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MEMORANDUM TO CABINET  
MEMOIRE AU CABINET

CONFIDENTIAL  
CONFIDENTIEL

A PERSONNEL SECURITY POLICY  
FOR THE GOVERNMENT OF CANADA

UNE POLITIQUE RELATIVE AU PERSONNEL DE SECURITE  
POUR LE GOUVERNEMENT DU CANADA

CABINET COMMITTEE ON SECURITY AND  
INTELLIGENCE

COMITE DU CABINET SUR LA SECURITE ET LES  
RENSEIGNEMENTS

CONFIDENTIAL  
CONFIDENTIEL

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OBJECT

1. To obtain approval for a revised personnel security screening policy.

DECISION REQUIRED

2. Cabinet is asked to approve a security screening policy that:

- (a) would be consistent with the dual system for the classification of government information assets;
- (b) would limit the determination of a person's loyalty to those situations where he or she has access to information assets classified in the "national interest"; and
- (c) would be implemented and managed through directives and guidelines issued by the Treasury Board in accordance with the Operational Policy Outline attached hereto as Annex 'A'.

PROBLEM

3. The document which currently governs the security screening procedures of the Government of Canada is Cabinet Directive 35 (CD 35). That Directive, issued in December 1963, sets out the principles and procedures for the determination of the loyalty and reliability of all persons who are to have access to classified information. More importantly, it defines those activities, beliefs and features of character which could be a bar to employment in the Public Service or which could be disqualifying factors for access to classified information.

4. In CD 35 however, classified information is not defined. The lack of a clear definition and the inherent consequential problems are the subject of a companion Memorandum to Cabinet on "A Comprehensive Security Policy for the Government of Canada." It is assumed that CD 35 was intended to protect from unauthorized disclosure the same vital defence and security information that was generally identified for classification in the publication "Security of Information in the Public Service of Canada (1956)", since protection against injury to the state is the common principle. Over time however, the classification system has been increasingly misused to protect information for which it was not intended. As a consequence, many public servants have been subjected to the screening program to determine their loyalty when the information to which they had access should not have been classified.

5. In addition, the security clearance criteria in CD 35 lack relevancy. The loyalty "rejection" criteria, with almost exclusive emphasis on the international communist movement and fascism, reflect the concerns of the immediate post 'cold war' period. The criteria do not reflect the "threats to the security of Canada" as proposed for inclusion in Bill C-157 or its successor legislation.

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6. The reliability "rejection" criteria listed in CD 35 are also in need of revision. These criteria cover features of character, relationships with political security risks, and family associations in Communist countries. In most circumstances no instructions are provided in CD 35 as to the necessary relationship between "reliability" and "loyalty." What is lacking is the added evidentiary requirement to connect reliability to threats to Canada's security. The McDonald Commission emphasized the necessary relevance of reliability to a security clearance decision and this principle is confirmed in the definition of a "security assessment" in Bill C-157, i.e. "an appraisal of the loyalty to Canada and, so far as it relates thereto, the reliability of an individual." The lack of a clear causal connection and the absence of any formal system for a reliability stand-alone system have increased the reliance on CD 35 to determine an individual's general suitability for government employment.

7. There is also a need for an independent and objective review and appeal procedure for the security screening program. No right of appeal was established by CD 35 and the deficiency was not made up by the introduction in 1975 of the Public Service Security Inquiry Regulations. These Regulations apply to public servants who are to be dismissed on security grounds. Experience has shown that there are many other situations arising from a security clearance decision, which require a review and appeal procedure. Bill C-157 confirms this requirement and provides a redress mechanism.

8. On January 25, 1979, responding to these problems, Cabinet directed the establishment of a dual classification system to distinguish information that required protection in the national interest from that which required protection in the public interest (6-79 RD(C)). Cabinet also directed that a revised personnel security screening policy should be established which would limit the need for a determination of an individual's loyalty to those situations where access to information classified in the national interest was involved. Access to information classified in the public interest would require a determination of an individual's reliability independent from and unrelated to national security preoccupations.

#### DISCUSSION

##### The Need for Security Screening

9. The traditional purpose of a personnel security policy is to prevent the unauthorized disclosure of government information by public servants and others. The personnel security screening program has been established to allow access to classified information to those persons whose loyalty and associated reliability have been confirmed by screening procedures. The governing pre-condition to any rational security screening policy therefore, is the classification system.

