

PUBLIC SERVICE ALLIANCE OF CANADA

ALLIANCE DE LA FONCTION PUBLIQUE DU CANADA

233 GILMOUR
OTTAWA, ONT. K2P 0P1

June 17, 1977.

Honourable Allan J. MacEachen,
President of the Privy Council,
House of Commons,
Ottawa, Ontario.

Dear Sir:

The Public Service Alliance of Canada has, for some time, been concerned with the application and administration of security clearance provisions in the Federal Public Service. Thousands of our members encumber positions to which these provisions apply at present and departmental proposals would have thousands of additional employees affected.

I am attaching, for your early consideration, a brief prepared by the Public Service Alliance of Canada which includes a review of the subject matter and certain recommendations designed to provide uniformity and consistency of application and at the same time safeguard the interests of the state and of its employees.

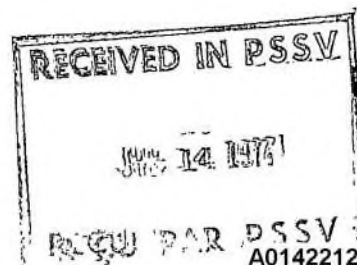
We would appreciate an opportunity to meet with the appropriate officers at the earliest possible date to discuss our proposals.

Yours respectfully,

① SAC
② therane

A. I. Stewart,
President.

cc: Prime Minister P. E. Trudeau,
Members of the Senate and of the
House of Commons.



O/SSEA

JUN 24 1977

REGISTRY

JUN 24 1977

4428

A0142212_2-000718

B R I E F

to

THE HONOURABLE A. MacEACHEN

PRESIDENT, PRIVY COUNCIL

re

SECURITY CLEARANCE IN THE PUBLIC SERVICE

PUBLIC SERVICE ALLIANCE OF CANADA

JUNE 1977

A0142212_3-000719



BRIEF RE SECURITY CLEARANCES IN THE PUBLIC SERVICE

Introduction

For some time now, the Public Service Alliance has been greatly concerned about security clearances in the Public Service. There seems to be no standard approach to this matter by Departments, some of which have, or propose to have, inordinately restrictive security clearance requirements. This has culminated in a direction from the National Board of Directors of the Public Service Alliance to have the Alliance do everything in its power to have the government modify the application of government policy on security clearances by some Departments.

*which?
us?*

Security and the State - Background Information

- (1) Nations and governments of nations view security as an essential part of continued survival of their particular system of government. The purpose is to protect and preserve while, at the same time, at least in most democratic states, to ensure that methods and measures applied in the pursuit of national security do not abrogate the rights of the individual citizen.
- (2) These two aspects of a nation's security policy were reaffirmed by our former Prime Minister Pearson in an October 25, 1963, appearance before Parliament's Committee of Supply, an unusual event by itself which gave considerably more impact to the gravity of his words:

"First, the government must ensure the

A0142212_4-000720

physical safety of the secret, classified information for which it is responsible by devising effective regulations for its proper handling and proper storage.

"It is in this area of personnel security that most of our difficulties lie, in which government responsibilities is, I think, heaviest and perhaps most difficult to discharge. An important phase of that responsibility is to ensure that the protection of our security does not by its nature or by its conduct undermine those human rights and freedoms to which our democratic institutions are dedicated".

- (3) By order in Council P.C. 1966-2148, dated November 16, 1966, a Royal Commission was established "to make a full and confidential inquiry into the operation of Canadian security methods and procedures" and, as part of its terms of reference, was directed to have regard to "the necessity of maintaining
- (a) *the security of Canada as a nation; and*
 - (b) *the rights and responsibilities of individual persons".*

The Commission submitted its Report to the Governor General in Council under date of September 23, 1968. An abridged version of the Report was published in June 1969.

