

July 3, 1975.

MEMORANDUM TO THE SECURITY ADVISORY COMMITTEEDraft Cabinet Directive on  
Personnel Security Clearance

At its meeting on 11 February, 1975, the Security Advisory Committee established a working group to examine and report on Cabinet Directive 35. The working group agreed that CD 35 should be revised and updated. Attached for SAC consideration is a proposed revision.

The following are the main areas in which the attached draft differs from CD 35.

- (a) It has been restructured with a view to setting out policy and procedures more briefly and in a more logical sequence.
- (b) The title has been changed. CD 35 was called imprecisely "Security in the Public Service of Canada". In view of the existence of a draft Cabinet Directive on Physical Security which is awaiting presentation to the ICSI and which relates closely to the attached, the working group considered that a parallel title would be appropriate. However "Personnel security" seemed too broad and could imply that the directive was intended to apply to all personnel in the public service. The word "clearance" was therefore included in an attempt to indicate that the application of the directive is limited to the protection of classified information.
- (c) An "interpretation" section has been inserted.
- (d) The criteria for determining personnel security clearance have been updated with a view to achieving greater flexibility and applicability to the current and changing threat (e.g. references to Communist and Fascist organizations have been omitted).
- (e) The personnel security clearance questionnaire, drafted by a SAC sub-committee, to replace the existing Personal History Form, has been incorporated. (The Personal History Form was approved by the Cabinet in 1963 at the same time as CD 35, but was not made part of it.)
- (f) Three annexes are included. Annexes A and C set out, respectively, the criteria for determining personnel security clearance, and the minimum standards for such clearance. (These topics were covered in the main text of CD 35.) Annex B is intended to accommodate the Personnel Security Clearance Questionnaire, recently submitted to the SAC.

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- (g) The provision in CD 35 for review by Security Panel (ICSI) members has been deleted as redundant in view of the recent approval by the Governor in Council of the Public Service Security Inquiry Regulations made pursuant to the Financial Administration Act. Appropriate reference to these regulations, which provide public servants, in cases where dismissal is contemplated on security grounds, with a right to an inquiry, is made in paragraph 25.\*
- (h) The responsibility placed on the SAC in paragraph 17 to determine needs and allot priorities when there are excessive demands for investigations made by departments on the national security agency is stronger and more general than the equivalent provision in CD 35. If approved, the attached is likely to be more useful than CD 35 in rationalizing the demand for investigations.
- (i) There is greater emphasis than in CD 35 on the role of the departmental security officer.
- (j) Guidance is provided, in paragraph 9, on the security clearance of aliens and former aliens. (There was none in CD 35.)

The following problems relating to the attached draft arose during discussion and are drawn to the attention of the SAC by the working group.

(a) Sensitive and Valuable Property

The working group considered the feasibility of expanding the coverage of the attached to include not only the protection of classified information, but also of other sensitive and valuable property (e.g. precious metals in the Mint, paintings in the National Gallery). The working group concluded that, while Cabinet direction concerning the latter was desirable, the problems involved differed so substantially from those relating to classified information that provision might better be made in a separate document. The working group recommends that the SAC address itself to this problem as a matter of urgency.

(b) Fingerprinting

The working group considered at considerable length the feasibility of including in the attached a requirement for fingerprinting of all persons being considered for personnel security clearance (i.e. extending beyond the existing requirement, to include the persons described in paragraph 15(c) of the attached ("employees or persons about to be employed in industrial firms and related establishments who require access to classified information"), the security arrangements for whom are the responsibility of the Department of Supply & Services).

The working group realized there were strong arguments in favour of such an extension. Examination of fingerprints represents the best means of verifying criminal records. Further, it seems unfair, illogical, and a weakness in the security chain, that there should be a double standard under which fingerprints are required of public servants, while others requiring clearance, often for access to extremely sensitive information, are exempted. On the other hand, there is a strong Canadian aversion to fingerprinting, and there would likely be strong adverse reaction, particularly on the part of labour organizations, if its use were extended.

*Public Service  
Unions*

The working group agreed to make, in the attached, the same provision as existed in CD 35, while inviting the SAC to consider whether the anomaly should be removed. (This could be done by removing the exception in paragraph 15(c).)

