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Prepared for Meetings of
November 23, 24 & 25, 1979

PART 6: Security Clearance Issues

1. It is not through counter-espionage and counter-subversion investigations that the Security Service interacts with a significant portion of the Canadian populace, but rather through its more mundane security screening functions. Hundreds of thousands of Canadians each year are interviewed in the course of federal civil service field investigations [redacted] Almost all potential immigrants are interviewed [redacted] abroad and each year hundreds of citizenship applicants are subsequently interviewed by the Security Service.

2. This screening function is germane to the Mandate of this Commission "to inquire into the relevant policies and procedures that govern the activities of the R.C.M.P. in the discharge of its responsibility to protect the security of Canada". The screening mechanism is, however, only as good as the data which are collected, the criteria which govern this collection, the manner in which the information is analysed, the effectiveness with which it is disseminated to government and finally the consistency of decisions taken by government. Because of this close and intricate relationship with government, screening activities cannot be analysed in a vacuum but only as part of the entire security clearance programmes for the public service, immigration and citizenship.

A. Public Service Security Clearance

Scope of Security Clearances

3. First we will deal with the scope of security screening. Here we will be concerned with the categories of persons for whom clearance is required. How are these categories now defined? How should they be defined?

Federal Government Employees

4. There is, and will continue to be, the need for some form of security screening of federal goernment employees dealing with classified matters. This position stems from both Canada's international commitments (NATO, NORAD, and our relationships with friendly foreign agencies) as well as the need to protect government information which if divulged would cause exceptionally grave damage to the defence or security of Canada, serious injury to the interests or prestige of the nation, or damage to an individual. However, it is important that no more screening be done than is required for the protection of the security of Canada. Excessive screening involves unnecessary investigations of the personal and political activities of individuals and unnecessary expenditure of government funds.

5. Who in the federal civil service requires security screening? According to the current authorizing document, Cabinet Directive 35, individuals "who are required to have access to classified information in the performance of their duties, must be persons in whose reliability and loyalty to his [sic] country the Government of Canada can repose full confidence". Access to three levels of classified information, Top Secret, Secret and Confidential, requires screening. The principles of classification for each of these categories are set out in a 1956 document, Security of

Information in the Public Service of Canada. Documents are to be classified "Top Secret when their security aspect is paramount, and when their unauthorized disclosure would cause exceptionally grave damage to the nation". The Secret classification is to be used when "their unauthorized disclosure would endanger national security, cause serious injury to the interests or prestige of the nation, or would be of substantial advantage to a foreign power". Confidential is a classification used for information and material where "their unauthorized disclosure would be prejudicial to the interests or prestige of the nation, would cause damage to an individual, and would be of advantage to a foreign power".

6. CD-35 stipulates that there should be differing screening procedures for these three levels of classification. Access to Top Secret information requires (1) a subversive indices check, (2) a fingerprint criminal records check by the RCMP and (3) a field investigation by an appropriate agency. This "positive vetting" differs from the "negative vetting" of the other two security classifications. Secret and Confidential levels do not require the field investigation, although they may be requested in the case of a Secret level clearance. They do, however, require subversive indices and fingerprint criminal records checks.

7. A major question to be asked about this system is whether too many positions are classified Top Secret with the result that too many field investigations are undertaken. Over the last several years, approximately 3,500 field investigations have been requested annually of the Security Service. A breakdown of these requests by Departments suggests there may be a vast over-utilization of the field investigation service. For instance, in the first

quarter of 1978, 5 field investigations were requested from the Department of Agriculture, 27 from the Bank of Canada, 6 from Consumer and Corporate Affairs, 32 from Finance, 15 from Fisheries and Environment, 20 from Justice, 101 from National Revenue and Taxation, 13 from the Post Office, 19 from Public Works, 5 from Statistics Canada, and 40 from Transport Canada. It is difficult to imagine how these could be justified on the basis of the original principles of classification.

8. There are two explanations for the large number of positions classified to Top Secret. First, classification is not the sole basis for screening: the system set up in CD-35 is not strictly adherred to. Currently, we have a hybrid system where the levels of clearance partially depend upon the requirement of access to classified information and partially upon the area of employment. For example, everyone in External Affairs has a Top Secret clearance. Career mobility, physical proximity and ease of intra-office communications are the reasons most often cited to justify these high level clearances of personnel who do not require immediate access to classified information or material.

9. Second, there has been a tendency to over-classify information. Each Department has been responsible for classifying its own material based on the general principles set out in the document entitled, Security of Information in the Public Service of Canada. The process of classification has not been subject to careful control. Uniform standards, reflecting the meaning of the original definitions of the classification scheme have not been applied. Top Secret was intended to be used only rarely: the original examples pertained only to defence matters. The Secret

classification was to cover Cabinet records and minutes, current and important foreign negotiations, information on foreign powers, scientific and technical defence developments etc. Confidential was reserved for disciplinary administrative matters, minutes of interdepartmental committees, political and economic reports, etc.

10. As the classification scheme became imprecise and overly inclusive, the security screening mechanism became overloaded. Unless the government comes to terms with the classification system, it will not adequately control the number of individuals subjected to field investigations. A SPUR paper (Security Policy Under Review), accepted in principle by Cabinet in January 1979, addresses itself to the classification problem. The paper recommends a dual level of classification and screening: the present classification would be retained and another developed for a category of material that requires protection but does not meet previous classification criteria. The mere addition of a new category of classification does not resolve any of the problems of the present classification system. However, it does take care of the possibility of screening for positions now unclassified, hence, building up a base of trustworthy employees.

11. A new Cabinet Directive to replace CD-35 has been drafted. However, it too does not provide a solution to the problem of excessive use of the screening process. It ignores the current tendency to screen according to area of employment rather than on the basis of a real need for access to classified information. Moreover, it refers to the antiquated 1956 Security of Information in the Public

Service as the source of this classification, rather than attempting to refine the categories so as to avoid the misuse that has developed.

12. In order to rectify the over-extended scope of the security screening programme, the government needs to reduce drastically the requirement for field investigations. This could be accomplished in several ways. One option is to change the screening procedures such that a field investigation is required only to verify doubtful information which has surfaced in the course of an interview with the Departmental Security Officer or a records check. This is the option put forward by the R.C.M.P. in 1974.

13. A second option is to tighten up the classification system and explicitly limit Top Secret positions to those whose work requires access to Top Secret information. This option entails placing greater reliance on security procedures in government offices to protect Top Secret information from those who may only casually come in contact with it. Stricter intra-office security practices may be difficult to administer in modern open-office plans and in organizations which wish to minimize hierarchy and maximize collegiality.

14. A third option would be to abandon access to classified information as the test for security screening investigations. Instead, certain positions and areas of employment would be designated as requiring a particular level of clearance. This was the situation in 1948 when the original screening document CD-4 classified certain Departments as "Vulnerable". Under such a system all Deputy Ministers and Directors (SX1) would have to be cleared to the level of Secret (not Top Secret as in some interim guidelines

proposed in 1978). All employees working in departments closely related to the defence and security of Canada would have to be cleared to the highest level requiring the most intense screening (Defence and the Security Service and perhaps PCO). Certain sections of other Departments would have to have this level of clearance (External Affairs, Solicitor General, Communications, NRC) but the vast majority of employees in these departments could be screened only to the second level (Secret). Other Departments or branches of Departments, would require a minimal clearance.

15. A fourth option is a combination of the latter two: security screening would depend upon either access to classified material or area of employment. If this option, (the Australian model) is accepted it would have to be very carefully monitored so that the current situation does not repeat itself.

16. All these options would have some potential for significantly reducing the number of field investigations for Top Secret clearances. At the same time the number of Secret level clearances (which do not require field investigations) would increase. Greater reliance would now be placed on persons cleared only to the Secret level. This change should be accompanied by an improvement in the screening process of persons screened to that level. This could largely be done through applicant interviews conducted by the Department Security Officer (DSO) and verification of the candidates bona fides by the personnel department.

17. As fewer Top Secret clearances are called for, greater reliance will also be placed on support staff and junior employees. Universal screening, as advocated by the Mackenzie Commission is probably not necessary. The dual classification scheme agreed to in principle by government (see paragraph 10) would provide for a base of trusted employees in non-security classified positions. This "reliability screening" proposed by the government should be encouraged. However, it would appear sensible to add a subversion indices check to the current proposal that includes only a fingerprint criminal records check. How can an employee be reliable if he is disloyal?

18. Whichever option the government chooses, the basis for screening must be stated explicitly and the number of field investigations reduced. Without careful consideration by government to these matters, the over-extended scope of security field investigations of federal employees will continue, resulting in undue expense and intrusion into the lifes of Canadians. One of the first priorities of the revitalized Interdepartmental Committee on Security and Investigation, we have recommended in a preceding section of this report, should be to take steps to remedy this situation.

19. While the scope of Top Secret clearances is too great there are other areas where screening procedures are too narrow. Screening is not as thorough as it could be for contract employees. No fingerprinting is required of employees working on classified government contracts. Nevertheless, in practice, fingerprinting is done. A thorough criminal records check cannot be accomplished through a name indices check alone. This practice of fingerprinting should be properly authorized so that the

contract employee is under the same requirements as a full-time employee. Similarly, the exempt staff of a minister should be subject to the same screening requirements as regular employees of the federal government.