- (4) The policy of the government with respect to security is contained in Cabinet Directive 35. As might be expected, it is a classified document and, therefore, unavailable to the Alliance. However, because of references appearing in other non-classified material, it can be concluded that CD 35 deals with security clearance criteria and security classification, while generally ensuring that every reasonable precaution is taken to protect the security of the nation in all its aspects.
- (5) The agency which has the overall responsibility for national security is the Security and Intelligence and Emergency Planning Secretariat of the Privy Council.
- (6) Deputy Heads are delegated the responsibility for developing and implementing security policies and programs within their respective Departments, subject to the guidelines established by the Security and Intelligence and Emergency Planning Secretariat. Furthermore, presumably in pursuit of uniformity and standardization, there exists an Inter-Departmental Committee on Security Provisions in the Public Service under the auspices of the Treasury Board.
- (7) The Deputy Head of each Department is responsible for all security aspects of his Department. Departments of Government interpret and apply security policy in the form of regulations to suit their individual requirements concerning physical security and security of personnel.

A0142212_6-000722

The Deputy Head is normally assisted by a Departmental Security Officer and staff. The decision-making process therefore lies with the Deputy Head unless the situation involves dismissal for security reasons.

- (8) Regulations respecting inquiries relating to public service employees whose dismissal has been proposed by the Deputy Minister in the interests of the safety or security of Canada were promulgated on April 1, 1975 (SOR/75 - 196) (P.C. 1975 - 726) and are attached to this brief as Appendix I. These Regulations were made pursuant to Section 7(7) of the Financial Administration Act which reads as follows:

(7) *"Nothing in this or any other Act shall be construed to limit or affect the right or power of the Governor in Council, in the interests of the safety or security of Canada or any state allied or associated with Canada, to suspend any person employed in the public service or, after an inquiry conducted in accordance with regulations of the Governor in Council by a person appointed by the Governor in Council at which the person concerned has been given an opportunity of being heard, to dismiss any such person".*

- (9) Section 26 of the Public Service Employment Regulations relates to security clearances of candidates to be

appointed and reads as follows:

(26) *"Where the duties of a position require the handling of classified material or the person occupying the position may have access to classified material, and, as a result thereof, the Deputy Head concerned is of opinion that a security clearance should be obtained in respect of the candidate to be appointed to the position, no action to cause an investigation to be made and no other step in connection therewith shall be taken unless the candidate consents thereto and supplies the responsible staffing officer with the information and material required by the responsible staffing officer and the investigating authority for that purpose; and if the candidate does not give his consent or does not supply the information and material within a reasonable time after he is requested to do so, he is not eligible for appointment to that position".*

Paradoxically, the Act itself does not contain a provision relating to security clearances.

(10) Section 23 of the Public Service Employment Act requires every employee to *"take and subscribe the oath or affirmation of allegiance and the oath or affirmation set out in Schedule III, as follows:*

SCHEDULE III

OATH OR AFFIRMATION OF OFFICE AND SECRECY

I, (A.B.) solemnly and sincerely swear (or affirm) that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Public Service and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. (In the case where an oath is taken add, "So help me God)".

- (11) The Saving Provision of the Public Service Staff Relations Act, which the Royal Commission deems to supersede the grievance provisions of the PSSR Act, reads as follows:

112(1)

"Nothing in this or any other Act shall be construed to require the employer to do or refrain from doing anything contrary to any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

- (2) *For the purposes of sub-section (1), any order made by the Governor in Council is conclusive proof of the matters stated therein in relation to the giving or making of any instruction,*

direction or regulation by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada".

- (12) Section 41(2) of the Federal Court Act R.S.C. 1970, C. 10, concerning the production of certain documents in actions against the Crown, reads as follows:

41(2)

"When a Minister of the Crown certifies to any Court by affidavit that the production or discovery of a document or its contents would be injurious to international relations, national defence or security, or to federal-provincial relations, or that it would disclose a confidence of the Queen's Privy Council for Canada, discovery and production shall be refused without any examination of the document by the Court".

