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Meeting 2/77 of the Interdepartmental Committee on Security and Intelligence was held on Friday, December 2, 1977, at 2:30 p.m. in Room 414, Langevin Block.

PRESENT

Mr. P. M. Pitfield  
(Secretary to the Cabinet) (Chairman)

Mr. A. Lapointe  
(A/Deputy Minister of Communications)

Mr. J. L. Manion  
(Deputy Minister of Employment and Immigration)

Mr. A. E. Gotlieb  
(Under-Secretary of State for External Affairs)

Mr. Roger Tassé  
(Deputy Minister of Justice)

Mr. C. R. Nixon  
(Deputy Minister of National Defence)

Mr. P. A. Bissonnette  
(Deputy Solicitor General)

Mr. J. M. DesRoches  
(Deputy Minister of Supply)

Dr. Maurice LeClair  
(Secretary of the Treasury Board)

ALSO PRESENT

Mr. N. K. O'Neill (Communications Security Establishment)	Mr. J. Edwards (Public Service Commission)
Mr. R. G. Warren (Department of Communications)	Mr. M. R. Dare D/Commr. J. P. Drapeau (R.C.M. Police)
Mr. V. J. Walton (Emergency Planning Canada) (for Item 5)	Mr. R. P. Bourne (Ministry of the Solicitor General)
Mr. J. Maybee (Department of External Affairs)	Mr. S. M. Jenkyns (Supply & Services Canada)
Gen. W. J. Dabros	Mr. L. J. O'Toole (Treasury Board Secretariat)
Gen. R. M. Withers (Department of National Defence)	
L/Col. G. A. Gunton	
Maj. P.A. Lemieux (Privy Council Office)	

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Mr. T. D. Finn (Secretary)  
Mr. G. F. Frazer (Asst. Secretary)  
Mr. S. N. White (Asst. Secretary)  
(Privy Council Office)

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I. Draft Cabinet Directive on personnel security clearance

The Committee had for consideration a draft directive on personnel security clearance, together with a draft covering memorandum for use in submitting the directive to Ministers, and a draft statement for use in tabling the directive if approved, all dated November 21, 1977.

At the request of the Chairman, Mr. Bourne outlined the background to the submission. A draft directive to replace Cabinet Directive No. 35 had been developed by a working group of the Security Advisory Committee. This had been approved by the SAC and the ICSI and considered by the Cabinet Committee on Security and Intelligence in April 1977. Further work had been done by officials in the Privy Council Office and the Department of Justice to incorporate the revisions made by Ministers.

The revised directive incorporated the basic principles of CD 35 - that departments were responsible for their own security and for implementing government security policy. It incorporated reference to the Public Service Security Inquiry Regulations, and set out revised criteria for loyalty and reliability. It extended the fingerprint requirement to all persons being considered for access to classified information. It also included a revised questionnaire to replace the Personal History Form.

Mr. Bourne pointed out that the draft directive related only to national security information, and was not intended to be applied to clearances for access to other kinds of sensitive information.

The latter problem related closely to the study of the classification system which was presently underway. Mr. Bourne referred to the recent brief submitted by the Public Service Alliance, which was critical of the fact that security clearance procedures intended to relate to national security information were being used improperly. It was hoped that early progress could be made in developing proposals for an improved classification system, perhaps for consideration by the ICSI early next year.

The Chairman suggested that in the absence of a clearance directive on non-national security information, three courses seemed to be possible: the revised directive could be held in readiness pending Cabinet direction on the classification system and with respect to clearance procedures for access to sensitive information not related to national security; there could be an interim arrangement to make provision for non-national security information; or the revised directive could be implemented and made applicable to other kinds of sensitive information pending approval of a further directive.

It was noted that the proposed clearance procedures for the level of Confidential would probably be very similar in the case of non-national security information. However it was desirable that the proposed national security questionnaire be modified for screening for access to sensitive non-national security information. For instance,

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the questions concerning relatives of the person completing the form might not be required. It was also noted that clearance procedures for persons requiring access to non-national security sensitive information should relate to reliability rather than to loyalty, and could be appropriately undertaken in the staffing process without involving investigation by the Security Service.

It was noted that reliability checks carried out in the private sector (e.g. by Brinks) would be relevant in the development of a comparable reliability check in the public service.

The Committee agreed that policy and procedures for clearance of persons for access to sensitive non-national security information should be reserved for consideration in the context of proposals being developed concerning the classification system.

The Committee then examined the text of the draft directive.

Mr. Tassé suggested that a section should be inserted before that which dealt with policy, setting out precisely the departments and agencies to which the directive would apply.

The Committee agreed to Mr. Tassé's suggestion.

Mr. Tassé expressed concern about paragraph 7 (b) which referred to persons with "unauthorized access". It was pointed out that the intention of this reference was to make provision for such persons as cleaning staff, security guards, and computer operators who might have access to classified information in carrying out their duties but were not authorized to examine it. It was realized that clearance requirements should be as stringent in such cases as they were for persons who needed to use the information, since such persons were often targeted by hostile intelligence forces.