Order-in-Council Appointments

20. While strict screening requirements are adherred to for low levels of employment they are often ignored for the high level appointed positions. (Order-in-Council appointments are made for branch Directors, Deputy Ministers, Heads of Agencies and Commissions, Cabinet Ministers, Senators, Federal Court Judges and Parliamentary Secretaries etc.)[1] This situation led to a memorandum from the Prime Minister in 1971 and a reminder in 1974 that appointed positions with access to classified information are subject to the requirements of CD-35. The Minister making the appointment is to receive a written report of the results. All other appointed positions require a "cursory records check".

21. A cursory records check involves a name check of Security Service subversive indices. This cursory records check provides the appointee with a Confidential level clearance. Rather than follow normal security screening procedures, a practice of making cursory checks for all appointed positions has developed. The basis for these cursory checks can be found in the Prime Minister's 1971

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1. According to Mr. André Lemieux, DSO for the PCO (personal conversation on November 9, 1979) the Conservative government has cooperated and closely adherred to the 1971 and 1974 memoranda on Order-in-Council Appointments. Complete screening is undertaken for positions with access to "exempt information" according to the Sections 53 and 54 of the Human Rights Act. While the cooperation over screening is an improvement, it is not yet a fool proof system. The Justice Department has not seen fit to run cursory checks on Federal Court Judges.

memorandum, where he noted that, "in many cases it is neither feasible nor desirable that prospective appointees be required to complete the Personal History Form which is the basis of normal security clearance regulations".

22. This cursory records check is inconsistent with other government screening policy. First, with the exception of Members of Parliament, there is no justification for the position that prospective appointees with access to classified information need not be as thoroughly screened as their non-appointed colleagues. The present government concurs with our criticism of past policy, yet in practice it is still sometimes followed. Under greater time pressures in the future, the ambiguity of the 1971 and 1974 memoranda may again serve as a basis for the avoidance of screening.

23. Second, if there is no access to classified information, and if the government wishes to maintain this special class of positions requiring cursory screening, then the present cursory records checks need to be modified so as (1) to ensure greater effectiveness and (2) to avoid the possible abuses inherent in the present system. An effective records check cannot be done under time pressure and without more biographical data than the individual's name. Records need to be kept of all cursory checks run to avoid requests where an appointment is not in the offing. Criminal, as well as subversive, indices need to be checked. All adverse information must be disseminated in written form. Any unsubstantiated information, if disseminated, should be qualified as such. The individual in all cases should be notified of any negative information disseminated about him if it is to adversely affect his prospects for appointment.

Members of Parliament

24. If the screening criterion of access to information or area of employment is to be applied consistently throughout government, then Cabinet Ministers, Parliamentary Secretaries and Members of Special Parliamentary Committees, with access to information and material that needs to be secured, would have to be fully screened. Currently, no screening is done for Cabinet positions but cursory subversive records checks are run on Parliamentary Secretaries, except for those who will have access to the operations of a sensitive Ministry or who have not been elected. These exceptions are subject to a full records check but no field investigation. As noted above, the cursory records check is not a satisfactory procedure. To rely on the Privy Counsellor Oath, but not the Parliamentary Secretary Oath, is inconsistant. (These oaths are atttached at the conclusion of this paper.) The postion of this Commission is that there should be no screening of elected Members. These officials have already been vetted in the public forum of an election campaign. Instead, reliance should be placed upon the Privy Counsellor and Parliamentary Secretary oaths and the oath taken by Parliamentarians.

25. If the security intelligence agency comes across information on an appointed elected official, it may, depending upon the nature of that information, do two things. The Director General or an officer designated by the Director General may interview the Member of Parliament. A better understanding by the Member of the security risks involved may be enough to correct or clear up the situation. Alternatively, the Director General could take the information directly to the Prime Minister or the Leader of the Opposition Party to which the M.P. belongs. There should be strict evidentiary criteria for the dissemination of any

information in this manner. These criteria will be discussed below in the sections on loyalty and reliability screening criteria.

Provincial and Municiple Personnel and Police

26. Subversive and criminal records checks of provincial and municipal government employees and police were done in the past by the R.C.M.P. They have been cancelled because of the lack of authorization. Prior approval for these arrangements should be given by the Minister but once approved they could be processed on request. There are two reasons for the resumption of this service. One is that it is clearly in the national interest to ensure that such essential programmes as vital points, emergency measures, administration of justice etc. are not in jeopardy by the employment of persons who are either dishonest or subversively inclined. Second, this service would help integrate the security and intelligence community in Canada.

Foreign Agencies

27. More work needs to be done in this section. Two essential questions that need to be addressed are:

(1) Do the bilateral inter-agency agreements which provide for reciprocal screening arrangements provide legal authorization for the R.C.M.P. to screen Canadians for foreign Security agencies?

(2) Should the criteria of screening for foreign agencies differ from the Canadian criteria, as is currently the case with educational criteria being requested [redacted] and supplied by the R.C.M.P.?

Members of the Security Service

28. This subject has not as yet been the subject of research by the Commission; however, special screening techniques and clearance criteria may have to be implemented to prevent penetration or subornation of security intelligence agency members.

Durability and Transferability of Security Clearances

29. The scope of security screening involves not merely the question of who should be screened but how often they should be screened. There is currently a tacit understanding that security clearances will be updated through subsequent vetting every five years. There does not appear to be a necessity for this update procedure. If sufficiently adverse information has come to the attention of the security intelligence agency, in the interim since the last indices check, this would already have been forwarded to the DSO. Any updating of clearances should be the responsibility of the DSO. An interview every five years with the employee and a check with the immediate employer could only be considered good management, certainly not excessive, and probably the most efficient option.

30. Similarly, transfers do not necessarily imply the need for another security screen. The DSO in the new department should, however, be given the security screening report or file to assess. An interview with the DSO may be prudent and would certainly be required in the case of an adverse assessment by the security intelligence agency.

Security Clearance Rejection Criteria

31. We now turn to the criteria for security screening, loyalty and reliability. The current document describing these criteria is the 1963 Cabinet Directive, No. 35. The only amendment to this 16 year old directive is the 1976 Cabinet decision on the dissemination of separatist information. Are these criteria adequate? How should they be modified?

Loyalty Criteria

32. CD-35 states that:

> It has been clearly demonstrated that such confidence cannot be placed in persons whose loyalty to Canada and our system of government is diluted by loyalty to any Communist, Fascist, or other legal or illegal political organization whose purposes are inimical to the processes of parliamentary democracy. It is therefore an essential of Canadian security policy that persons described in paragraph 8 below must not, when known, be permitted to enter the public service, and must not if discovered within the public service be permitted to have access to classified information. If such a person is in a position where he has access to classified information, he must at least be transferred to a less sensitive position in the public service. It may also be necessary, where it appears to the Minister concerned to be in the public interest, to dismiss him from the public service, subject to the conditions set out at paragraph 17 below:

3. The persons referred to in paragraph 2 above are:

(a) a person who is a member of a communist or 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;

(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.

33. As early as 1964, the criteria of CD-35 were felt to be deficient. The criteria did not cover the new threats of separatism as it was manifested in the R.I.N. and later the Parti Québecois. These groups eschewed the use of force yet advocated the dissolution of the Canadian state. There was no similar difficulty with the terrorists organizations such as the ALQ and FLQ; these fell under the paragraph 3(e) of CD-35. Several administrative arrangements were worked out (July 1966 and December 1972) which required the Security

Service to report on separatist sympathies, associations and activities of the subject, his relatives or associates, in security screening reports. These arrangements were inconsistant with the surveillance mandate given to the Security Service in 1975. As interpreted by the Prime Minister, Parti Québecois activities were only to be monitored if they fell under (a) to (f) of the mandate. These contradictory mandates existed for 6 months; unable to get the attention of government on this untenable position, the Security Service unilaterally ceased reporting separatist information. Finally, in 1976, after the publication of a letter concerning the separatist screening policy, the Cabinet Committee or Security and Intelligence decided on the implications for security screening of the 1975 mandate:

> The Committee agreed that the Cabinet decision of March 27, 1975 (166-75RD) 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:
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> (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 Québecois, is relevant to national security and is to be brought to the attention of the appropriate authorities if it is available; and
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> (b) the weight to be given to such information will be for consideration by such authorities, taking into account all revelant circumstances, including the sources and apparent authenticity of the information and the sensitivity of the position.

34. This Cabinet Decision did not resolve the basic problem of how the Security Service, unable to investigate the PQ, was to effectively collect separatist information. The "if it is available" clause was interpreted internally by the R.C.M.P. to mean that enquiries were to be made in the course of field investigations. However, because of the political sensitivity of the issue and the apparent inconsistency of the Cabinet Decision of 1976 with some of Prime Minister Trudeau's public statements about not investigating the PQ, there has been no concentrated effort by the field investigators to enquire into Separatist or PQ support.