STATE SECRET OR PSEUDO SECRET?

As stated previously, it is evident that all Departments

*Not all Dept
are alike*

do not apply the same criteria when it comes to matters of state security. National safety and security seem to have been equated, in the minds of some bureaucrats at least, with a need to hold *in confidence* certain specified material and data collected, circulated or collated within the Department.

The following are two examples of what we have said in the preceeding paragraph. Department "A" seems to take the approach

that vagueness of definition will produce a more careful (fearful?) work force or possibly it is simply an example of bureaucratic jargon designed to confound and conceal rather than to enlighten. The document in question states that information is classified when it would:

- *endanger the security of the state*
- *damage Canada's interests in international relations*
- *constitute an invasion of privacy*
- *damage federal-provincial relations*
- *jeopardize a government process of financial or commercial negotiations*
- *jeopardize the integrity of legal opinions*
- *constitute a breach of confidence, of the Law, or the rules of Parliament*
- *jeopardize the confidence necessary to the advisory, consultative and deliberative processes of government administration*

Ext. Aff. apparently
Department "B", on the other hand, apparently desiring to communicate the essence of security clearances to those affected, provides easily understood and precise examples of material which may be classified as top secret, or confidential.

TOP SECRET

- *documents or material containing plans for the defence of the nation as a whole or of strategic areas vital to its defence;*
- *information on new and important munitions of war, including important scientific and technical developments directly connected;*

A0142212_11-000727

- detailed information on new or proposed defence alliances, and on the defence plans of allied nations;

SECRET

- minutes or records of discussions of Cabinet or Cabinet Committees;
- documents or material containing plans for the defence of areas and installations of other than vital strategic importance;
- documents or material directly pertaining to current and important negotiations with foreign powers;
- particulars of the national budget prior to its official release;
- information about foreign powers, the value of which lies in concealing our possession of it;
- information about new and important scientific and technical developments pertaining to national defence;
- information about the identity or composition of scientific or military units employed on operations involving techniques, the knowledge of which would be of substantial value to a foreign power.

CONFIDENTIAL

- information of a personal or disciplinary nature which should be protected for administrative reasons;

- minutes or records of discussions of inter-departmental committees when the content of such minutes or records does not fall within a higher category;
- political and economic reports which would be of advantage to a foreign power but which do not fall in the secret category;
- private views of officials on public events which are not intended to be disclosed.

It is interesting to note, however, that Department "B"'s document also contained a paragraph which appears to contradict at least one of its preceeding examples of "confidential" material. It is quoted in full below, as it tends to confirm the Alliance's view that Departments are prone to use the term "confidential" when in fact they mean "in confidence".

*Cleverly paraphrased
from 201.4.7 of our
Security Manual*

"Documents which are 'Confidential' not in the sense of a security classification as used here, but merely private and personal, should be marked 'In Confidence' or 'Private and Personal'. These designations can be used, for instance, on certain letters to provincial governments or to commercial organizations where the contents are for the private information of the addressee and must not be made public, but do not need the protection given to a document bearing the security classification 'Confidential'."

The perusal of these documents, copies of which are attached as Appendices II and III, reveals that Department "B" (Appendix III) arrived at clearly defined procedures which were selective and based on the "need to know" principle. Security classifications are, in general, properly defined. But Department "A" (Appendix II) in a long and rambling document attempts to define security procedures on the basis of a question and answer format which gives the clear impression that security clearances were not carried out on a selective basis and that every security measure was not based on valid security procedures for the protection of classified material.

In both of these examples, it appears that the concept of national security has been deemed to be synonymous with departmental security or, at least, with what is perceived to be a need for the Department's security and its (consequential) integration with state security. This, in the opinion of the Alliance, is not necessarily a valid view.

