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*See notes
for too "Permission"
+ not nearly enough
"Trudeau's".*

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March 14, 1978.

Draft statement for use in tabling the personnel security clearance directive

I wish to table copies, in both official languages, of a directive recently approved by the government, setting out policy and procedures to be followed by departments and agencies concerning the security clearance of persons who are considered for access to classified information.

This directive is intended to confirm the policy outlined by Prime Minister Pearson in the House of Commons in October, 1963, with some changes considered desirable in light of experience and changed circumstances. The basic aim of the policy outlined by Mr. Pearson was to reconcile two responsibilities of government: the generally accepted need for the protection of information, the unauthorized disclosure of which could affect national security adversely, and the rights of the individual. That aim is also the basis of the directive I have tabled.

Let's make it a Trudeau policy.

When Prime Minister Pearson outlined the policy in 1963, he stated that security was a distasteful matter which all would prefer to ignore. However, he went on to ~~state~~ ^{say} that government had a responsibility to protect the state against threats to its security. In the years since 1963, the threat has changed, and has grown more complex, but it has not diminished. Recent documented espionage activity ^{in Canada has} ~~have~~ been brought to the attention of this House and the ~~Canadian~~ public. Mention should also be made of the frightening development of terrorist activity and various forms of subversion on a world-wide scale. The document I am tabling is intended to provide, in the area of personnel, the protection considered necessary in view of the continuing threat.

I would like to say a few words about the main features of the directive.

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Criteria for security clearance

The directive, like its predecessor, states the Government's responsibility to ensure the loyalty and reliability of persons in positions requiring access to classified information, and provides (in Annex A) criteria on the basis of which decisions on security clearance can be made. The criteria are set out in relation to "loyalty" and "reliability".

Those related to loyalty are intended to be consistent with the definition of "subversive activity" in the Official Secrets Act and with criteria used in the security provisions of the immigration program.

In the "reliability" category are set out those human characteristics which, it is considered, must be taken into account in deciding on access to information concerning national security.

Sexual behaviour

In this category I think I must mention the reference to sexual behaviour. ~~This is obviously a subject of the greatest privacy and delicacy,~~ which no government, I am sure, would wish to introduce in a policy statement. However it ~~is one~~ which must be considered by government if it is to carry out its responsibilities, as both employer and government. Also, I think, the public have a right to know the position of the government on this subject which is of such interest, particularly, in the context of human rights and elimination of discrimination.

*Remember
here!*

*It's
too up
front &
bold
for my
money.*

~~Government is responsible for, among other things, ensuring the security of the country, and providing services to the public.~~ ^{Government} It must try to ensure the suitability of the persons employed for the duties involved. Where there are reasonable grounds to consider that sexual behaviour or habits are such that they might cause a person to be indiscreet or vulnerable to blackmail, careful consideration must be given before access to classified information can be granted. Even outside the context of security and access to classified information, there are areas

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of sensitive employment where sexual behaviour must be taken into account in weighing suitability in relation to the service to be performed. One area of particular difficulty is employment outside the country where, in some cases, laws may involve sanctions which do not exist in Canada in comparable situations. If behaviour is likely to interfere with the service which the public has a right to expect, it must be a factor in determining the suitability of an individual for employment. There is obviously an element of judgment involved, and the government has a responsibility to exercise it.

*Just part
may be
unnecessary
let's leave
only in
security
context!!*

~~The directive I am tabling relates only to security clearance for access to classified information, and the reference~~
to sexual behaviour ^{in the directive} is general. This is considered to be necessary and desirable, to provide flexibility in arriving at judgments in an area where situations vary enormously.

Members are aware, I am sure, of the public attention given in recent years to homosexuality, particularly in the context of human rights. It will be noted that homosexuality is not singled out in the directive for particular consideration. ~~There~~

there

is no "discrimination" against homosexuals, or indeed any person on sexual grounds. ^{There are no categorical exclusions.} However I must state clearly that homosexuals, like persons of other sexual preference or behaviour, might be deemed to be unsuitable for some kinds of employment, ~~and not only where national security is a factor,~~ within the framework of the general policy set out in the directive.

Why state it?