10. In the companion Memorandum to Cabinet, a new dual classification system has been proposed which identifies through the use of the exemptable categories of information in the Access to Information Act (ATIA) and the Privacy Act (PA), two general categories of information which may be classified. The first of these categories relates to information, the unauthorized disclosure of which, would cause injury to the national interest of Canada. Information in this general category relates to the defence and maintenance of the social, political and economic stability of Canada and thereby, the security of the nation.

11. The second general category relates to information, the unauthorized disclosure of which could adversely affect individual or corporate interests. The proposed classification system refers to this general category as public interest information.

12. It is the unauthorized disclosure of information classified in the national interest that carries with it potential injury to the state. Cabinet has concluded that the most disciplined and complete screening procedures should be applied to those who are to have access to such information so that no doubts remain about their loyalty to Canada. It reflects on the importance of this concern that the resources of the Government's security agency are to be used to conduct this screening. The procedures that are necessary for this determination of loyalty are fully justified. They cannot be justified however, when access is limited to information classified in the public interest.

13. As a general principle, therefore, it is recommended that this new government personnel security policy should apply only to those persons who are to have access to classified national interest information assets. These should include all persons in the Federal Government, or in provincial and municipal governments, or in the private sector who, through the nature of their work or by federal-provincial agreement or contractual arrangements, are required to have access to such information assets. Access to these information assets should require a determination of loyalty and associated reliability through an investigative process known as a security screening and this should be formally recognized through the issuance of a security clearance which would denote the level of access authorized. A security clearance is to be considered a condition of employment for positions requiring such access and security screening should only be carried out with the written consent of the individual concerned.

#### Special Cases

14. There are special circumstances for which it is equally important to conduct security screening on an individual who, although not necessarily having access to classified information, will be in a position to observe, influence or participate in events of national significance because of the prominent position he or she occupies. Such persons include Order-in-Council appointees, Members of Parliament and Judges. Major considerations are involved in identifying persons in these classes who must be screened in circumstances

where no access to classified information may be involved. Invariably there is no opportunity prior to appointment to consult in advance with an appointee and at best, they can only be put through a cursory check of very limited value. These cursory records checks were described before the McDonald Commission as "ineffectual and open to abuse", and the Commission recommended that they be discontinued for all Order-in-Council appointments. The development of post appointment procedures, the obtaining of appropriate consent and the introduction of a caution prior to appointment, must be considered. Important issues of redress criteria must also be considered. Officials consider that for the purposes of this general policy proposal, (which is to be based on the principle that screening is required for access to classified information) inclusion of detailed procedures governing these special cases would be a complicating factor. There are no procedures outlined in CD 35 governing such special cases. They have been implemented by Prime Ministerial instruction. In accordance with current practice it is therefore proposed that the Privy Council Office develop separate instructions regarding the security screening of such persons.

What is Access?

15. Given that the requirement for security screening is a direct consequence of the need for access to classified information, the meaning of access is very important. Public servants and private sector contract personnel who are required to deal with classified matters or who handle and view classified information in the normal course of their duties clearly have control of such information. They have access and should be screened. There are others however, who, for reasons relating to the special nature of their work or their close proximity to areas where classified information has to be openly displayed or discussed, may have the opportunity to gain knowledge of or observe classified information. Security guards in sensitive areas often have the opportunity to see classified information that has been left unprotected. Another example of persons who might gain knowledge of classified information would be the staff of the executive dining room of a department such as the Department of External Affairs. The access that these people have is operationally unavoidable. In such cases, the screening policy should apply. Screening however, should not be used as a substitute for physical or other safeguards simply for managerial convenience. The screening of all persons in an office, branch or division cannot be justified because one or two officials therein handle classified information and others may accidentally see it or hear it being discussed. Access, as a pre-requisite for screening must therefore be interpreted in a very restricted way to ensure that the system is not abused or misapplied.

Security Clearance Criteria - Loyalty

16. Cabinet Directive 35 applies the loyalty rejection criteria to:

- (a) a person who is a member of a communist or a fascist party or an organization affiliated with a communist or fascist party and having a similar nature and purpose;
- (b) a person who by his words or his actions shows himself to support a communist or fascist party or an organization affiliated with a communist or fascist party and having a similar nature and purpose;
- (c) a person who, having reasonable grounds to understand its true nature and purpose, is a member of or supports by his words or his actions an organization which has as its real objective the furtherance of communist or fascist aims and policies (commonly known as a front group);
- (d) a person who is a secret agent of or an informer for a foreign power, or who deliberately assists any such agent or informer; and
- (e) a person who by his words or his actions shows himself to support any organization which publicly or privately advocates or practices the use of force to alter the form of government.