It is, for example, ridiculous to suggest that the security of Canada necessarily rests on the non-divulgence of a personnel file containing personal or disciplinary material. Similarly, except in rare and identifiable instances, the Nation is unlikely to be threatened or suffer or to find itself in the middle of an international incident because of the private views of individuals or inter-departmental committees. In our view, these are small "c" confidential matters which are more appropriately relegated to "administrative confidentiality".*

*Mr. Leggatt takes this position with his Bill C-414 (Appendix IV). The Alliance considers that the enactment of this Bill would be a distinct forward step.

Moreover, there exist a tendency in some Departments, as exemplified by Department "A" (Appendix II) to regard the use of security clearances as a solution to, or a substitute for, physical security; i.e., instead of physically securing a certain work or storage area by the employment of commissionaires or some other check system (e.g., locked doors), the Department concerned simply designates all employees as requiring security clearance. In other words, this obviates the need to worry about the entry of unauthorized employees in "sensitive" areas if all are required to be security cleared. This blanket approach, of course, is potentially hazardous to those employees who would not handle or have access to the classified material which a segment of his employing Department may encounter. Regardless of the non-sensitivity of the position, a security clearance would be mandatory and could possibly lead to an unjust termination of employment. For example, although present-day society and its laws view homosexuality in a more liberal light, there is every reason to believe that the present security policy still regards homosexuals as "risky". (See, for example, press reports reproduced in Appendix V). This attitude is unrealistic. There is no evidence that homosexuals have been seduced or blackmailed into revealing state secrets any more than, if as much as, heterosexuals. **WRONG!**

The state must be concerned with both security of personnel and physical security as *distinct elements* in a valid security program. While one aspect of security inevitably overlaps the other, the Alliance's greatest concern is with the proper implementation of the security clearance program. Security clearances

and fingerprinting are, generally, carried out to determine an employee's loyalty and reliability to have access to classified information. The reliability aspect may stand alone even where an employee has no access to classified information. For example, the security clearance of a prison guard may not involve access to classified information but his reliability and background for the job are of paramount importance. It is therefore of considerable concern to the Alliance that Departments may tend to use security clearance as a means to ascertain an employee's character and background for jobs which do not involve the handling of or access to classified material but do require a high degree of reliability, integrity and trustworthiness. These jobs may generally be described as involving investigation or law enforcement or, in other words, they may involve quasi-police functions.

TRUE
THE SECRET GUILT

The procedure for dealing with out-and-out breaches of security (i.e., actions contrary to the safety and security of Canada or any state allied or associated with Canada), or with a person who may be deemed to be a security risk, is set out in the Financial Administration Act, Section 7(7) and the Public Service Inquiry Regulations made pursuant to the Act.

Under Section 7(7) of the Act, the Governor in Council is given complete authority to *suspend* a public servant for reasons of security pending an inquiry into the matter. Presumably this power of employment suspension is delegated to Deputy Ministers who would then report to the Governor in Council with a request to commence an inquiry as per the aforementioned Regulations. The

inquiry can result in only one of two actions: vindication or dismissal. Only the Governor in Council may invoke dismissal action and only on receipt of the report of the Commissioner appointed to conduct the inquiry.

Significantly, neither the Act nor the Regulations stipulate a time frame with respect to the appointment of a Commissioner, the conduct of the inquiry, or a report to the Governor in Council. In other words, it is quite possible for a public servant to experience a lengthy period of suspension pending the outcome of the inquiry process. Needless to say, the person concerned has no other avenue of redress.

Equally significant, neither the Act nor the Regulations provide for any redress to those persons who may be unilaterally transferred or suspended for a specified time period by the Deputy Head for reasons of security.

In this regard, we suspect that a Public Service employee temporarily suspended for breaches of security would find it extremely difficult to rely on the PSSR Act for resolution; i.e., the Deputy Head concerned might be inclined to hide behind a "security screen" and refuse to participate in the public forum of the adjudication hearing.