35. New loyalty criteria have been drafted (see Table 1 attached). These closely follow the criteria in the Cabinet Directive of March 27, 1975, with one major exception:

> (vi) activities evidencing a commitment to an ideology, a cause, a movement, or a foreign interest detrimental to or directed toward the subversion of democratic government, institutions or processes as they are understood in Canada;

36. This clause is vague and potentially extends the limits of permissible surveillance given to the Security Service in its March 1975 mandate. New criteria for security screening of federal civil servants need to be drafted, but they should be consistent with the boundaries for the collection of information by the security intelligency agency. The security intelligence agency should not be tasked with the job of obtaining information, for security screening purposes, on any group or movement that is not involved in the activities defined in threats to security in the agency's mandate. If the government, or a particular

department, feels that for policy reasons unrelated to security, it is important to avoid hiring members of certain groups, then the personnel staff of the department should be responsible for making these inquiries. The candidate and referees can be asked about affiliations with organizations which would be incompatible with the position, but this task should not be given to a security intelligence organization.

Reliability

37. The authorizing document for personnel security screening, CD-35, states:

> In addition to loyalty, reliability is essential in any person who is to be given access to classified information. A person may be unreliable for a number of reasons that do not relate to loyalty. To provide as much assurance of reliability as possible persons described in paragraph 6 below may not be permitted to have access to classified information, unless after careful consideration of the circumstances, including the value of their services, it is judged that the risk involved appears to be justified.
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> 6. The persons referred to in paragraph 5 above are:
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> (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 addition, 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 as described in paragraphs 6(a) to (c) 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 relationship, and most particularly the degree of influences 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 is 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.

38. Unlike the updated loyalty criteria, the reliability criteria have not been substantially revised in the security screening document reviewed by CCSI in 1977 and now awaiting incorporation into the overall SPUR project. The reliability screening criteria are slightly modified as:

(2) a person whose reliability is in doubt because the person may be indiscreet or vulnerable to blackmail or coercion, as a result of

(a) features of character such as those relating to avarice, indebtedness, sexual behaviour, alcohol or drug abuse, mental instability or criminal activity, or

(b) family or other close relationship with

(i) a person who is a person as described in subsection (1), or

(ii) a person who is living in a country whose government may use such relationship for purposes prejudicial to the safety or security of Canada.

39. The reliability criteria have a double thrust: one, concerns character weaknesses, the other, relationships with either disloyal individuals or foreigners. In both of these categories it is doubtful that a security intelligence agency is the ideal agency to collect and analyse the information. In the case of foreign relationships, the Department of External Affairs has instigated its own programme. Lacking confidence in the R.C.M.P. ability to evaluate family relationships in East Bloc countries, the Departmental Security Officers now interview applicants to determine the closeness of the relationship. This procedure implemented by External Affairs is more effective than Security Service investigations. The security problem is not the fact of the relationship itself, but how susceptible to pressure an individual may be because of that relationship. A judgement is required on the applicant's character and personal attachments. The Security Service has neither the talent nor the opportunity to analyze these personality traits and sentimental attachments. Even if it was to have this capacity, it seems to us that a security intelligence agency is not the proper agency to make these judgements. Rather, it should help the Department make their decision by disseminating intelligence reports on current pressure techniques used by unfriendly foreign countries.

40. There is a similar difficulty with the 'character weakness' reliability criterion. CD-35 states that certain features of character "lead to indiscretion or dishonesty, or make him vulnerable to blackmail or coercion". It then proceeds to confuse character traits with behaviour: "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." These quoted features of character are in fact forms of behaviour. The logic here is confused. What is implied, as the revised draft illustrates, is that character weakness is associated with certain types of behaviour and these behaviours increase the probability that a person will be dishonest, indiscrete or subornable.

41. The Security Service now reports on the patterns of behaviour listed in CD-35 without sufficiently analysing the probability of the behaviour leading to unreliability. In order to assess unreliability, more than the behaviour pattern needs to be taken into account. An analysis of the probability of any traditionally "unorthodox" behaviour leading to unreliability requires an assessment of the character of the individual as well as the context within which the behaviour is taking place. The screening investigators and analysts of the Security Service are neither trained nor given the opportunity to make this sort of assessment.

42. Should a security intelligence report any information in its possession on particular behaviour pattern in order to provide the department with information on which to base a decision on reliability? The opinion of this Commission, and the previous Mackenzie Commission, is that a security intelligence agency should not merely report factual

information but should assess the intelligence it disseminates. Before intelligence on an individual is disseminated its relevance to security must be assessed. To do otherwise needlessly ruins individuals' reputations and the credibility of the security intelligence agency.

43. The assessment of an individual's potential unreliability is very difficult to make. No empirical evidence on the probabilities of particular behaviour patterns leading to subornation or to indiscretion has been brought to our attention. Furthermore, the additional elements of the context of the behaviour and the character of the candidate for clearance need to be incorporated into the assessment. Three variables, not just one, are crucial. Because of the difficulties in making these assessments and the amount of personal damage to the candidate that may ensue, it appears to us that this is an area where the major portion of the responsibility should rest with the Department Security Officer rather than the security intelligence agency. The interview of the Departmental Security Officer with the candidate and the referees can be used to elicit information on patterns of behaviour, and to assess both the context of this behaviour and the character of the individual. Every job has a probationary period which can also be used to make this reliability assessment.

44. The security intelligence agency should not routinely disseminate "reliability" information in its possession. Only certain information should be disseminated. It is incumbent upon a security intelligence agency in carrying out its responsibilities to protect the security of Canada to disseminate in screening reports any evidence of

subornation, indiscretion, criminal activity, or clandestine relationships with legitimate targets of either the security or criminal intelligence agency. It should also be given the discretion to disseminate intelligence on an individual's behaviour it has assessed as presenting a significant potential of risk to the security of Canada. This assessment would require the security intelligence agency to first interview the candidate. It would also require an analysis of the context of the particular behaviour and an explanation why it is relevant to security. Reliability reports that are not based on the evidence of subornation, indiscretion, criminal activity or clandestine relations with criminal or security targets should only be made in exceptional cases. They should be subject to close review by the Appeal Tribunal. More will be said on the review process of the Appeal Tribunal below.

Role of the security intelligence agency in the security clearance process

45. The role played by the R.C.M.P. in the security clearance process is to provide intelligence upon which the departments can base their decisions about an individual's loyalty and reliability. This role has four parts:

(1) subversive indices checks
(2) criminal indices checks
(3) field investigations
(4) security report

Each of these functions should be modified to some extent in order that the security screening programme of federal civil servants is both more effective and more equitable.

46. Subversive indices checks are done for all levels of clearance. The Security Service indices which are checked include [redacted]. Information relevant to the disloyalty criteria of CD-35 is also recorded. There is one, and only one, "character weakness" on which intelligence is systematically collected and maintained by the Security Service, homosexuality. Because of this inconsistency there is an inherent bias in the subversive indices checks run by the Security Service. When Secret or Confidential level screening is carried out, no field investigation is required. The only character intelligence the Security Service can report in these lower level checks is that related to homosexuality.

47. The Security Service has no mandate to investigate homosexuals, of which there are alledgely two million in Canada. It tried to get such a mandate in 1960 but was unsuccessful. The excuse for collecting homosexual information from other foreign and police agencies and from the "gay" community resides in CD-35. This again points to inconsistencies among the current mandates.

48. For the sake of consistency and equitable treatment these homosexual files should, on the whole, be destroyed. There are Security Service files on 2,348 homosexuals across Canada. Files that should remain are those on any Canadian involved in any sort of homosexual relationship with a mandated target of the Security Service (this should not include, because of screening criteria, another homosexual). Information on these files should be disseminated in a security screening report. The files that could remain,

are those on government employees who are not "out of the closet". Normally these files should not be disseminated in the course of security screening. [redacted] the homosexual community should be actively discouraged from volunteering information, though they could be used to substantiate information.

49. Criminal records checks are not as effective as they could be. Unless there is a field investigation, only indictable offences by the 'L' Directorate fingerprint checks, and the names of people on the wanted list are discovered. To rectify this situation the three CIB indices and the files of 'P' Directorate should be amalgamated. A name search could then be routine, easily turning up evidence of commercial fraud, drug involvement, underground connections or mental instability with political ramificants -- all aspects of criminality which evade the present records checks.

50. Field investigations should be decreased significantly in number and modified in format. Field investigations are a means of collecting reliability information and verifying biographical information or the Personal History Form. The current field investigation procedures are an antiquated and inefficient means of collecting character information and the current expenditure of resources is unlikely worth the return. Members of the R.C.M.P. Security Service, have estimated that 98% of the field investigations fail to produce information relevant to security. The other 2% usually produces character information which could (according to a Security Service report to SAC) be obtained by other means. One such means is interviews by the Departmental Security Officer with the applicant and with referees. A well trained DSO has both knowledge of the

requirements of the classified position and of the security threats posed by particular character traits. Most of the biographical verification of field investigations, the credit bureau check, the university records check, the employment records check, could best be carried out by the personnel staff of the various government departments. Written confirmation of the bona fides of the candidate and recommendation or comment from the references listed on the Personal History Form could facilitate the screening procedure.