17. The McDonald Commission criticized these criteria as not meeting the current threats. The Commission Report further states, "Rather than specify Communist, Fascist or separatist organizations, the rejection criteria should be confined to the threats defined by Parliament in the statutory mandate of the security intelligence agency." The Commission argues that any extension in the screening criteria would place the security intelligence agency in the untenable position of being required to give information in security screening assessments that it has no mandate to provide. Officials agree with the McDonald Commission that the loyalty "rejection" criteria should be so confined, and should relate to the "threats to Canada" as defined by Parliament in Bill C-157 or its successor legislation. No other option appears to be possible without creating an additional investigative mandate for the security intelligence agency.

#### Security Clearance Criteria - Reliability

18. In CD 35 the reliability rejection criteria are applied to:

- (a) a person who is unreliable, not because he is disloyal, but because of features of his character which may lead to indiscretion or dishonesty, or make him vulnerable to blackmail or coercion. Such features may be greed, debt, illicit sexual behaviour, drunkenness, drug addiction, mental imbalance, or such other aspect of character as might seriously affect his reliability;

- (b) a person who, through family or other close continuing relationship with persons who are persons described in the loyalty criteria (paragraph 16 (a) - (e) above), is likely to be induced, either knowingly or unknowingly, to act in a manner prejudicial to the safety and interest of Canada. It is not the kind of relationship, whether by blood, marriage or friendship, which is of primary concern. It is the degree of and circumstances surrounding such relationships, and most particularly the degree of influence that might be exerted, which should dictate a judgement as to reliability, a judgement which must be taken with the utmost care; and
- (c) a person who, though in no sense disloyal or unreliable, is bound by close ties of blood or affection to persons living within the borders of such foreign nations as may cause him to be subjected to intolerable pressures.

19. These criteria were also criticized by the McDonald Commission. It was suggested in the Commission Report that the important causal connection, which is described in CD 35 for relationships, (which cautions that it is not the fact of the association itself that is of primary concern, but rather the characteristics and circumstances of the relationship) should also govern the other two criteria of unreliability, i.e. features of character and foreign influences. The McDonald Commission considered that much greater consideration had to be given to the kind and degree of influence that could be applied and to the existence of a connection with a "threat to the security of Canada." Experience has shown that in the past, features of character have often been viewed subjectively and in isolation from any consideration of possible effects upon the security of this country. For example, homosexuality has, in some departments, been an absolute bar to a security clearance even when there has been no evidence that the individual's relationship was with a person who was a security threat or that the nature of the individual's avowed behaviour rendered him vulnerable to blackmail, threat or coercion. Such a person's activity may, in certain circumstances, make him unsuitable for a particular post or type of employment but it does not necessarily mark him as disloyal.

20. The importance of features of character to an assessment for security clearance purposes cannot be over-emphasized. The vast majority of cases in recent years involving the unauthorized disclosure of government secrets in the countries of NATO have involved these factors rather than ideological motives. Officials have concluded that there must always be a careful and objective assessment of reliability factors to identify a possible connection with a "threat to the security of Canada" and to determine if these factors exert such influence as to make the person act disloyally.

#### Rejection Criteria - Evidentiary Tests

21. It is also important to emphasize that there is a

significant difference between the criteria for determining rejection and the evidentiary standard used to satisfy the criteria. In CD 35 the evidentiary standard to be used in assessing personal information is "a considered" or "a reasonable judgement" on the basis of which a "reasonable doubt" may arise as to the degree of confidence to be reposed in a individual. The McDonald Commission, without comment, recommended on evidentiary standard based upon "reasonable grounds to believe." The Commission analysed very precisely CD 35 and since no distinction was drawn between its proposal and the Cabinet Directive, it is fairly concluded that the Commission saw no difference between its recommendation and the current practice. In Bill C-157 and its successor legislation it is important to note that the triggering standard which permits the security agency to collect and thereby report information to government is on "activities that may on reasonable grounds be suspected of constituting threats to the security of Canada." This is a collection standard which is defined, but the legislation is silent as to whether a "security assessment" is to be governed by the same reasonableness test. In fact, it has been concluded that that same standard should not apply or the legislation would have included such a provision.