Departments over the years have experienced great difficulty in applying personnel security clearance policy in relation to sexual behaviour. Members will recall cases that have received publicity from time to time where departmental practices and decisions have been much criticized. It seems appropriate therefore that the government use ^{when} the occasion, ~~of the~~ ~~issue~~ of a new directive on personnel security clearance ~~to~~ ^{is being introduced, to provide departments, at the same time, with guidelines}

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~~departments, to provide them at the same time with guidelines~~
 to assist ⁱⁿ making ^{employment} decisions where sexual
 behaviour is relevant. ^{These} guidelines have been drafted to ^{relate also}
 apply to ^{all} employment situations, ~~and not only to those~~
 where national security is ~~concerned~~. ^{not involved but where sexual behaviour could}
^{adversely affect public service.}
Separatist beliefs

*Don't
write
in incl.*

Now I must mention briefly another difficult subject which also relates to security, and access to classified information, but transcends these areas of concern. I refer to employment in the federal government of persons who are strongly committed to separatist beliefs. Here, a federal government must try to reconcile freedom of ^{expression?} ~~expansion~~ the right to hold ^{any} views, express ^{any} opinions, ~~and~~ ^{to} engage in ^{any} activities which are not illegal, with a reasonable ^{insistence?} ~~assistance~~ that its employee accept the integrity of the country in a broad sense.

The 1969 royal commission report addressed itself to separatism in the security context. It recommended that "the federal government should take (and be seen to take) steps to prevent its infiltration by persons who are clearly committed to the dissolution of Canada, or who are involved with elements of the separatist movement in which seditious activity or foreign involvement are factors; information concerning membership in or associations with extreme separatist groups should be reported on the same basis as information concerning other allegedly subversive movements, and the departmental decision process should be similar." (p. 109.)

*see we
going further?*

It seems appropriate to use this occasion when a new directive on personnel security clearance is being issued, to set out the governments' position which has been stated from time to time inside and outside the House.

It has been very difficult to find precise words for the directive. In drawing up the criteria for security clearance, ~~set out in Annex A of the directive I am tabling, we~~

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why not?

realize that persons committed to fundamental constitutional change, possibly involving the disintegration? of the country as presently constituted, by peaceful and legal means cannot be grouped as "disloyal" with those who would resort to violence and subversion. Nevertheless, ^{we consider that} any government with a ^{responsibility for} ~~commitment~~ to the existence of the country ~~to which it is responsible~~, must take separatist commitments into consideration when deciding on access to information ^{of importance to national security}. ^{in other sensitive portions} It also ~~does~~ not seem appropriate or adequate to provide for separatism in the category ^(in the directive) devoted to "reliability". Therefore a third category has been set out, which defines the nature of the separatist threat, and places a responsibility on the deputy head to make a judgment with respect to access to classified information. I would emphasize that there is no blanket exclusion of persons with separatist convictions from the public service. But it is reasonable and necessary for the government of a country to recognize the security problem where persons are committed to the breakup of the country, ~~as a political entity.~~?

which must? think.

Personnel security clearance questionnaire

any form.

The directive incorporates (in Annex B) a Personnel Security Clearance Questionnaire to replace the Personal History Form ~~(PHF)~~ approved in 1963. The latter has been the subject of periodic criticism over the years, mainly on the grounds that some, at least, of the questions are an unnecessary intrusion into privacy, and seem unrelated to the duties of the employment involved. Part of the problem has been that the PHF which was authorized specifically in relation to security clearances, has been used in some cases as a general employment form, to establish reliability. The revised form points up the requirement that it be used only in relation to security clearances. The questions have been revised to be less offensive and more currently relevant. Stress is placed in the form, and in the directive, on the fact that access to information

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supplied will be strictly limited, and the records destroyed when they no longer serve the purpose for which they were supplied.

Minimum standards for personnel security clearance

The investigation procedures required for the degrees of access to classified information - Top Secret, Secret and Confidential, are set out in Annex C. There is little change from the 1963 provision. Field investigation, records checks, and fingerprint checks are required for Top Secret clearance; records check and fingerprint check for Secret and Confidential. The classifications referred to are those which have been in use since World War II, and which closely parallel the ones in use in ^(*other countries*) (Britain and the U.S.) The problem is that they have been interpreted and applied too broadly in some cases, with the result that there have been some unnecessary investigations and denials of clearance.^{*True*}? Care will be taken to guard against this tendency in the administration of the new directive.

