any freedom-of-information bill. Although the distinctions between the right of an individual to obtain particular records involving himself and that of the general public and the press should be kept at a minimum, there are, it seems clear, situations in which the individual distinction should be made.

We are particularly pleased to see that this bill eliminates a provision in prior bills permitting "secrecy in the public interest." This has been changed to exemption (e) (1) covering matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." This may be too broad. Although there is a surface appearance that particular information could only be kept secret by Executive order, as a practical matter it would appear that the determination would be made by lower echelon administrators. This could become a potential loophole to enable officials to foreclose vital sources of information by claiming that the requested information pertains to "national defense or foreign policy." For example, several years ago the polls conducted