22. It is recommended that it is highly desirable to have an evidentiary standard for the rejection criteria different from the standard for the mandate for collection because all information which reasonably relates to security threats must be subject to collection, but only that information which it is believed constitutes grounds for a determination of disloyalty should be retained. The other collected information should be discarded. Not only should there be different standards, but the evidentiary rejection standard should qualitatively be more demanding. The difference between "be suspected of" and "grounds to believe" marks that distinction. It is the difference between having the impression that, and of the confirmed opinion that. It is therefore proposed that the McDonald recommendation should be followed and persons should be denied a security clearance if there are reasonable grounds to believe that:

- (a) they are engaged in or are likely to engage in activities which may constitute a "threat to the security of Canada" as that term is defined in the legislation establishing the CSIS; or
- (b) because of features of character, or association with persons or groups who are of security concern, or through family or other close ties of affection to persons living in oppressive or hostile foreign countries, they are likely to act in such a way as to constitute a "threat to the security of Canada" as defined.

#### Security Clearance Criteria - Separatism

23. Separatism is not mentioned in CD 35. In a Cabinet decision of March 27, 1976, however, separatism is a factor to be reported on in security screening as



relevant to national security. The Cabinet decision reads:

"The Cabinet decision of March 27, 1975 (which established the Mandate of the Security Service) was not intended to alter the policy of the government with respect to the screening of persons for appointment to sensitive positions in the Public Service, namely that:

- (a) information that a candidate for appointment to a sensitive position in the Public Service, or a person already in such a position, is a separatist or a supporter of the Parti Québécois, is relevant to national security and is to be brought to the attention of the appropriate authorities if it is available; and
- (b) the weight to be given to such information will be for consideration by such authorities, taking into account all relevant circumstances, including the sources and apparent authenticity of the information and the sensitivity of the position."

24. The Cabinet Decision is somewhat ambiguous. The Directive indicates that the provisions of the 1975 mandate for the Security Service were not intended to preclude continued consideration of separatism as a factor relevant to national security, but was it intended that the Security Service was to collect such information as an active operating program? If so, what interpretation is to be given to the words "if it is available." It is also not clear from the text, if the intention was to add separatism to the loyalty rejection criteria of CD 35 for security clearance purposes, or whether there was meant to be a broader application to other "sensitive positions" of government. The McDonald Commission concluded that the Cabinet Decision related directly to the security screening policy in CD 35. The McDonald Commission inferred that the Security Service had the primary responsibility as an aspect of CD 35. The Commission argued that the Security Service was thus expected to produce information for security clearance assessments that it had no mandate to collect or to pass. In referring to the Cabinet Decision, McDonald said, "This decision did not resolve the practical problem of how the Security Service was to produce such information for security clearance reports, given that the Security Service was not authorized to monitor or investigate the Parti Québécois or other democratic separatist groups."

25. It would appear to officials that Cabinet had intended that its decision should be interpreted in a broader sense than McDonald concluded. Any relevant information, from whatever source, that could be substantiated could be used in decisions relating to the employment of persons in sensitive positions in government, including those for which a security

clearance was required, but no active program of collection by the Security Service was intended in respect of the lawful activities of any political party or separatist group. Officials note however, that no guidance for dealing with a known separatist was provided.

26. From an analysis of the McDonald Commission's arguments on the matter and an examination of the principles upon which the screening policy must be based, officials conclude that separatism per se does not constitute a threat to the security of Canada and should not be a factor when determining loyalty or associated reliability for the purposes of a security clearance decision. Since separatism is not a security threat, it is not an issue for Security Service attention. Information concerning separatist activities or support may however, be relevant to the question of a person's suitability to be employed in certain positions in which particular aspects of reliability and trust are primary concerns. In such cases, where the information is voluntarily provided or is obtained from open sources during a routine security screening, it may be provided to departmental authorities for consideration in the overall context of the person's employment. It should have no significance however, in the question of the person's loyalty or eligibility for a security clearance.

27. This dichotomy between essential suitability and reliability for a position, and the loyalty and associated reliability for security clearance purposes serves to illustrate the absolute necessity for a system of stand-alone Reliability checking separate and apart from loyalty screening in the security clearance process.

