II Collection of Information

The Problem

1. Given the information management framework described above, McDonald has identified and criticized (in varying degrees) the collection and maintenance by the Security Service of, inter alia, the following types and categories of personal information:

- Homosexuals; (see below, paragraphs 2 to 5)

- "Foreign Contact" Information;

  i.e. visitors to USSR and other Block countries; [redacted]

- Election Candidates;

- M.P.s;

  (including) personal characteristics and behaviour (e.g. homosexuals); expression of political opinion (e.g. "grass roots" politicians); attitudes towards the Security Service;

- Political Parties;

  i.e. Waffle;
  Separatists;
  Liberal Party of Quebec;
  Liberal Party of Canada;
  Extra Parliamentary Opposition "EPO"; (right of privacy)
  (right of association)
  Subscribers to a Communist Newspaper;

2. You have given an indication of your wish to expunge Security Service records of that information dealing with the homosexual orientation of individuals that is unrelated, or cannot be demonstrated to be related, to the following tests:

   i) Cabinet Directive 35 on Security screening; or

   ii) an investigation being carried out by the Security Service pursuant to the specific duties or functions mandated to it in 1975 by the Cabinet.

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Understood in the context of the framework outlined above, by such an action you would be endorsing the proposal contained in section 4 of the proposed Privacy Act, that:

> s.4 "No personal information shall be collected by a Government institution unless it relates directly to an operating program or activity of the institution".

3. The Security Service has formally indicated in writing that, whereas it had previously interpreted CD 35 as the basis for collecting personal information on homosexuals ancillary to its operating program on security screening, and did so prospectively, (i.e. prior to receiving any specified requirement for clearance of the individual concerned), [redacted] (Please see Tab A for the relevant Security Service correspondence.) The new test contained in s.4 would therefore appear to restrict the collection of information in relation to the Security Service's security screening operating program, to only those individuals for whom a security clearance has been requested. It also follows that the collection of such information on homosexuals -- if not required for security screening purposes -- could only be obtained in relation to the discharge of any other operating program or activity for which the Security Service is expressly mandated.

4. You should not forget, however, that there is a negative component and certain operational disadvantages to this action. If such files are destroyed, and if such a program of collection as that which led up to the accumulation of lists of names is prohibited in future, there will be, for security screening purposes, no way of knowing or verifying this characteristic from any other source, unless the individuals concerned are self-proclaimed homosexuals, disclose this information to an investigator personally, or information is obtained during screening. Other types of personal characteristic or behaviour which past experience has shown can cause human vulnerability and so threaten the reliability of individuals, such as indebtedness, gambling, alcohol and drug addiction, can all be independently checked or verified to some extent from other sources - e.g. a credit bureau or criminal records. A sexual orientation about which an individual is secretive, such as homosexuality, can therefore in some circumstances create a vulnerability understood very well by hostile intelligence services. The absence of information on individuals' sexual orientation would leave this aspect of security operations and vetting vulnerable to exploitation, as happened in the Watkins affair.

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5. It is also crucial to understand that the implementation of a policy to destroy files on Homosexuals, on the basis of McDonald's recommendations, and consistent with the proposed Privacy Act in C-43, may well establish a very strong precedent for the destruction of other personal data presently held in Security Service data banks. Such information may also relate not only to lists of names of visitors to the [redacted] but also information on the political beliefs of Canadians, which may also not be easy to demonstrate as directly relating to statutorily authorized operating programs and activities. Thus, put at its most basic level, the destruction of files on homosexuals could be precedential for files on many 1,000's of Canadians who have visited [redacted] or [redacted]

Present Situation

6. At the present, the RCMP Security Service has a file organization and collection system which permits the identification of individuals against whom a report or allegation of homosexuality is received, in two ways:

i) Those files on individuals ("subject" files in RCMP parlance) identified as a [redacted] file. As of 20-09-81 there were 1,820 files in this category;

ii) A much smaller number of general files identified [redacted], but which contain lists of names of alleged and reported homosexuals. Some files might contain relatively few names listed, others might contain hundreds of names listed. (Some of these lists have been provided by City Police Departments.)

This program of identifying homosexuals has been proceeding since at least 1960, and many of the names in both the categories identified above, belong to this earlier period. In the recent past, the number of files on specific individuals, category i), have been opened at the rate of approximately 20 files per year, and in the last two years have been opened only in relation to a security screening request for individuals in the context of employment in the Public Service. Moreover, you will recall that the Director General of the Security Service gave instructions in June 1981 that no more lists of names of homosexuals in category ii) were to be collected unless they were directly related to the mandate or CD 35.

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Options

7. You must decide whether to implement McDonald's specific recommendation on destruction of some files on homosexuals immediately, or whether to do so only after you have considered McDonald's other structural recommendations on information collection and security screening.

8. If you choose to act on homosexuals prior to decisions in structural change, the 1,820 files in category i) could be reduced by the amount (one estimate was possibly as much as by one third) which do not have a direct relationship to either security screening or any operational activity valid under the present "mandate." Equally the retention of the category ii) "General" files cannot be justified. The implications of the destruction of these lists of names for the future, have been identified in paragraph 4 above, particularly with reference to security screening.

9. The alternative would be to ensure a continuing freeze on all collection of such data, (in accordance with the DGSS's action of June 1981), but to make a final decision on destruction of homosexual files in the context of the major structural changes relating to information management as a whole, which McDonald has recommended, and on which Mr. Gibson is currently working.

Public Statement

10. Either:

That you have given instructions to the RCMP Security Service to destroy all those files on individuals, and lists of names, alleged to be homosexuals, which cannot be directly related to an authorized operating program or activity. You could then spell out in some detail the Mandate and CD 35, from which such operating programs and activities are developed.

Finally, (as you yourself have proposed) you could, after the appropriate consultation with the Commissioner of the RCMP, announce that the Security Service had destroyed "X" number of individual files and "Y" number of names on lists in general files, and that this destruction had been verified by Ms. Inger Hansen, the Privacy Commissioner.

11. Or:

That you had given instructions to the RCMP Security Service to continue the order of June 1981 not to collect information on homosexuals, unless directly related to the Mandate or CD 35, pending the review of McDonald's recommendations in the whole of the management of information area. At such time, the decision on what type of system the new agency will have, will per se settle what will happen to the files on homosexuals along with various other categories of personal information.