MENORANDUM FOR MR. DAWSON:

SUBJECT: Transfer of investigations from FBI to the Civil Service Commission.

September 11, 1951

In confirmation of our telephone conversation this morning, I should like to bring you up to date on the status of legislation authorizing transfer of security investigations from the FBI to the Civil Service Commission.

As I indicated to you over the telephone, through some lack of understanding which was not serious and which I recommend that we do nothing about, the FBI bill was forwarded to the Congress prior to receipt of formal clearance from this office. Under the circumstances, I felt that it would be best to get the chief agencies together to discuss several proposed amendments which had been suggested in comments on the bill of the Atomic Energy Commission, the National Science Foundation, and the Department of Labor, and also to discuss statements of opposition to the measure which had been received from the Department of State, ECA, and the District of Columbia Government. Accordingly, a meeting was held in my office this morning attended by representatives of the Department of Justice, the Department of Defense, the Atomic Energy Commission, and the Civil Service Commission. There was unanimous agreement that none of the proposed technical amendments merit incorporation in the bill since all of them pertain either to matters which could be handled administratively or to the question of central financing which the Bureau and the Civil Service Commission feel would be a mistake. As a matter of policy, at least at the present time, we believe that the agencies should pay for these investigations on a reimbursable basis. Work load is too uncertain for the Commission to do a good job of estimating cost on a central basis. On the basis of the meeting this morning, the legislation is being formally cleared by letter to the Department of Justice which states that enactment of the bill would be in accord with the President's program.

Letters to each of the agencies suggesting amendments also are in process of preparation and in addition to the letters, we shall talk with each of them as to the reasons for rejecting their suggestions.
The agencies which expressed opposition to the bill all did so primarily on the ground that they preferred FBI service, felt that the Congress wanted to keep the FBI in the business of making their investigations, or were worried lest the Civil Service Commission be less prompt. This theme, with variations, was repeated several times, State going so far as to say that if it should be decided to send the bill forward, State would like to seek authorization to do all of its own investigations. In these cases again a formal reply will be sent indicating that the measure has been approved as an Administration bill and I will take on the job of arguing the Department out of their positions, particularly the Department of State. I may have to use a weapon of assurance that the bill safeguards the President's right to remove any investigation from the Civil Service Commission and put it in FBI if he believes that circumstances warrant. I do not anticipate any trouble, but will advise you if it develops.

Another matter was discussed at the meeting since it is closely related to the bill, but I am making it a matter of a separate memorandum which is being sent simultaneously with this one.

Assistant Director for Legislative Reference

[Signature]
MEMORANDUM FOR MR. DAVISON:

SUBJECT: Amendment of the Atomic Energy Act to permit administrative decision as to certain security investigations.

Under Section 10 of the Atomic Energy Act, there is an iron clad requirement of FBI investigation of any person having access to restricted data. Strict interpretation of this provision has been made with results which can no longer be justified on grounds of cost or any conceivable compromise of security. Therefore, the Atomic Energy Commission has proposed amendment of the law so as to make possible a reduction in mandatory investigations. The proposal has been concurred in by this office, the Department of Justice, the Civil Service Commission, and, (except for certain details of language) the Department of Defense. The Atomic Energy Commission has also proposed that all references pertaining to it be removed from the FBI bill transferring security investigations to the Civil Service Commission and that such transfer for the ABC be accomplished in the bill which would amend Section 10 of the Atomic Energy Act.

At the conference held in my office this morning on the FBI bill, I stated that I could not in good conscience propose any action which would delay the FBI bill or which would leave unresolved the responsibility for ABC investigations. Accordingly, it was agreed that no amendment of the FBI bill on this score would be requested and that the Atomic Energy Commission and the Department of Defense would seek forthwith to resolve their differences of opinion on language needed to amend Section 10.

The chief stumbling block to prompt action on this measure appears to be the fact that it cannot clear the Department of Defense without action by the Joint Chiefs of Staff. All agencies present at the meeting this morning urged that the White House be requested to ask for immediate action by the Joint Chiefs. I heartily concur in this recommendation and believe that the issue can be settled very quickly if you would be willing to ask General Bradley to expedite JCS consideration.
There is attached the text of the amendment as proposed by
ASC and modified by agreement at the meeting in my office this
morning, together with a short resume of the need for it and the
purposes which it will serve.

If this measure can be got to the Hill at the same time that
the Congress considers the transfer bill, all of the current loose
ends in the investigations field will be tied up neatly.

[Signature]
Assistant Director for
Legislative Reference

Attachments
The purpose of the proposed amendments to the Atomic Energy Act is to ease the investigative burden on the FBI (and on the GSC when the transfer bill is enacted), to expedite the program of the ABC and facilitate the exchange of restricted data between those engaged in the atomic energy program and those engaged in work for the military departments which relates to military application of atomic energy.

The language provides ABC with necessary authority to determine the scope and extent of investigations to be required of its employees on the basis of the degree of access to restricted data to be granted the individual employee. This will have the effect of reducing the number of full field investigations to be required since it is understood that the ABC, once this authority is granted, plans to require considerably less than full field investigations — perhaps only name and fingerprint checks — for a number of its contractor employees, such as construction workers and the like whose access to restricted data may be only entrance to an area for work on a building which has no security aspects until construction is almost complete. This will mean a reduced burden on the FBI and on the GSC, and will expedite programs of the ABC by facilitating appointment to relatively nonsensitive positions.

At the present time the ABC Act requires that all persons having access to restricted data must have had a full field investigation. This has had the effect of hampering the necessary exchange of certain data relating to military application of atomic energy between employees of the Department of Defense and Department of Defense contractors on the one hand, and the employees and contractor employees of the ABC on the other. The proposed amendment would permit an ABC employee or contractor employee to give restricted data to Defense Department employees or contractor employees when the Department of Defense certifies in writing that those employees have been cleared in accordance with established security procedures in the Defense Department and that such an exchange would not endanger the common defense and security.
A BILL

To provide for amendment of Section 10 of the Atomic Energy Act of 1946.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 10(b)(5)(B) of the Act of August 1, 1946 (60 Stat. 755), entitled "An Act for the development and control of atomic energy" is amended by adding thereto Section 10(b)(5)(B)(v) to read as follows:

"The Commission shall determine the scope and extent of personnel security investigations to be made on behalf of the Commission on the basis of the nature and significance of the access to restricted data which will be permitted; Provided, that nothing in this Act shall be construed as limiting the authority of the Commission to authorize any contractor, prospective contractor, licensee or prospective licensee of the Commission to permit any employee of an agency of the Department of Defense or of its contractors or any member of the Armed Forces to have access to restricted data required in the performance of his duties, where the head of the appropriate agency of the Department of Defense or his designee notifies the Commission in writing that, it has been determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such restricted data will not endanger the common defense and security."