CONCLUSIONS AND RECOMMENDATIONS

It is an obvious understatement to say that the present implementation of security clearance procedures is somewhat inconsistent and varies from Department to Department. The need for uniformity and consistency to safeguard the interests of the state and its employees cries out.

The Public Service Alliance therefore makes the following recommendations:

Recommendation 1

That a definitive security policy be enunciated for the guidance of Departments, clearly separating those matters which fall under the heading of state or national security as it relates to the well-being of Canada with respect to its relations with other nations, and those matters which should be designated "in confidence" for administrative purposes.

Recommendation 2

That this security policy guideline differentiate between physical and personnel security, in that no employee should be required to possess a security clearance solely because he/she works adjacent to or near an area which requires physical security arrangements, and into which said employee would not (cannot) normally enter.

Recommendation 3

That the Public Service Security Inquiry Regulations be amended as follows:

- "3. A Commissioner may be appointed and an inquiry may be commenced and conducted in accordance with these Regulations in any case where the Deputy Head has proposed that a person concerned should be ^{*}transferred, ^{*}suspended or dismissed in the interest of the safety or security of

Authority to transfer or suspend may be found in CD-75. "Take such steps as are necessary to preserve security."

A0142212_18-000734

Canada or any state allied or associated with Canada.

The onus now rests with the employer

- (a) A person concerned may demand in writing that an inquiry be commenced and conducted in accordance with these Regulations and in such cases a Commissioner shall be appointed for the purpose".

Recommendation 4

That the Public Service Security Inquiry Regulations be further amended to provide specified time limits for the following actions in relation to inquiries:

There would need to be time allowed for the intermediate steps under CD-35:

- interview with senior officer

- interview with Deputy Head

- assessment of suitability for other employment in Dept or in Public Services

- explanation of employment possibilities in Public Service (a lengthy process).

- (a) the notification to a person concerned of his impending transfer, suspension or dismissal and onward forwarding of the recommendation to the Governor in Council;
- (b) the appointment of a Commissioner of Inquiry;
- (c) the investigation by the Commissioner and the holding of a hearing;
- (d) the Report on the Inquiry to the Governor in Council, and
- (e) the notification to the person concerned and his representative of the decision of the Governor in Council.

Recommendation 5

yes
That the "character clearance" function, when necessary, should be accomplished outside of the security clearance procedure. In such cases, when a person is not likely to have access to classified material, his name should be checked against the subversive records and he should be the subject of a fingerprint check against criminal records. Adverse information need not result in rejection, but the information should be made available to the employing Department, which can request further inquiries if they appear to be necessary.

Recommendation 6

That within the framework of any enunciated security policy a precise security clearance procedure be established covering inter alia the classification of documents and positions. With respect to the classification of positions for security purposes it is the opinion of the Alliance that a designation process similar to what is contained in section 79 of the Public Service Staff Relations Act should be established.

Recommendation 7

That a security information program be put into effect in all parts of the Public Service so that:

- (a) employees are advised of the fundamentals of the security clearance procedures;

- (b) *employees are kept informed as to the requirements of the state on security matters; and,*
- (c) *the confusion and inconsistency which exist at the present time are eradicated.*

All of which is respectfully submitted.



A.I. Stewart,
President.

Attached

Registration

SOR/75-196 1 April, 1975

FINANCIAL ADMINISTRATION ACT

Public Service Security Inquiry Regulations

P.C. 1975-726 27 March, 1975

His Excellency the Governor General in Council, on the recommendation of the Prime Minister, pursuant to subsection 7(7) of the Financial Administration Act, is pleased hereby to make the annexed Regulations respecting inquiries relating to public service employees whose dismissal has been proposed in the interest of the safety or security of Canada.