It was suggested that the purpose of paragraph 7 might be achieved by a suitable reference in Annex A.

The Committee agreed that paragraph 7 should be examined secretarially with a view to clarifying it.

Mr. Tassé also expressed concern about paragraph 9 concerning the security clearance of aliens and former aliens, and the Committee agreed that this paragraph should be examined and clarified secretarially.

Mr. Dare pointed out that, in the case of aliens and former aliens, the Security Service was dependent to a large degree on the assistance of foreign intelligence services and in some cases their facilities were not adequate for meaningful investigations.

With respect to paragraph 13(c), the Secretary pointed out that adjustment might be necessary in the light of Cabinet decisions that might be taken concerning exemptions to access to records under the human rights legislation. It was noted that if the decision were made to exempt access to personnel security clearance records

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under Section 54 of the Human Rights Act, departmental practice might vary considerably. Decisions would be on a case-by-case basis, and only adverse information from the R.C.M. Police and other sources might be exempted.

The Committee noted the possible need to amend paragraph 13(c) to make it consistent with Cabinet decisions concerning exemptions under the human rights legislation.

Mr. Tassé suggested, and the Committee agreed, that paragraph 25 should be renumbered 26, and paragraph 26 should become paragraph 25.

Mr. Tassé suggested that in Annex A the reference in (1) to "reasonable grounds to believe" should be revised to refer to the opinion of the deputy head.

Mr. Tassé asked whether separatists would be covered by the criteria for determining personnel security clearance set out in Annex A. It was suggested that Cabinet direction would be required concerning the posture of the directive on separatists.

Mr. Dare said that under Cabinet direction the Security Service was not directly targetting separatists and only reported information that became available in the process of carrying out other investigations.

Mr. Nixon pointed out that Ministers had discussed the problem of separatism in relation to security clearances at the meeting of the Cabinet Committee on Security and Intelligence in April, 1977, and the view had been expressed that separatists should not be denied security clearance as long as they were not engaged in subversive activities.

There was general concurrence in the view that deputy ministers would need guidance in this matter. A number of suggestions were made with a view to making the criteria applicable to separatists. It was noted that the "reliability" section provided a greater degree of flexibility to deputy ministers than did the "loyalty" section, and therefore a provision for separatism might better be included in the former. However, it was also pointed out that separatism related to loyalty, and therefore provision in that section might be more appropriate. The suggestion was made that section (1)(vi) could be revised to make suitable provisions in this regard.

Wording might be included to relate to activities directed towards destroying the integrity of the institutions and processes of Canada as an entity. Mr. Tassé was asked to assist in making suitable drafting changes. One problem was that, while a deputy head would not want separatists in senior policy-making positions, their employment in less responsible positions might be acceptable. Reference was made to views expressed by the Prime Minister to the effect that the government had a right and duty to deny employment to separatists.

The possibility of extending the application of the Public Service Security Inquiry Regulations to cases where suspension, transfer, or failure to promote were being considered on security grounds was briefly discussed. There was also reference to extending the application of the regulations to term and casual employees. Mr. Pitfield suggested that these questions should be examined by the Treasury Board.

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It was generally agreed that the regulations should not apply to applicants for employment in the public service.

Mr. Manion suggested that if the revised Cabinet directive were made public, there would be criticism of the investigative procedures relating to relatives of persons being considered for access to classified information. Mr. Darc pointed out the reasons for this provision which was based on the experience of cases where persons had been pressured into compromising classified information because of threats to relatives resident in communist countries.

The Committee agreed that Dr. LeClair should be asked to examine the possibility of extending the application of the Public Service Security Inquiry Regulations to persons who might be suspended, transferred, or denied employment for security reasons, and to persons engaged on a term or casual basis.

The Committee then continued its discussion of a possible provision in the revised directive concerning the threat from separatists, and the following further points were discussed:

- (a) It might be better to relate the problem of separatism to general suitability for employment in the public service. However it was pointed out that the problem of separatism had a security context which extended beyond the general area of suitability. Also, rejection of separatists on grounds of personal suitability could be more easily challenged than a provision relating to security.
- (b) It would be important to draw the problem of separatism in relation to security clearance to the attention of the Prime Minister and seek his guidance concerning a possible provision in the directive.

Mr. Tassé expressed concern about the provision in Annex C relating to minimum standards of security clearance to the level of Confidential, and the Committee agreed that this provision should be re-examined.

The Committee then considered the matter of public presentation and implementation of the directive if approved.

Mr. Nixon suggested, and the Committee agreed, that there should be a period of three months rather than the proposed two months between approval of the directive and its implementation.

Dr. LeClair expressed the view that there would be need to provide detailed explanation of its provisions so that it could be effectively implemented.

Mr. Pitfield pointed out that the directive had already been examined by the Assistant Secretary to the Cabinet (Public Information), whose comments had been taken into consideration in its preparation. However, consideration should be given to further examination with a view to ensuring clarity and public acceptability.