51. One solution which should be considered is a 1974 proposal of the R.C.M.P. that field investigations be eliminated for Top Secret clearances except where there is some adverse information that needs clarification. At their own initiative or upon referral from the Departmental Security Officer, the Security Service would conduct a limited field enquiry to confirm, qualify or elaborate on any adverse, doubtful information. This enquiry would include an interview of at least two of the listed associates and with the candidate when necessary. The request for a field investigation would be accompanied by (1) the results of the DSO interview with the candidate and referees, (2) a description of the subject's position as it relates to Top Secret material and (3) the results of the checks on the candidates bona fides.

52. If this solution of the R.C.M.P. is not acceptable, then field investigations should still be vastly reduced in number. If one of the options outlined in the section on Federal Civil Servants are followed, the number of field investigations could be reduced from say 3,500 a year to around 300. These investigations should include

interviews with the referees. Whether they also include an interview with the candidate and investigations of neighbours, and employers is problematic. The field investigations should not include credit bureau, employment or university records checks.

53. If vast numbers of field investigations are reduced (as proposed earlier), only a small number of well-trained investigators based at Headquarters would be required. Better contact between investigator and analyst would upgrade the quality of both and rid the Service of the staffing problems now prominent in the screening area.

54. The solution to the field investigation problem is not the creation of a new investigative body under the supervision of another branch of government. Of the 28 full time security screening investigators across the country, 10 are Special Constables and 5 are supervisors; the remaining 14 are special investigators working out of 'A' Division in Ottawa. The prototype of the independent security screening investigator would not differ so greatly from the Special Constable. The crux of the field investigation problem is that field investigations are no longer a viable means of routinely gathering information. Whether the Security Service has in the past, performed this function in any less proficient and equitable a manner than some other group is a peripheral issue.

55. Security Screening Reports: According to CD-35 the Security Service is "to inform departments and agencies of the results of their investigations in the form of factual reports in which the sources have been carefully evaluated as to the reliability of the information provided." Such reports are now written by the Security Service on all candidates where adverse information is uncovered. But, no

report is written if there is no record of the individual on file. Instead a stamped "no record" form is returned to the department. If there is a file on the individual, but it does not contain adverse information a "no adverse record" stamp is employed. This second stamp should be eliminated for the reasons we have discussed earlier in the report.

57. The Mackenzie Commission recommended that the Security Service should not merely report factually but also assess the reported facts as their validity, relevance and importance. This Commission, as well, acknowledges that there is a need for still greater contextual analysis of the intelligence disseminated in screening reports. Including contextual analysis in the reports should help minimize the subectivity in the reporting of "reliability" information. In combination with the revision of suggested reliability criteria, this subjectivity could to a large extent be eradicated.

58. The Mackenzie Commission also recommended that the Security Service should stand behind the analytical facts in its report by rendering advice as to whether or not the individual should be granted clearance. This proposal that the Secret Service advise on granting or denying clearance is a policy matter and should be made explicit in the forthcoming revision of personnel security screening procedures and in the mandate given to the security intelligence agency by Parliament. It is our opinion that the security intelligence agency should recommend as to clearance in their reports. This is merely another means of assessing the importance of the information in the report within the current international and domestic security context. This recommendation can only serve to aid various departments in coming to clearance decisions. The final decision still rests with the Department; the security intelligence agency's recommendation is merely advice.

Relationships with Departmental Security Officers

59. Despite the adoption of all of the above recommendations, the security screening programme will be only as good as the Departmental Security officers make it. These men are the crucial link between the Security Service which provides the intelligence and the Deputy Ministers who make the clearance decisions based on the adverse screening reports. The DSO provides the Security Service with information on the candidate, evaluates the Security Service reports and recommends action to the Deputy Minister.

60. The procedural changes in the screening programme advocated above would require that the DSO play an even greater role in the clearance process. He would be responsible for interviewing candidates at the Secret and Top Secret level in order to assess both reliability and loyalty. He would also, in the case of Top Secret clearances, be responsible for interviewing several referees as to the loyalty and reliability of the candidate. This proposed scheme should not be adopted without significant improvement in the standards of Departmental Security Officers. There is no consistency in the standards of the DSO position and hence no uniformity in the role played by these men in the clearance process. Some are very knowledgeable and have direct access to their Deputy Ministers, but others are merely part-time junior administrators with no previous exposure to the security environment. ICSI needs to give priority to this problem. A first step towards its solution would be a Public Service category for the Departmental Security Officer. Rather than appointing personnel officers, as CD-35 recommends, the security officer position should be seen as a specific

career within he public service with lateral movement into other departments as well as upward mobility in departments with larger security branches.

61. If the DSO position is not granted sufficient status and expertise, other solutions need to be devised. One such solution would be to construct an interdepartmental body of senior Security Officers as a central clearing house for security screening requests. Screening reports by the security intelligence agency would be assessed by these senior DSOs for clearance or rejection advice. Candidate interviews could be held by these officers or by a group of professionally trained interviewers reporting to this body.

62. Another solution would be to set up, under the Security Advisory Committee, or ICSI directly, a security screening subcommittee. This committee would not deal with the routine processing of requests and reports but with problem areas and changes in procedures. It would be mainly comprised of senior DSOs, including the DSO of the Privy Council Office, and the Security Service Officer in charge of screening. Further subcommittees, each headed by a DSO on the Screening Committee and made up of more junior DSOs and members of the security intelligence agency would radiate out to incorporate all departments.

Government Management and Direction

63. The government must come to decisions on the problems in the scope, criteria and procedures of the present security clearance programme. The implementation of these decisions must be supervised. One aspect of this implementation is the timely and systematic collection and analysis of statistics on the number of inquiries, reports and rejections. Only such careful statistical monitoring will alert the government to misuses and inefficiencies in the security screening system.

64. Security screening issues should be a priority of ICSI; most of the issues have been around for a very long time. Decisions need to be made quickly and passed up to the CCSI for approval. Whichever body is chosen to represent personnel security matters, SAC, a Special Screening Subcommittee or an Interdepartmental DSO Committee, it should play a more innovative role, not only in recognizing the practical problems of the clearance procedures, but in effecting changes towards rectifying these difficulties. The implementation of new policies and procedures should be supervised by the Security Secretariat of PCO, which serves as a secretarial body for the Security Committee system. Monitoring of the security clearance process should be implemented through annual security clearance reports to ICSI by the Security Secretariat and also by the Appeal Tribunal.

Procedures of Review and Appeal

65. CD-35 was drafted under the Pearson government above all to ensure that screening procedures did not abrogate the rights of the individual citizen. The procedures set down

in this document have not been effective or adherred to. The Mackenzie Commission was set up as a result of the Spencer case which could have been handled administratively by these procedures. Before the Mackenzie Commission submitted its report the procedures of CD-35 were changed with the amendment to Section 7(7) of the Financial Administration Act. This section was later expanded to what is now known as the Public Service Security Inquiry Regulations.

66. There are no review or appeal procedures for an outside applicant who receives an adverse security screening report, although further investigation may be requested to resolve doubtful information. The advice of the Security Panel (now PCO) may be sought. But neither of these steps is required. The decision to deny clearance is taken by the deputy minister or agency head.

67. For a candidate who is already a member of the public service there are review procedures. CD-35 states that doubt may be resolved through further investigation. After consultation with the Security Service, the DSO may interview the candidate revealing to the fullest extent possible without jeopardizing the "important and sensitive" sources of intelligence, the reasons for this doubt. The employee may be given an opportunity to resolve the doubt through this interview, but the interview is not a required procedure. If doubt remains, the Department is to withhold clearance and is to consult with the PCO Security Secretariat. This consultation is to assist in the Department's decision whether the employee can

(a) be informed of the situation and transferred to a less sensitive position,

(b) be asked to resign, or

(c) if he refuses, be dismissed.

The Department decides on dismissal. Such a decision cannot be taken until

(a) the deputy minister or head of agency has personnally made a complete review of the case and has, himself, interviewed the employee,

(b) the employee has been as fully informed as possible about the charges,

and

(c) allowed an opportunity to submit any information or considerations he thinks ought to be taken into account.

Under Sections 17 and 18 of CD-35, a board of review is to hear the case. The Department is not bound by its advice. The Minister may then recommend to the Governor in Council the dismissal of the employee on security grounds.

68. These sections (17 and 18) have been replaced by the Public Service Inquiry Regulations. If the dismissal proceeds, a Commissioner may be appointed. This Commissioner reviews the information of the Department. He has access to all files that he feels are pertinent to the inquiry. He may require any person but the appellant, to make available relevant information. The Commissioner may disclose to the appellant the circumstances and necessary information to acquaint them of the charges, keeping in mind the constraints of security. The appellant may give evidence and be represented by counsel. Witnesses may be called on behalf of the appellant. Upon conclusion of the inquiry, the Commissioner submits a report to the Governor in Council.

71. Since the enactment of these Public Service Security Inquiry Regulations in 1975 no Commissioner has been appointed. No one has been dismissed from the public service for security reasons since that date. Several have resigned, however. As well, cases are often resolved in favour of the candidate when taken by the Department to the PCO. The Secretary of the Cabinet will interview the candidate, a procedure which is not set out in CD-35.