#### Stand-Alone Reliability Checks

28. The importance of developing procedures to determine the reliability of government employees is highlighted as noted by the discussion on separatism. The same conclusion results when personnel managers have to consider the relevancy and applicability of information on prospective employees relating to membership in racist organizations, and special interest groups. Clear and precise policy and procedures governing reliability status must be established as an aspect of personnel management.

29. In the Cabinet Decision of January 1979, a causal connection was established between reliability screening and access to information classified in the public interest. The requirement for access to this information as a pre-requisite for reliability screening may be too limiting. An examination of the positions in the public service in which the reliability of the incumbent is important reveals a large number that can be identified for reasons other than the need for access to information classified in the public interest. The requirement to ensure that public servants are reliable and trustworthy therefore, extends far beyond the consideration of access to classified information.

30. The diversity of the positions requiring a determination of reliability for all reasons would necessitate the development of three parallel but distinct reliability screening policies with separate rejection criteria for each. The first, which was discussed above, would be the one required to meet the loyalty-associated criteria of the security clearance program. The second would have to meet criteria related to a requirement for access to information classified in the public interest, while the third would have to meet the diverse needs of all other positions of trust.

31. It would not be unreasonable to expect that if there was a dedicated formal system of reliability linked to specific job descriptions with reliability clearance assessments and documentation, then there would be an immediate demand for a special complaint and appeal procedures as of a right. A separate review and appeal procedure would cut across and fracture existing practices and would involve a major re-appraisal of employee or applicant appeal procedures within the public service.

32. Given these considerations, officials are of the view that reliability checking, as distinct from the security clearance requirements, is an aspect of personnel management practices that may be applicable to determine the overall suitability of many individuals in the public service. It is therefore recommended that reliability should not be exclusively linked to those positions which may have access to public interest information.

#### Reliability Status as an Aspect of Personnel Management

33. No detailed study has been carried out to identify all the various positions or classes of positions in the government where the reliability status of the incumbents must be established. There are many positions of responsibility in government for which the trust and confidence of the public must be maintained. No major reasons have been advanced against the principle of a universal reliability checking policy for all public servants to guarantee that trust. This approach was proposed by the Mackenzie Royal Commission on Security in 1969 when it was recommended that all applicants for the public service should be fingerprinted. Officials consider that a decision on the applicability of reliability checking should be made after further consideration by the Treasury Board and the Public Service Commission, but a universal system as an aspect of personnel policy commends itself.

34. The reliability status of an individual cannot be determined without a full range of inquiries and checks. In 1969, Mackenzie found that only the most limited investigation of prospective members of the public service was conducted by the Public Service Commission in the absence of a requirement for security screening. Sometimes, it was found, qualifications were confirmed; and occasionally referees were consulted. While this situation may have improved today, formal and mandatory checks of qualifications, previous employment and references must be established within a reliability status procedure if the confidence of employers and the

public in the reliability of public servants is to be maintained. A reliability check should ideally, also include a criminal records check based upon fingerprints and a check of credit records. With the exception of a criminal records check, all the other inquiries are considered to be routine aspects of good personnel management practices and are accepted in the private sector. Further consideration must be given to the introduction of fingerprint requirements, but it should be emphasized that they are considered essential in the security screening context of which associated reliability is an aspect.

35. The reliability status of an individual should be established prior to hiring into the public service as part of suitability for employment. The failure to achieve the required reliability status would be grounds for rejection. There would appear to be no reason why the individual should be granted the right of appeal at this stage on those specific grounds alone. No other failed candidate from outside the public service has a right of appeal on such specified grounds. An employee on the other hand, who, for reasons related to his job, fails to maintain the reliability status, which should be a continuous condition of employment, may be transferred or be subject to some other appropriate personnel action. Existing review and appeal mechanisms are considered to be adequate to meet all eventualities, especially if it is noted that the Privacy Act ensures access to the personal information on which a reliability status decision would be made.

#### Reliability Status Check - Conclusion

36. Officials believe that a system of reliability screening that is parallel to the proposal for security screening, and that is based upon a need for access to classified public interest information, would be too restricted. There is general agreement however, that personnel management policies should reflect the need for a more thorough assessment of character and reliability through a status check during the staffing process. At a very minimum, a thorough verification of identity, qualifications and previous employment must be made. On the assumption that the reliability status check will be governed by equally demanding assessment criteria for degree, circumstances and characteristics of relationships, it is proposed that policies should be developed by the Treasury Board incorporating a reliability status check as part of personnel policies relating to staffing. It would also be advisable to include the injunction of necessary weighting to be given such information as in Cabinet's decision of May 1976 on separatism.