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Mr. Pitfield suggested, and the Committee agreed, that the text, when revised in the light of the discussion, should be submitted to Mr. Reeves Hagan for review and clarification, and for suggestions as to appropriate public presentation.

II. Homosexuality in relation to employment  
where security clearance is required

The Committee had for consideration a draft document of this title dated July 18, 1977, which had been submitted under cover of a memorandum of the Acting Secretary dated July 20, 1977, proposing guidelines for departments and agencies for use in making decisions concerning employment of homosexuals in positions involving national security.

The Committee noted that the proposed guidelines represented a revision of an earlier document dated March 25, 1977, revised in accordance with views expressed at the ICSI meeting held on April 21, 1977.

The view was expressed that the proposed guidelines might be superfluous in view of the general provision concerning "sexual behaviour" in the revised Cabinet directive. However it was pointed out that further guidance in this regard was desirable and would be useful. It was also suggested that there might be merit in eventual publication of the guidelines.

Mr. Gotlieb suggested that the guidelines were perhaps too specific and might appear to limit the flexibility provided for deputy heads in the Cabinet directive. It was important to establish the fact that homosexuals in general proposed a greater security risk than did heterosexuals and that for this reason particular attention was justified in individual cases. However, paragraphs 3, 4 and 5 should be re-examined with a view to ensuring an appropriate degree of flexibility.

Reference was made to the difficulty of defining homosexuality, and the consequent problem for departments if decisions were challenged.

The Chairman expressed the view that the guidelines were needed and should be available for supply to departments from the Privy Council Office on request. ICSI authority was desirable for this purpose. However, he agreed that the guidelines should be explanatory rather than directive, and should be devised on the basis that decisions lay with the deputy head within the terms of the policy set out in the directive. Mr. Pitfield agreed that the document should be made available on request rather than by means of a general circulation. He shared the concern about proving homosexuality in law. However concern could be justified on the basis of reasonable grounds.

Mr. Gotlieb referred to the possibility that a large number of cases involving homosexuality might be appealed under the Public Service Security Inquiry Regulations - particularly if the review procedure were extended to cover cases of promotion and transfer.

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Mr. Pitfield suggested that the particular problem of homosexuality might be considered by Dr. LeClair in the paper he had been asked to develop with respect to extending the area covered by the regulations.

Mr. Manion referred to the concern of his Minister about the provisions in the draft directive on personnel security clearance, and in the guidelines, concerning homosexuality.

Mr. Pitfield further suggested that the proposed guidelines should be submitted to the Cabinet Committee on Security and Intelligence for consideration.

The Committee noted that the proposed guidelines would not apply to members of the R.C.M. Police or the Canadian Armed Forces.

The Committee agreed that:

- (a) the proposed guidelines in the document "Homosexuality in Relation to Employment where Security Clearance is Required" should be revised in the light of the discussion, particularly with a view to modifying paragraphs 3, 4 and 5 to make them less categorical, and to emphasize the responsibility of deputy heads to exercise discretion; and
- (b) the document, as amended, should be submitted to the Cabinet Committee on Security and Intelligence for approval, with the recommendation that it be made available on request to departments and agencies.

### III. Report on Censorship Planning in Canada

The Committee had for consideration a report "Censorship Planning in Canada, 1948 to 1976" dated September 1, 1977, prepared by E.R.M. Griffiths, together with a summary and some further commentary on the subject prepared by the Chairman, Security Advisory Committee, submitted under cover of a letter from the Chairman, SAC to the Chairman, ICSI, dated November 4, 1977.

In relation to the requirement for continued censorship planning in Canada, there appeared to be unanimity that the current arrangements were not capable of achieving any significant results, and did not appear suited to either the present concepts of war or other forms of conflict. There was however some division of opinion as to the need for a modernized and re-oriented system.

In relation to this the Chairman pointed out that there might well be a requirement for three grades of censorship: the lowest being desirable under conditions similar to the 1970 crisis to prevent generation of mass hysteria by the media; the intermediate being appropriate for conditions of international tension short of actual hostilities; and the highest grade for war. He thought that the low and intermediate grades might well be the most important, and would require most study.

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It was pointed out that to use censorship under conditions short of war would necessitate the passage of some form of emergency powers legislation.

During further discussion the following points emerged:

- (a) A study should now be carried out to determine what the current and future needs for censorship might be; and to propose how these might be met.
- (b) The study, while giving higher priority to the lower levels of censorship, should nevertheless not exclude consideration of the requirements for war.
- (c) Censorship was really an emergency measure which should be studied by the Interdepartmental Committee on Emergency Preparedness.
- (d) The present organization could be dismantled, and personnel in it released from their current obligations.

The Committee agreed that:

- (a) the current organization for censorship planning should be abolished and the system dismantled;
  - (b) the Department of National Defence should notify all personnel in the current censorship organization that their services in that organization were no longer required;
  - (c) the Interdepartmental Committee on Emergency Preparedness be invited to initiate a study of the needs for censorship and the appropriate ways and means, taking into account the views of the ICSI with respect to requirements in situations short of war.
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