72. At the present time, the government is considering restructing the review and appeal process for all employees denied security clearance. This action was initiated after several cases involving a denial of clearance came before the Public Service Appeal Board. It is proposed that any public servant who may be denied clearance must be interviewed by the DSO, at which time he will be informed to the greatest extent possible of the reasons for doubt. If the DSO believes clearance should be denied, he will so recommend to the Deputy Minister who will review the case. Before a decision is taken to deny clearance the Deputy Minister must consult with three other Deputy Ministers, and if he decides clearance should be denied, he must advise the employee personally of his decision. Should the employee request a formal review, action would proceed in accordance with the Public Service Security Inquiry Regulations.

73. These proposals should be implemented in part. The review procedures within the department should be followed, but should be extended to apply to any individual requiring a security clearance, i.e. consultants, contract and term employees, and applicants. Rather than consultation with three deputy ministers, the Security Secretariat of the PCO could offer advice. After the Minister has recommended dismissal or refused employment on security grounds to the

Governor in Council, an appeal procedure should be available for the candidate. We have recommended earlier in this report that an appeal board of three to five members should be permanently set up to replace the Commissioner provided for in the Public Service Security Inquiry Regulations. Some members of this board, called the Appeal Tribunal, should not be government employees. The Chairman need not be a lawyer, though a lawyer should be appointed to the board or be a member of the staff. Any case of denial could be heard by this Appeal Tribunal not just dismissals. The hearings should be in-camera. This board, similar to the Commissioner of the Public Service Inquiry Regulations, should have the discretion to disclose information to the appellant. He should be advised by the security intelligence agency of the information that can safely be disclosed but should not be bound by that advice. At the conclusion of a hearing, the Appeal Tribunal should submit a report to the Governor in Council. The Governor in Council reviewing both the Minister's report and that of the Appeal Tribunal makes the decision.

74. This same Appeal Tribunal should also hear immigration and citizenship cases. (More will be said about these aspects in Sections B and C of this paper.) The Appeal Tribunal should have a dual function. It should hear appeals on individuals denied security clearance and it should review all reports of adverse information sent to departments by the security intelligence agency which did not go to appeal. These reports did not go to appeal because clearance was granted or the individual concurred with the denial. A review of these reports (about 500/year) would provide the Appeal Tribunal with an overall view of

security screening information disseminated. The board would therefore not be hearing appeals in a vacuum, but in the context of other adverse reports. Second, the board should keep track of the results of these adverse reports. It should report annually to the government. These reports should also go to the independent review body so that the security intelligence agency's performance in security screening could be assessed by that body. The Appeal Tribunal should also take the initiative in bringing to the attention of the government any changes it perceives as necessary in the screening process. This Appeal Tribunal would have one of the best vantage points from which to propose changes in the screening criteria, interpretation of the criteria by the security intelligence agency and slackness or inconsistency on the part of the DSOs and Deputy Ministers in applying the criteria.

B. Security Clearance for Immigrants and Visitors

1. In the last few years the average number of applications for immigration to Canada has been about 130,000. Only one half of these applicants are accepted, the remainder failing to meet immigration standards. Besides security, there are immigration criteria pertaining to education, vocation, experience, relations and location of settlement in Canada, age, language, suitability and criminal activity. Of the rejected applicants, less than one percent are turned down for security reasons. The volume of security rejections is therefore very small, but the cases are often highly controversial.

Scope of Immigration and Visitor Screening

2. The screening of aliens crossing a national frontier is the first line of defence in a country's security programme. Yet, in today's fast shrinking world, national frontiers have become less of a barrier. There is an ease of international travel and movement of work forces across national borders. Should there be a security screening of foreigners wishing to visit or immigrate to Canada? The answer to this question must be in the affirmative. A total lack of screening would not be feasible for this country, for Canada unlike Europe does not have an extensive system of internal controls, easy deportation procedures to remove undesirable foreigners, nor stringent citizenship requirements.

3. Currently, there is security screening for all persons wishing to immigrate permanently to this country. The screening of visitors and refugees is, however, selective in nature. There appears no reasons to modify the universal

nature of the screening for permanent residents, but there are some problems with the selective nature of the screening for visitors and refugees.

Permanent Residents

4. There is one change in the screening for which permanent residents should be considered. It is currently the practice for the Immigration Officer at the post abroad to decide whether security screening can be waived for dependent members of a family. This practice should be modified. The R.C.M.P. Liaison Officer who is supposedly the security expert should be involved in this decision.

Visitors

5. Visitor visas are not required to enter Canada except from certain designated countries. For example, visitors from the Soviet Union, the People's Republic of China, North Korea, Vietnam, the East European countries except Yugoslavia, the Middle East, and Cuba all require visas [redacted]

[redacted]

[redacted]

6. One of the difficulties encountered in this selective screening process is that visitors and individuals on temporary permits who have Canadian relatives may apply for permanent residence status once they have arrived in Canada. The screening prerequisites are the same as for the individual who has applied from abroad, but if an applicant is already in Canada and does not pass the security requirements, the Minister is faced with the question of deportation with the possible public outcry or else with waiving the security objection.

7. The number of such applications is large; 17,635 such applicants were granted permanent residence in 1978, approximately 50% of the total number of permanent residents admitted into the country as immigrants that year. A very small number of security problems have arisen from these applications; yet, the potential for such problems has meant that the Security Service insists on applying the same screening criteria for visitors and temporary permits as it does for permanent residents. This is an unnecessarily stringent application of security rejection criteria. An individual who may have engaged in, or as a permanent resident would likely engage in, an activity defined by Parliament as being a threat to the security of Canada, is not necessarily a threat as a short term visitor. The criteria for visitors should be relaxed to accommodate the reason for the visit and its temporary nature. Visitors

should only be rejected if there are reasonable grounds to believe that the individual will create a threat to the security of Canada during his visit by engaging in one of the activities defined by Parliament. If the criteria for visitors are relaxed in this manner, then special non-extendable visas could be granted to visitors who would be rejected under the permanent resident standards and who have relatives in Canada. This procedure would prohibit such visitors from applying for permanent status from within the country.

Temporary Residents

8. An overwhelming majority of the security risks created by foreigners in this country are individuals who arrived on work permits and student visas that did not require screening. These visas may be renewed several times, allowing the individual to remain in Canada for an extended period. Permanent relationships are often formed during their stay, at which point deportation becomes extremely difficult. The individual becomes eligible to apply for permanent residency and eventually for citizenship, despite security objections. The implementation of universal screening for all applicants for work permits or student visas would seem an unnecessary procedure. Rather, the potential security risk entailed by the temporary resident who continually extends his visa could be reduced by instituting a system of screening the visa renewals. Applications for renewal could be forwarded to the security intelligence agency for a criminal and subversive records check both in Canada and in the country of origin. A less thorough, yet more expedient, system would be one of "stop-notices". A visa would not be automatically extended if the Enforcement Branch of Immigration, the Immigration

and Passport Branch of the R.C.M.P. or [redacted] the Security Service has notified Immigration officials that a temporary resident is creating a security or criminal risk to the country. There is already provision for a system similar to this 'stop-notice' procedure in the Immigration Act. Section 27(2) provides for a Special Inquiry to be held if information comes to the attention of the Deputy Minister that a temporary resident has been engaging in criminal or subversive activities.

Refugees

9. By designating the convention refugees as a special class the new Immigration Act of 1976 codified Canada's international humanitarian image. By not legislating particular security screening procedures for Convention refugees there is a flexibility in the procedure that enables each particular situation to be treated on its merits and the appropriate procedures to be put into place. Section 6(2) of the 1976 Immigration Act enables special regulations to be written by Order-in-Council to waive or reduce security criteria for Convention Regugees. Yet, in the emotionally charged atmosphere and upheaval of a crisis situation which has dislocated large numbers of individuals, decisions can be taken which run counter to carefully thought out, routine screening procedures. The desire and the need to deal expediently and humanely with persecuted individuals inevitably leads to demands for a relaxation of security screening requirements. The convention refugee, therefore, has caused those responsible for the security of Canada some concern.

10. Rather than change the existing humanitarian and ad hoc procedures set up in Canada for dealing with refugee situations, there is an alternative means of reducing the potential risk inherent in accepting into the country immigrants normally excluded. The security intelligence agency should analyze, before the fact, potential refugee situations. It should have prepared, and be ready to present to government, a security profile of the country when a refugee situation erupts. (An example of the need for such a country profile today is Iran.) The government could then better balance humanitarian and security issues in its decisions which need to be taken quickly in an atmosphere of crisis. This approach would involve more emphasis by the security intelligence agency on analysis of the international situation. It would entail a more active liaison program with other agencies and an increase of interaction with other government departments prior to, and during, the making of key decisions. Either the Contingency Refugee Committee should be reinstated or the Interdepartmental Committee on Security and Intelligence should ensure that there is an on-going and current assessment of potential refugee situations ready for government.

11. Screening procedures should continue for individual refugees granted Convention status by the Refugee Status Advisory Committee after arriving in Canada. However, no secondary screening in Canada should be carried out by the security intelligence agency when there is a large influx of refugees granted Convention status abroad. Imperfect as it may be, all the screening should occur before they arrive. The one exception is requests for records checks by friendly foreign countries for the purpose of exposing an infiltrated agent.