Fairness and frankness

The revised directive re-states the arrangements announced by Prime Minister Pearson in 1963 to ensure a maximum of frankness with the public servant when it is considered necessary to deny security clearance (particularly if dismissal is considered). Mr. Pearson emphasized a "second look" (by senior officials) to review dismissal cases. This mechanism has been superseded by the Public Service Security Inquiry Regulations approved in March 1975, pursuant to the Financial Administration Act. As in 1963, there is emphasis on making available to the employee as much as possible of the information causing doubt about loyalty or reliability "without jeopardizing sensitive sources of security information". This qualification, distasteful as it is, is considered unavoidable if security investigations are to be effective. The problem is, of course, now eased with respect to situations in which dismissal is

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considered, and the public servant wishes to invoke the inquiry procedure set out in the Public Service Security Inquiry Regulations. In such cases, all information would be made available to the Commissioner conducting the inquiry.

The Government has given careful consideration to the desirability of making the "frankness" provisions in the directive, and in the regulations, applicable in the case of applicants for public service employment. Such an extension would, of course, greatly increase the administrative requirements of the program. ^{This must be weighed against the fact} ~~Another consideration is~~ that, in the case of an applicant, ^{who is refused employment on security grounds,} little or no damage can result for the individual if the reasons for unsuitability are not disclosed. The government has therefore decided that the provisions relating to disclosure of security information to the individual should not be extended to applicants for employment in the public service. In doing so, it ^{is} ~~is~~ consistent with the view of the 1969 royal commission in this regard.

*is this
contrary to
any federal
law?*

The private sector

The revised directive continues the CD35 application of the policy to all persons - not just public servants - being considered for access to classified information. However the revision makes specific provision for extending the "fairness and frankness" aspects to persons in the private sector. (CD 35 is silent on this.) The difficulty is that, while the government as employer can set out and enforce these procedures in the case of public servants, in the case of employees in the private sector it can only directly enforce that part of the policy concerning grant or denial of access. It is difficult to make mandatory, for non-public servants, ^{where employer is not the government} the provisions for protecting the individual - the right to information, and to a hearing. The revised directive ~~tries to~~ deal with this problem by requiring departments, when entering into agreements for work to be

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performed outside the public service, to ensure that the procedures in the directive will apply as fully as possible.

*Unit?
no.*

It is intended, in advising departments on the implementation of the new directive, to provide specific direction in this regard.

Fingerprinting

The revised directive makes mandatory provision for fingerprinting of all persons being considered for access to classified information. CD 35 specifically excluded persons in defence industry. This exclusion has always caused problems (particularly where Canada has responsibility for classified information supplied by other countries). It is realized that the extension of this requirement will be distasteful for those persons affected. However, it is clearly fair that the requirement should be the same in all cases. I would add that fingerprinting, which is ^{recognized as} the best means of establishing identification, is widely accepted and applied in these circumstances in many countries.

Security classifications

I have mentioned that the policies and procedures set out in the directive are related to the definitions of classified information which are presently in force. I should add that the system of classification is under review in the context of the Green Paper on public access to government documents published by the Secretary of State. The existing classifications, established in the post-war years, ^{were intended to apply to the} ~~are heavily slanted to~~ protection of "national security" information in a ^{strict} ~~narrow~~ sense: relating mainly to defence and international relations. Over the years there has been a tendency to interpret them too widely, to apply them to a broad range of information, much of which, while requiring protection, was not intended to invoke the security screening procedures, particularly those relating to loyalty, set out in CD 35 and the proposed revision. ~~The proposal in~~

the hope to communicate

There is clearly a need for

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~~preparation will address itself to formulating a better~~
 definition of national security, ^(in addition, for identification of) and also to defining,
~~as simply as possible, the category of other,~~ ^{a range} "sensitive"
~~information which requires some degree of protection. It is~~
^{Better} ~~is hoped~~ that enunciation and application of ~~better~~
 definitions will ^{undoubtedly} reduce the amount of information requiring
 protection, and the number of security clearances required.

This should clearly be more positive a token out!

^{Conclusion} I have referred to the criticisms that have been directed over the years at the security screening policy and procedures of the government - particularly where errors have been made. As I mentioned in my opening remarks, I am sure that no government, particularly the government serving a democratic society, takes pleasure in devising and applying such policies and procedures. However, I think it is generally recognized that there is a need for security, ^{and} the government therefore considered that it must assume responsibility ^{to in this regard,} ensure that security is maintained, while at the same time ^{trying} making every effort to ensure that the rights of the individual are respected. I ^{believe} have confidence that the directive I have tabled represents a reasonable basis for ensuring that these ~~responsibilities are fairly carried out.~~ ^{aims are achieved.}

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