#### Security Screening - Procedures - Positive Vetting

37. Current screening procedures fall into two categories. Those procedures necessary for the granting of a security clearance to the Confidential or Secret level normally involve only a check of criminal records and security indices. Contrary to a commonly held belief, the current screening for these two levels of security clearance reveals virtually nothing about the reliability of an individual beyond the fact that he or

she may have a criminal conviction. The screening is significantly more effective in revealing whether the individual is or has been involved in subversive activities. The Top Secret security clearance, involves the records checks supported by a field investigation in which neighbors, former employers, associates and others are questioned about the individual. A check of credit records is also conducted.

38. Clearly, the screening conducted for a Top Secret clearance carries the best chance of revealing information relevant to both the loyalty and reliability of the individual but has significant limitations. The screening checks for a Secret or Confidential clearance, which are identical, are particularly unsatisfactory in revealing information about the character and reliability of a person. At the Secret clearance level at least, these checks must be improved.

39. The British screening system, known as positive vetting, employs an additional screening procedure for the higher levels of clearance. This involves a searching interview of the individual by a trained interviewer. The effectiveness of this interview technique may best be illustrated by the results of a recent controlled test conducted by the US Department of Defence. In a sample of over four hundred subjects, a full field investigation was conducted in the conventional way. Concurrently, and independently, each person was given an intense interview intended to reveal evidence of subversive association or character factors that would affect loyalty or reliability. The products of the investigation and the interviews were compared at the conclusion of the test and it was found that the interviews revealed three times as much significant information relevant to the granting of a clearance as did the full field investigation.

40. The McDonald Commission recognized the value of a personal interview and recommended that the procedure be adopted as a screening measure for all Secret and Top Secret clearances. Officials agree with that recommendation. The additional resources that would be required to comply with the McDonald recommendation would be very costly when it is considered that each new and each updated clearance would involve an interview that takes two to three hours to conduct and probably the same amount of time to assess on completion. It is proposed therefore, that each new and updated Top Secret clearance screening include an interview of the subject. Each new Secret clearance screening should also include the interview but an interview is not considered necessary on an update of a Secret clearance unless information has come to light which renders an interview desirable.

41. The full field investigation conducted during screening for each new and updated Top Secret clearance tends to become repetitive on each five year cyclical review. Since this process is the most expensive and time consuming of all the screening measures, it is proposed that a field investigation be conducted only on every second update or every ten years. The small risk that this would entail would be offset by the interview process. Any information coming to light that required

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further investigation, either during the interview or at any other time in the cycle, could trigger a field investigation if required.

#### Polygraph Examination

42. A further screening technique used with some degree of claimed success by the United States Central Intelligence Agency and other sensitive US agencies, is the polygraph examination. The value of this examination has been carefully considered and the conclusions of the British Security Commission studying the Geoffrey Arthur Prime spy case were studied. In the report of the Commission's findings it is stated in describing the US experience:

"The evidence is impressive that the knowledge that the polygraph will be used acts as a powerful deterrent to those who wish to conceal the truth. It is known that the Russians seeking to penetrate United States intelligence agencies have advised their agents to avoid situations in which they will be subject to polygraph examination. More impressive still is the record of confessions induced by the polygraph in security screening, both of previous criminal activity or other disqualifying defects of character and even, in some cases, of an intention to gain access to secret information for hostile purposes."

The conclusion reached by the Security Commission was that the only measure which could have protected against Prime's treachery would have been the polygraph, because it would either have deterred him from trying to join or have exposed him in the course of examination.

43. Officials consider that the polygraph would be a useful tool in certain security screening situations, particularly, if not exclusively, for high risk agencies dealing with security and intelligence matters. A pilot scheme to screen members of the two most sensitive Canadian agencies, the CSIS and the Communications Security Establishment (CSE), should provide valuable experience and give an indication of public acceptance of the technique. Separate detailed proposals from the CSIS and the CSE should be anticipated which would seek Cabinet's approval for polygraph examinations to be conducted on a pilot program basis within those two organizations.