12. Screening interviews by the security intelligence agency with the newly arrived refugees should not be permitted. For one, it is too late: they are already in the country and will not normally be deported according to Section 55 of the Immigration Act. Once in the country, a convention refugee cannot be deported if he fails to meet the security or criminal screening criteria unless "the Minister is of the opinion that the person should not be allowed to remain in Canada." In this section of the Act Canada has gone further than international commitments require. Article 33 of the UN Convention Relating to the Status of Refugees states that an individual may be expelled from a signatory state to a country where his life or freedom would be threatened if there were reasonable grounds for considering him a danger to the security of that state.

13. An additional reason for prohibiting routine secondary screening interviews is the potential for using immigration information for non-derivitive purposes. More important is the fact that an interview on arrival with a security intelligence officer is all too grim a reminder of the oppressive situation from which the convention refugee has just escaped.

14. Due to the imprecision of the preliminary security screening, deportation procedures should be more readily available. Ministerial discretion should be replaced by a decision of the Governor in Council. To protect the rights of the refugee, a preliminary decison on deportation by the Minister should be appealable to the Appeal Tribunal, not merely subject to review, which is now the case.

Immigration Security Rejection Criteria

15. We now turn to the statutory criteria for inadmissibility. The 1952 Immigration Act had established a depressing list of prohibited persons: idiots, imbeciles or morons, the insane, epileptics, persons with tuberculosis, the dumb, blind or otherwise physically defective, those guilty of moral turpitude, prostitutes and homosexuals, pimps, professional beggars or vagrants, persons who were or were likely to become public charges, chronic alcoholics, drug addicts and drug pedlars, as well as those believed to be involved in or found guilty of subversive activities, espionage, sabotage or high treason. The new 1976 Immigration Act has substituted certain broad classes of persons whose entry into Canada is inadmissible for health, welfare, criminal or security reasons.

16. The difference between the two sets of statutory security criteria (1952 and 1976) reflects the changes in the international environment and the current preoccupation with terrorism. Treason and wartime activities against Her Majesty's allies have been replaced by a concern with violence. The following comparison of the revelant sections in the two acts illustrates their differences.

Prohibited Classes under 1952 Act	Inadmissible Classes under 1976 Act
5 (1) Persons who are or have been, at any time before the commencement of this Act, members of or associated with any organization, group or body of any kind concerning which there are reasonable grounds for believing that it promotes or advocates or at the time of such membership or association promoted or advocated subversion by force or other means of democratic government, institutions or processes, as they are understood in Canada, except persons who satisfy the Minister that they have ceased to be members of or associated with such organizations, groups or bodies and whose admission would not be detrimental to the security of Canada;	19(1) (e) persons who have engaged in or who there are reasonable grounds to believe will engage in acts of espionage or subversion against democratic government, institutions or processes, as they are understood in Canada, except persons who, having engaged in such acts, have satisfied the Minister that their admission would not be detrimental to the national interest;
(m) persons who have engaged in or advocated or concerning whom there are reasonable grounds for believing they are likely to engage in or advocate subversion by force or other means of democratic government institutions or processes, as they are understood in Canada;	(f) persons who there are reasonable grounds to believe will, while in Canada, engage in or instigate the subversion by force of any government;
(n) persons concerning whom there are reasonable grounds for believing they are likely to engage in espionage, sabotage or any other subversive activity directed against Canada or detrimental to the security of Canada;	(g) persons who there are reasonable grounds to believe will engage in acts of violence that would or might endanger the lives or safety of persons in Canada or are members of or are likely to participate in the lawful activities of an organization that is likely to engage in such acts of violence;
(q) persons who have been found guilty of espionage with respect to Her Majesty or any of Her Majesty's allies;	

(r) persons who have been found guilty of high treason or treason against or of conspiring against Her Majesty or of assisting Her Majesty's enemies in time of war, or of any similar offence against any of Her Majesty's allies;

17. The 1976 statutory criteria do not meet the requirements of the position taken earlier in this report. This position stated that the criteria for screening must be consistent with the mandate given to the security intelligence agency by Parliament to investigate threats to the security of Canada. The modifications necessary for the immigration criteria to conform to the investigatory mandate are the following. Sabotage or violence should replace subversion in Section 19(1)(e), and active measures of foreign intervention added. The word 'force' needs to be eliminated from Section 19(1)(f) and be replaced by 'violence' or 'unlawful acts'. 'Any government' should be replaced by 'governments with democratic principles similar to those in Canada'. Section 19(1)(g) needs to be modified such that acts of terrorism are stressed not merely violence.

18. The Immigration rejection criteria could be made more extensive than the investigatory mandate. The rationale put forward earlier in this report for consistency does not hold in the case of immigration criteria. Our security intelligence agency does not investigate the particular groups on which it is mandated to disseminate immigration screening intelligence. These are foreign groups and the Canadian security intelligence agency does not have a mandate to openly interview sources in a foreign country or covertly develop such sources. Instead, the agency must rely upon information forwarded to it by the indigenuous intelligence agency or by friendly foreign agencies. It is not a question of investigation but rather a question of

whether the Canadian security intelligence agency should accept and disseminate information on foreigners wishing to immigrate to Canada when it has no mandate to disseminate such information on Canadians.

19. To confine the immigration criteria to those compatible to the investigatory mandate has the advantage of avoiding any difficulties that may be encountered concerning reciprocity of information. The security intelligence agency could not be pressured into disseminating information on Canadians which it refuses to accept from other countries. Yet, there is an argument in favour of making the immigration security criteria more inclusive than the investigation mandate. Immigration is the first line of defence and a government has the right to exclude from its territory foreigners it would tolerate if indigenous.

20. The liaison officer presently disseminates criminal intelligence to the Immigration visa officer. Previously, we have maintained that this function belongs to police forces, not the security intelligence agency. However, so as not to proliferate the number of forces liaisoning with foreign police and security agencies, the security intelligence agency should continue with this function. The criminal intelligence he disseminates for the criminal rejection criteria (Sections 19(1)(d) and (e)) covers indictable offences and organized crime. These criteria do not cover a host of summary and white collar offences nor the individuals of venal character who stay just within the limits of the law. Because the only source of immigration intelligence is the security intelligence liaison officer, if he does not disseminate information made available to him, it is lost.

21. Intelligence could come into the hands of the liaison officer that would be neither consistent with the definition of security relevant information, as we have defined it above, nor would it fit the criminal rejection criteria. Rather, it is intelligence concerning the suitability of the potential immigrant. This intelligence should, perhaps, play a part in immigration rejection, although it should not be the responsibility of the security intelligence agency to assess its importance. Because the liaison officer is the only source of such information he should, perhaps, disseminate it to the immigration authorities. This would not entail extending the immigration security rejection criteria. They could be made compatible with the investigation targets of the security intelligence agency and the criminal rejection criteria could remain. What would have to be modified is the responsibility of the liaison officer at the post abroad to forward to the Immigration visa officer any information he receives which might effect the suitability of an individual for immigration to Canada. The Immigration visa officer already assesses the suitability of a potential immigrant in an interview. The immigration point system would however, have to be altered for any adverse suitability information to have an effect. It is now worth only 10 points out of a total of 100.

22. The statutory security rejection criteria should be qualified by specific criteria drawn up by the Interdepartmental Committee on Immigration Applications (IDC) and accepted by ICSI. These specific criteria would serve as detailed interpretive guidelines for the broader criteria outlined in the Act and be amenable to change as security threats evolve.

23. At present there are such criteria (See Table I attached), but having been drawn up before the statute, they do not serve to qualify the statutory criteria and, in places, are actually inconsistent with those criteria.

24. Besides defining what is meant by certain statutory phrases, the specific guidelines should not be universal, but should differentiate between countries. The prior guidelines of 1967 did just this, against the better judgment of the R.C.M.P. These earlier criteria differentiated the security risk entailed by membership in the Communist party in East Europe, West Europe and the United States. While it took 20 years for the security community to realize the necessity of such differentiation, one is hopeful that a dispassionate analysis of the current threat of terrorism will not take as long. Very peaceful individuals can be driven in many circumstances to violent acts for political ends. The country and the institution against which the violence was commissioned should be a factor in determining an individual's admittance to this country. This differentiation is especially pertinent if "association" or "support" is to remain part of the rejection criteria. If the guidelines attempt to distinguish the context in which inadmissible behaviour occurs, the security intelligence agency will have to take such differentiation into account before proposing rejection on security grounds.

Role of the R.C.M.P. in Immigration Screening

25. R.C.M.P. Liaison Officers are stationed at [redacted] Canadian embassies abroad. These officers are responsible amongst other duties, for the security vetting of all applications to immigrate to Canada as a permanent resident. The liaison officer checks the records at the post and requests criminal and security information from the local and neighbouring police and security intelligence agencies.