(c) Personnel Security Clearance Questionnaire

The working group examined the draft personnel security clearance questionnaire submitted by a sub-committee on security forms established by the SAC, particularly the four areas in which the sub-committee could not arrive at a consensus: concerning common-law relationships, dismissal, criminal offence, and visits to communist countries. The working group concluded that the SAC should make the necessary decisions, and that, as indicated, the form should become an integral part of the revised directive. These decisions will be needed before the draft directive can be submitted to the **ICSI**.

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Implementation of the new form will be noticed, invite comment, and may necessitate some public explanation. Material for this purpose will need to be prepared.

(d) Classifications

The attached draft uses the existing classifications which date from the war and post-war period and are linked with international agreements. The current government information policy study is likely to touch on classification and de-classification, and changes resulting from this review might necessitate amendment of the attached with respect to classifications.

(e) Possible Public Statement on Security Policy

In 1963, Prime Minister Pearson and the Minister of Justice, Mr. Chevrier, made statements in the House of Commons outlining in general terms the security policy and procedures that had recently been approved in CD 35. At that time public interest centred

mainly on the need for a review procedure in security cases, and the government used the occasion to outline the "second look" which was to be taken in cases of possible dismissal.

If a directive to replace CD 35 is submitted to Ministers, thought might be given to proposing the possibility of a government statement on security policy. The only extensive statement since 1963 was that of the Prime Minister when the report of the Royal Commission on Security was tabled in 1969. However it seems doubtful that the contents of the attached draft involve sufficient innovation to justify a formal statement - especially if, as seems likely, the document will remain confidential. Other aspects of security policy (e.g. relating to a security review board, information policy, human rights and fair administration) are still under review, and it would seem preferable to plan on the possibility of a public statement on security at a later date when there is more certainty with regard to other important aspects.

(f) Proposals of the National Police Services

In its release of criminal records pursuant to CD 35, the National Police Services is bound by 1954 guidelines from the former Security Panel. The making of further such guidelines will be unnecessary if the following definition and amendments can be made to the attached draft:

1. Definition:

The addition of the following to describe the record to be provided:

"fingerprint record" means the consolidation of criminal charges and their dispositions as maintained by the national security agency, which may contain similar information respecting charges dealt with in foreign countries.

2. Amendments

The addition of this definition would necessitate the following amendments:

- (a) In paragraph 2, in the definition of "records check", deletion of the word "criminal" and substitution of "fingerprint" therefor.
- (b) In paragraph 8, deletion of the words "fingerprint checks" and substitution of "checks of fingerprint records" therefor.

- (c) In paragraph 18, insertion of the words "and fingerprint records" <sup>and before</sup> after the word "reports".
- (d) In Annex C, sections (a) and (b), deletion of the words "fingerprint check" and substitution of "check of fingerprint records" therefor.

In the light of pending human rights and fair administration legislation, for the protection of police information, the National Police Services have indicated that they will place the following proviso on each record: "This is the property of the R.C.M.P. and is not to be released to anyone without our written permission."

(g) Personnel Security Policy - Third Nation Aspect

The attached refers, in the definition of "classified information" to information of other "jurisdictions". This would include classified data of other governments (e.g. US, UK). Canada has bi-lateral agreements on security with certain countries where information must not be released to Third Nations without the originator's approval. The Security Agreement with USA and control of classified NATO data are prime examples.

In this connection, the concern of DSS has principally been for protection of US classified data in Canadian industry where a number of British Commonwealth nationals are cleared under CD 35 procedures. The existing Cabinet Directive and proposed amendment still omit any reference either to the fact that we clear Canadian citizens only or that the clearances are for access to Canadian classified data only.

The attached would permit a continuation of clearing citizens of any other country where the investigating agency can obtain reasonably accurate data on the subject from reasonably reliable sources. Thus there could be a clearance for a non-Canadian for access to classified data on a defence product to which Canada is bound by Agreement not to allow such access, and secondly would not approve export of the product to the subject's country. If the information and product were of Canadian origin the damage would be our own, but, if the information or product were of US or other country origin, it could result in an international problem.

It is recommended therefore that SAC consider

- (a) where and how a reminder should be brought to the attention of departments involved in such international aspects; and

(b) include a cross-reference in this CD as to the dangers involved in clearing aliens particularly where foreign classified data/products are concerned.

(h) Effective date

Consideration should be given to the timing of implementation of the revised directive, including the Personnel Security Clearance Questionnaire, if approved. Some lead time should be provided to permit distribution of the documents and explanatory material to departments.

D. W. Hall.

Privy Council Office,  
O t t a w a.