#### Fingerprint Records

44. A final point on security screening procedures concerns an inconsistency in CD 35 in which government employees are required to provide fingerprints to facilitate the check of criminal records, while employees in the private sector working on classified contracts are not. Accurate, reliable checks of criminal records cannot be carried out without the positive identification provided by fingerprints. Since the security clearances granted in both cases often relate to access to the same level of sensitive information, and sometimes the same information, this inconsistency cannot be supported. It is proposed that

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fingerprint verification for a criminal records check be a standard procedure for both the public sector and the private sector in the security screening policy.

#### Security Screening - Administration

45. The implementation and management of the policy in CD 35 has been left largely to individual departments and agencies. What central management there has been has come from the Privy Council Office in the form of memoranda to deputy heads. Failure to treat protective personnel security policy in the same way as other major personnel administrative policies of government, that is, as a matter to be managed by a central agency, has created uncertainty. Without detracting from the responsibility of deputy heads for security and personnel administration within their respective departments, it is proposed that Treasury Board should be authorized to assume a government-wide management responsibility for a revised personnel security screening policy through the issuance of detailed implementation procedures in the form of directives and guidelines in the appropriate Policy Manual.

46. The provision of security assessments and the conduct of the necessary checks and investigations that accompany that task are roles assigned to the CSIS by Bill C-157. A feature of this role must be the development of adequate consent documentation permitting the collection and reporting of personal information.

47. A major shortcoming of the present personnel security policy is that there is no provision for the maintenance of a central record of clearances issued. Without adequate records, no control over the extent of the program is possible, nor is it possible for the security assessment agency to verify quickly and reliably whether an individual has access to classified information. Furthermore, the lack of a central record system makes the implementation of an update and review mechanism difficult. Security clearances should be reviewed and updated periodically to ensure continuing validity. An automated central record would facilitate this review and eventually lead to a system where through constant input, full periodic checks might be unnecessary. It is therefore proposed that there be established and maintained a central record of all security clearances issued and procedures should be developed to ensure the continuous accuracy of the data held, including if practical, a monitoring link with the criminal records held by the RCMP.

48. To help in the control and audit of this policy, and to facilitate proper record keeping, all positions in the government that require access to information classified in the national interest should be clearly identified. The designation of a position as requiring the security clearance of the incumbent may have to be fully justified in audit and in any appeal procedures that may be initiated.

#### Sanctions and Employee Responsibilities

49. In the current policy, persons cleared for access to classified information are obliged to sign a form

acknowledging their responsibilities to maintain the secrecy of the information they have access to, and acknowledging the penalties that might be imposed by the Official Secrets Act if these responsibilities are ignored. A similar form is signed when the clearance is withdrawn on termination or for other reason, which again reminds the individual of the penalties of the Official Secrets Act.

50. Several recent cases have illustrated that these forms lack any legal force, especially the one signed on termination, and in most cases of post-employment disclosure, a prosecution under the Official Secrets Act would be very difficult if not impossible to initiate. Even for persons within the public service, sanctions applied in respect of a security infraction are difficult to enforce.

51. An effective non-disclosure agreement must be devised. The CSE and the Department of Justice have drafted such a document that binds employees of the CSE to non-disclosure of the special signals information that they deal with. This agreement continues in effect after separation and besides the possibility of an injunction against publication it provides grounds for a civil action to prevent the realization of any financial gain resulting from the disclosure of such information without proper authorization. It is proposed that the Treasury Board should favourably consider the introduction of a similar non-disclosure undertaking for more general use throughout the government.

52. It is also proposed that the Treasury Board should consider that the leakage of government classified information, or other security infractions should be clearly identified within the overall personnel administrative policy as offences subject to administrative sanction.

#### Review and Appeal

53. Bill C-157 seeks to establish for the first time, an independent review and appeal procedure that is uniform for all persons appealing against a security clearance decision. On the establishment of this appeal procedure, guidelines for deputy heads and for managers will be necessary to ensure that every person affected by a security clearance decision understands the avenues of appeal and the conditions which apply.

#### FINANCIAL CONSIDERATIONS

54. It is not possible to specify what resource costs will be involved in the adoption of these proposals, principally because no reliable cost yardstick exists that would apply. A considerable percentage of the total costs will fall within the budget of the security assessment agency, including capital costs involved in the establishment of new organizational systems and procedures. The policy changes will however, tend to limit the total number of clearances requested each year and there should be a net long term reduction in the overall costs of the security clearance program.