Indices checks may also be requested from other friendly foreign agencies, mainly the Americans, the British and the Germans. Criminal information is reported to the visa office at the post. If no security trace is found from the indices checks, the liaison officer stamps the application "Passed Stage B". If there is a trace, [redacted] If the doubt is not resolved, and an independent applicant is involved, the liaison officer will stamp the application "Not Passed Stage B". Approval from R.C.M.P. headquarters must be obtained before such a decision is made. The visa officer at the post cannot overrule a R.C.M.P. decision but he may report his reservations to Immigration headquarters in Ottawa. A report will then be requested of the R.C.M.P. and the case reviewed by Immigration. When there is adverse information on a candidate who is a sponsored immigrant, a request is always made by Immigration for a report.

26. This liaison role for immigration screening should continue, and it should continue to be done by security intelligence officers. If there is to be a separate security intelligence agency, then this liaison immigration screening role should be part of the functions of that separate agency. The personnel proposals for a more proficient security intelligence agency are proposals that are equally applicable to improving the liaison role abroad. Other foreign service officers in Immigration and External Affairs have university educations and background knowledge of foreign affairs. The security liaison officer should have similar qualifications and he should have a similar classification.

27. The liaison immigration screening role could be improved. There is at present too great and unverified reliance on foreign agency information. The liaison officer should not be receptive to information from foreign sources without careful crosschecking. Corroboration from other sources should be sought whenever possible. This information must always be analysed in the context of the political climate and motivations of the country providing that information. No foreign agency should be considered [redacted]. Nations are not benevolent; their interests differ from those of Canada, and hence, their interpretation of data will differ. The security intelligence liaison officers and the analysts at headquarters must carefully and skillfully analyse the shades of differences between foreign and Canadian concerns.

28. The security and criminal intelligence required to meet the rejection criteria of the Immigration Act are not always available. For instance, France does not permit the dissemination of criminal records on French citizens to any foreign agency. [redacted]

29. Before the recent separation of the foreigin liaison office from the Security Service, the interaction between the R.C.M.P. liaison officer in the field and the analyst at headquarters produced a commendable quality of reporting. Recommendations from the field were scrutinized and challenged, facts were crosschecked, and more cogently written briefs were the result. The analysts and liaison officers often rotated positions, a practice which produced a broader base of foreign expertise. The analyst writing the report could confer with the other foreign service officers at that desk, bringing collegiality and comparison into the decisions. Now reports are written by analysts in a separate screening branch removed from the directorate which handles the other liaison officer functions. This change may diminish the quality of reports.

30. The role of the security intelligence agency does not end with the arrival of a report at Immigration headquarters. There is a final role in the decision-making process for the security intelligence agency. Before the Minister makes a decision to reject an immigrant for security reasons, the Interdepartmental Committee on Immigration Applications meets to discuss the case. This committee, comprised of representatives from the Privy Council Office, External Affairs, the R.C.M.P. and chaired by a senior official of Immigration, is important to the security intelligence agency. It enables the agency to participate in the collegial decision-making of government

and to keep the lines of communication open with the other departments. This committee now reviews cases on which the R.C.M.P. has reported adverse information. If there is consensus in the group the case is forwarded to the Minister; if not it is sent to the Special Advisory Board for review. This Committee should continue, and if the security intelligence agency is separated from the R.C.M.P. it should be represented on the Committee.

Immigration Security Appeal and Review

31. The Special Advisory Board was set up under the 1976 Immigration Act. It has two functions: first, it holds appeal hearings for permanent residents about to be deported on security grounds, the disclosure of which would prejudice the security of Canada, and second, it acts as a security advisory board to the Immigration Minister reviewing immigration cases rejected on security grounds. Section 42 of the Act reads:

> 42. It is the function of the Special Advisory Board
>
> (a) to consider any reports made by the Minister and the Solicitor General pursuant to subsection 40(1); and
>
> (b) to advise the Minister on such matters relating to the safety and security of Canada for which the Minister is responsible under this Act as the Minister may refer to it for its consideration.

32. This Special Advisory Board is currently chaired by Mr. Leo Cadieux, a former Minister of Defence and Ambassador to France. The other two members are Mr. John Carson, former Head of the Public Service Commission and Mr. Camil Noel, a

a retired Federal Court Judge. It has not as yet heard an appeal dealing with the deportation of permanent residents. There is an organized crime case pending. It has, however, acted in its security advisory function. This advisory role may well be its most important function. It reviews and advises the Minister on the decision to be taken on contentious security screening cases.

33. The Special Advisory Board (SAB) can request all relevant information (S.40(2)(a)) and can "determine what circumstances and information should not be disclosed on the grounds that disclosure would be injurious to national security or to the safety of persons in Canada" (S.40(2)(b)). The appellant will, however, be as informed as, in the opinion of the Chairman, will not endanger the security of Canada (S. 40(4)). The hearings are held in-camera (S.40(b)) with the appellant being heard personally or by counsel and allowed to call witnesses (S.40(5)). The Board may request and hear any relevant information (S.40(7)). If at any time during the hearings the SAB considers that the disclosure of the information would not be injurious to national security, it will terminate the proceedings and so advise the Solicitor General and Immigration Minister (S.40(8)). Otherwise, it will make a report to the Governor in Council, which, after considering both the Ministers' report and the SAB report, may make the deportation order.

34. This Special Advisory Board should be incorporated into the Appeal Tribunal. A separate appeal mechanism is unjustified with only one case a year. Convention refugees should be granted the right of appeal to this Tribunal. Other contentious security screening immigration cases, not granted the right of appeal, should be reviewed by the Appeal Tribunal and advice given to the Minister. The

board should perform in the immigration field the same function it does for public service clearances. It should review all adverse reports written to Immigration by the security intelligence agency. This review will provide a context within which it can evaluate those reports on which the Minister desires advice. Also, it should monitor the quality and quantity of the reports and the advice rendered by the IDC. It should report its overall monitoring annually to government and should propose changes in the criteria or procedures when it feels this is necessary. Copies of its reports should also be sent to the independent review body to enable that body to be kept informed of the work of the security intelligence agency in the field of immigration screening.

C. Citizenship Security Clearance

1. The screening of citizenship applicants is the third major area of security vetting involving the R.C.M.P. Security Service. While the screening for federal government personnel and prospective immigrants are products of the security climate following the Second World War, the R.C.M.P. has been involved in citizenship screening for over 50 years. The Security Service processes security and criminal checks on about 165,000 applicants per year.

2. Approximately 90 federal statutes and more than 500 provincial statutes contain references to requirements or privileges dependent on citizenship. The rejection of citizenship, therefore, can diminish the rights and opportunities of an individual. For example, only Canadian citizens can legally vote in federal, and some provincial, elections; a Canadian passport enables almost uncurtailed travel opportunities and significant protection abroad; a number of professions and the purchase of certain property require Canadian citizenship. On the other hand, the granting of citizenship increases somewhat the potential security risk of a resident. A Canadian citizen cannot be deported, except under the War Measures Act, and a stateless person's travel can be confined by the rejection of a Certificate of Identity.

3. Citizenship can be rejected for security reasons. Section 18(1) of the 1976 Citizenship Act states:

> 18.(1) Notwithstanding anything in this Act, a person shall not be granted citizenship under section 5 or subsection 10(1) or be issued a certificate of renunciation under section 8 if the Governor in Council declares that to do so would be prejudicial to the security of Canada or contrary to public order in Canada.

Scope

4. Because there is a security dimenstion to the granting of citizenship there is the need for some screening. Whether all applicants for citizenship should be screened is another matter. The scope of citizenship screening in many ways is dependent upon the scope of immigration screening. The more thorough the screen is at the time of immigration the less is the need for a comprehensive screen at the time of citizenship application.

5. There are two dimensions of the thoroughness of immigration screening of interest to us here: one is the selectivity of the screening procedure, the other, the comprehensiveness of the screening criteria. Universal screening is the present practice for immigrants seeking permanent residence from abroad. Refugees, however, receive incomplete screening on a selective basis, while visitors and those on temporary permits may apply for extensions and permanent status from within the country, a procedure that detracts from the effectiveness of the immigration security screening programme.

6. The immigration security rejection criteria are sufficiently stringent, but under present procedures there are no grounds for rejection of immigrants who may be unsuitable to Canada, not for security reasons, but because of "shady" behaviour verging on unlawfulness. Yet citizenship, under the present Act, is considered a right. After three years residence an immigrant, if he meets requirements related to matters such as language and historical knowledge, will be granted citizenship unless there are significant security or criminal reasons not to do so. This combination of lax immigration suitability

requirements and the right of citizenship has diminished the value attached to Canadian citizenship.

7. Under earlier immigration and citizenship legislation the situation was different. "Moral turpitude" and a statutory list of other reprehensible behaviour excluded less desirable immigrants. Moreover, there was a statutory requirement for a citizen to be of "good character". The liberalization of both sets of legislation occurred in the mid '70s but apparently not in a coordinated fashion. A consequence of these changes has been that an individual who would have been rejected under earlier immigration or citizenship legislation now has the right obtain Canadian citizenship. The government of Canada should review this consequence and determine whether it wishes to retain the status quo, institute stricter suitability criteria for immigration, or reconstitute citizenship as a privilege rather than a right.

Citizenship Screening Criteria

8. The Interdepartmental Committee on Citizenship Security has drawn up a new list of citizenship security rejection criteria. As with the prior 1973 list, these criteria have not yet been ratified by the security and intelligence committee system. These criteria are as follows:

> An application for Canadian citizenship should be subject to a declaration under subsection 18(1) of the Citizenship Act when, upon receiving the recommendation of the Secretary of State, the Governor in Council is satisfied that the applicant is:

1. known to be or strongly suspected of being involved in espionage activities during the three-year period immediately preceding the date of application for Canadian citizenship;

2. known to be or strongly suspected of being a terrorist during the three-year period immediately preceding the date of application for Canadian citizenship;

3. actively engaged or prominently involved with violence-prone organizations during the three-year period immediately preceding the date of application for Canadian citizenship;

4. known to have been actively involved in (1.1), (2.) or (3.) above prior to the three-year period immediately preceding the date of application for Canadian citizenship, and that

9. Although the wording is different, these security rejection criteria are for the most part consistent with the security intelligence agency mandate recommended earlier in this report. The third criteria needs further refinement: violence-prone organizations is too broad. The qualifier "with political motives" needs to be added. The fourth criterion was added at the insistence of the R.C.M.P. The extended temporal dimension incorporated in the criterion should remain, as it serves to prohibit an agent who is "lying low" from automatically becoming a Canadian citizen.

10. The R.C.M.P. working definition of these criteria is as follows:

"While there are no specific criteria available, we would normally suspect a person to be involved in espionage activities when evidence is not sufficient to prove he is a foreign Intelligence Officer or co-optee but his behaviour, background or associations are sufficient to give rise to suspicions that his activities are detrimental to Canada. For example, persons involved under clandestine circumstance with a known or suspected foreign Intelligence Officer, and persons believed to have knowingly assisted a known or suspected foreign Intelligence Officer is carrying out an intelligence assignment would be strongly suspected to be involved in espionage activities."

"Persons who are strongly suspected as terrorists are those who:

(a) were or are members or active supporters of terrorist, guerilla or liberation organizations,

(b) are reported to have received training in terrorist or guerilla warfare,

(c) by their words or actions are believed capable of committing acts of terrorism."

You will appreciate that the above examples are not all inclusive for there could be other circumstances which would cause us to strongly suspect a person to be involved in espionage or capable of committing acts of terrorism."

With regard to the third part, we categorize organizations as being violence prone when they advocate, as a fundamental objective or principle, the use of violence, or in attempting to promote those principles or objectives, have in Canada or elsewhere resorte resorted to force or violence. Examples of such organizations are the FLQ, the CP of C (M/L), the Communist Workers' Party (M/L) and En Lutte ...

11. The interpretation of known or strongly suspected terrorists is not an accurate reflection of the criteria drafted by the Interdepartmental Committee on Citizenship Security. Not all members or supporters of liberation organizations should be included. Careful contextual analysis is needed of particular liberation movements. Criterion (c) established a much lower threshhold of suspicion than the Interdepartmental Committee's guidelines. The security intelligence agency should not take such liberties in interpreting the directions of government committees.

Role of the Security Service in Citizenship Screening

12. Although citizenship is now considered a right by legislation, the Security Service still conducts a screening procedure more suitable to the time when citzenship was considered a privilege. The Security Service [redacted] on all citizenship applicants. It interviews dubious cases and writes reports to the Registrar of Citizenship on any individual that meets either the security rejection criteria or has come to their attention during his residency for "suitability" reasons. Indicative of the overly inclusive nature of the Security Service reports is the fact that of the 30 cases recently reviewed by the Interdepartmental Committee on Citizenship only 2 were forwarded to the Minister for rejection.

13. If the present security rejection criteria remain in place then the security intelligence agency should instigate another more efficient screening procedure. Notification should be given to the Citizenship Registration Branch by [redacted]

[redacted] who are eligible for citizenship. When this "stop-notice" is activated by an application of citizenship, the case should be reviewed by the security intelligence agency and a report written, if required. This "stop-notice" system would be sufficient screening for significant security threats. Stop-notices could be filed with the Citizenship Branch in cases where the adverse immigration assessment of the security intelligence was overruled. Selective screening for refugees would also be countered. Any refugees posing a threat to the security of Canada would come to the attention of the security intelligence agency [redacted] between entry and the citizenship application.

14. Even if Citizenship legislation is modified so that it becomes, as it was previously, a privilege and prerogative of the Crown, the screening procedure should be modified as above. The stop-notice system would not enable the security intelligence agency to disseminate "suitability" information to government, but then the dissemination of this sort of intelligence is not the proper function of a security intelligence agency. The information verges on criminality, not security, and should be obtained from local or national police records.

15. The security intelligence agency should stop [redacted] The Enforcement Branch of Immigration, the Criminal Intelligence and Immigration and Passport Branches of the R.C.M.P. should be responsible for placing stop-notices with the Citizenship Registration Branch. The Clerk of the Citizenship Court could check with local police for any minor offences or "unsuitable" behaviour.

Review and Appeal Procedures

16. All adverse security reports should continue being reviewed, with advice given to the Minister following this review. This review and advice procedure is currently provided by the Interdepartmental Committee on Citizenship Security. This committee should continue to function in its present capacity, as it enables the security intelligence agency to interact with other government departments in a collegial capacity. Only the reports in which rejection is recommended by the security intelligence agency should be reviewed by this committee.

17. An appeal process ought to be implemented for applicants for citizenship. Both the Supreme Court of Canada (Lazarov vs. Secretary of State) and the Mackenzie Commission recommended such a procedure. The appeal of a denial of citizenship on security grounds should come after the ministerial decision to propse denial but before the ultimate decision is taken by the Governor in Council. This would make the timing of the appeal similar to that for public service denial and for deportations of permanent residents. The Appeal Tribunal should hear these citizenship appeals. The procedure should be the same as for public service denials and permanent resident deportation. It should report its findings to the Governor in Council. In addition to reviewing cases in which a denial of citizenship for security reasons is proposed, the Tribunal should also review those reports of the security intelligence agency which do not lead to a denial. This would be consistent with the Tribunal's review function for the other areas of screening. The Appeal Tribunal cannot perform the function of advising the Minister in cases where the interdepartmental committee cannot reach a decision, for it may be hearing these same cases as appeals. This is unlike the situation with the immigration interdepartmental committee where the cases reviewed differ from those which can be appealed.

Table I: Activities of Concern under RCMP Mandates for (emphasis mine)

Security Screening (Date ?)	Immigration (March 1975)	Security Service (March 1975)
... because there are reasonable grounds to believe the person	There are reasonable grounds to believe it would be likely, if admitted to Canada, to engage in:	When there are reasonable and probable grounds to believe that they may be engaged in or may be planning to engage in:
(a) is or has engaged in or is planning to engage in, or		
(b) is or has been a member of an organization or, by his or her words or actions, supports or supported an organization engaged in or planning to engage in		
(i) acts of espionage or sabotage;	(a)(i) espionage or sabotage	(i) espionage or sabotage;
(ii) activities directed toward gathering intelligence relating to and contrary to the best interests of Canada;	(ii) foreign covert intelligence activities directed toward gathering intelligence information relating to Canada;	(ii) foreign intelligence activities directed toward gathering intelligence information relating to Canada;
(iii) activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means;	(iii) activities directed toward accomplishing governmental change within Canada by force or violence or any criminal means;	(iii) activities directed toward accomplishing governmental change within Canada or elsewhere by force or violence or any criminal means;
(iv) activities directed toward actual or potential attack or other hostile acts against Canada;	(iv) activities by a foreign power directed toward actual or potential attack or other hostile acts against Canada;	(iv) activities by a foreign power directed toward actual or potential attack or other hostile acts against Canada;

(v) activities directed toward the commission of terrorist acts in or against Canada;	(v) activities of a foreign or domestic group directed toward the commission of terrorist acts in or against Canada; or	(v) activities of a foreign or domestic group directed toward the commission of terrorist acts in or against Canada; or
	(b) Persons known to have, or, who are suspected on reasonable grounds of having, taken part in, or of intending to take part in, terrorist acts.	
(vi) activities evidencing a commitment to an ideology, a cause, a movement, or a foreign interest detrimental to or directed toward the subversion of democratic government, institutions or processes as they are understood in Canada.	(c) Persons who hold, or have held, positions of executive responsibility in any organization, group or body which promotes or advocates the subversion, by force or violence or any criminal means, of democratic government, institutions or processes, as they are understood in Canada.	
(vii) activities directed toward the creation of civil dis order in relation to any of the activities referred to in subparagraphs (i) to (vi) above; and	(vi) the uses or the encouragement of the use of force, violence or any criminal means, or the creation or exploitation of civil disorder, for the purpose of achieving any of the activities referred to above.	(vi) the use or the encouragement of the use of force, violence or any criminal means, or the creation or exploitation of civil disorder, for the purpose of accomplishing any of the activities referred to above.
	(d) Persons who engage in deliberate and significant misrepresentation or untruthfulness during any personal interview or in the completion of documents for immigration purposes, if such misrepresentation or untruthfulness has a bearing on background enquiries relating to admissibility to Canada.	