INTERDEPARTMENTAL CONSULTATION

55. The Operational Policy document attached hereto has been approved by the Security Advisory Committee and all departments and agencies with major security responsibilities. The issue has been discussed extensively interdepartmentally and this memorandum reflects a significant consensus.

PUBLIC INFORMATION CONSIDERATIONS

56. Cabinet will be asked subsequently to approve specific Directives on Classification and on Security Screening. These newly designed security policies are progressive and represent positive changes to current procedures. They could first be announced, in general terms, during discussion in Committee of Bill C-157 or its successor legislation and this will require important communications considerations at that time. In more specific terms, once Cabinet approves general instructions and the Treasury Board has had an opportunity to complete operational guidelines, a comprehensive communications plan will be required. The scope and extent of such a plan will be dependent upon the final text of Cabinet Directives and the administrative guidelines. The communications plan should be developed for approval therefore, as a composite aspect of the Cabinet Directives.

FEDERAL-PROVINCIAL AND INTERNATIONAL RELATIONS CONSIDERATIONS

57. Nothing in these proposals affects the personnel screening standards agreed to by Canada in its international arrangements. Screening responsibilities on behalf of provincial governments which are assumed as a result of an arrangement authorized by Bill C-157 or its successor when passed, will be subject to standards and procedures to be agreed to.

OTHER CONSIDERATIONS

58. In 1977, a commitment was given to the Public Service Alliance of Canada to advise it in advance of any major changes in government policy affecting security policy. This commitment was made during a meeting between the Alliance and government personnel following the submission of a brief on security policy to the Federal Government by the Alliance.

CONCLUSIONS

59. It is concluded that the personnel security policy enunciated in CD 35 should be revised to provide:

- (a) a security screening program to assess the loyalty and associated reliability of all persons who require access to information classified in the "national interest";
- (b) that persons who require access to classified information and who should be security screened, include those whose authorized duties require them to deal with, handle, view, or otherwise gain knowledge of such information; and, persons whose employment, while not requiring that they have knowledge

of classified information, places them in such circumstances or locations where their opportunity to gain knowledge of this information is operationally unavoidable;

- (c) that the rejection criteria for loyalty and associated reliability must, in all cases, relate to a threat to the security of Canada;
- (d) for a separate system of stand-alone reliability status checks to be developed within personnel management policies; and
- (e) for the central agency management and direction of personnel security policy by the Treasury Board.

#### RECOMMENDATIONS

60. It is recommended that Cabinet, subject to ad referendum consideration of a specific Cabinet instruction to replace CD 35, direct that:

- (a) a security screening program be developed to apply to all persons who require access to government information classified in the "national interest" as that term is defined in the Memorandum to Cabinet "A Comprehensive Security Policy for the Government of Canada";
- (b) persons shall not be granted access to information classified in the "national interest" when there are reasonable grounds to believe that:
  - (i) they are engaged in or are likely to engage in activities which may constitute a "threat to the security of Canada" as that term is defined in the legislation establishing the security intelligence agency, or
  - (ii) because of features of character, or association with persons or groups who are of security concern, or through family or other close ties of affection to persons living in oppressive or hostile countries, they are likely to act in such a way as to constitute a "threat to the security of Canada", as defined. Features of character which may result in such a risk may include: dishonesty; irresponsible personal behaviour in relation to sexual activity, the use of alcohol or drugs; and, mental instability;
- (c) the Treasury Board establish procedures within the personnel management policies to provide for a reliability status check for all employees in positions requiring a determination of reliability status, including those requiring access to government information classified in the public interest;

- (d) there be established in the security assessment investigating agency, a central record of all security clearances;
- (e) the screening procedures for a security clearance include a personal interview by the security assessment agency and that the procedures applicable to the public sector employees also apply to private sector personnel;
- (f) the Privy Council Office develop special screening proposals for Order-in-Council appointees, members of Parliament and others in positions of high public trust who are not covered by this general policy;
- (g) Treasury Board assume responsibility for issuing directives and guidelines, including procedures for:
  - (i) auditing effectiveness;
  - (ii) designation of positions;
  - (iii) review and appeal; and,
  - (iv) administrative sanctions.relating to the implementation and administration of this personnel security policy in accordance with the operational policy attached as Annex 'A' hereto;
- (h) detailed proposals be developed for ad referendum consideration, which would describe a pilot program of polygraph examinations for security screening purposes within and confined to the most sensitive intelligence agencies of government.