REGULATIONS RESPECTING INQUIRIES
RELATING TO PUBLIC SERVICE EMPLOYEES
WHOSE DISMISSAL HAS BEEN PROPOSED IN THE
INTEREST OF THE SAFETY OR SECURITY OF
CANADA

Short Title

1. These Regulations may be cited as the *Public Service Security Inquiry Regulations*.

Interpretation

2. In these Regulations,
 "Act" means the *Financial Administration Act*; (*Loi*)
 "Commissioner" means a person appointed under subsection 7(7) of the Act; (*Commissaire*)
 "deputy head", in relation to an inquiry, means
 (a) where the person concerned is employed in a department named in Schedule A to the Act, the deputy minister thereof, and
 (b) where the person concerned is employed in any other portion of the public service, the chief executive officer thereof or, if there is no chief executive officer, such person as the Governor in Council may designate as the deputy head for the purposes of these Regulations; (*sous-chef*)
 "inquiry" means an inquiry conducted by a Commissioner in accordance with these Regulations; (*enquête*)
 "person concerned" means a person in respect of whom an inquiry is to be made. (*personne concernée*)

Appointment of Commissioner

3. A Commissioner may be appointed and an inquiry may be commenced and conducted in accordance with these Regulations in any case where the deputy head has proposed that a person concerned should be dismissed in the

Enregistrement

DORS/75-196 1 avril 1975

LOI SUR L'ADMINISTRATION FINANCIÈRE

Règlement sur les enquêtes sécuritaires dans la Fonction publique

C.P. 1975-726 27 mars 1975

Sur avis conforme du Premier ministre et en vertu du paragraphe 7(7) de la Loi sur l'administration financière, il plaît à Son Excellence le Gouverneur général en conseil d'établir le Règlement concernant les enquêtes sur les fonctionnaires dont la destitution a été proposée pour des raisons de sécurité nationale, ci-après.

RÈGLEMENT CONCERNANT LES ENQUÊTES SUR
LES FONCTIONNAIRES DONT LA DESTITUTION A
ÉTÉ PROPOSÉE POUR DES RAISONS DE SÉCURITÉ
NATIONALE

Titre abrégé

1. Le présent règlement peut être cité sous le titre: *Règlement sur les enquêtes sécuritaires dans la Fonction publique*.

Interprétation

2. Dans le présent règlement,
 «Commissaire» désigne une personne nommée en vertu du paragraphe 7(7) de la Loi; (*Commissioner*)
 «enquête» désigne une enquête effectuée par un Commissaire conformément au présent règlement; (*inquiry*)
 «Loi» désigne la *Loi sur l'administration financière*; (*Act*)
 «personne concernée» désigne la personne qui fait l'objet de l'enquête; (*person concerned*)
 «sous-chef» désigne, pour ce qui concerne les enquêtes,
 a) lorsque la personne concernée travaille dans un ministère dont le nom figure à l'annexe A de la Loi, le sous-ministre du ministère, et
 b) lorsque la personne concernée travaille dans un autre élément de la fonction publique, le fonctionnaire administratif en chef chargé de cet élément ou, s'il n'en existe pas, toute personne que le gouverneur en conseil peut désigner à titre de sous-chef aux fins du présent règlement. (*deputy head*)

Nomination du Commissaire

3. La nomination d'un Commissaire et la tenue d'une enquête sous le régime du présent règlement sont possibles dans les cas où le sous-chef propose la destitution de la

interest of the safety or security of Canada or any state allied or associated with Canada.

personne concernée pour des raisons de sécurité nationale ou d'un État allié ou associé du Canada.

Information to be sent to Commissioner

4. The deputy head shall, as soon as possible after the appointment of the Commissioner, forward to the Commissioner a statement of the circumstances that resulted in the proposal to dismiss the person concerned.

Renseignements à communiquer au Commissaire

4. Le sous-chef doit, dès la nomination d'un Commissaire, remettre à ce dernier une déclaration énonçant les circonstances ayant abouti à la proposition de destitution de la personne concernée.

Duties and Powers of Commissioner

5. The Commissioner shall

- (a) examine all files and obtain all information that in his opinion are relevant to the inquiry; and
- (b) consult with the deputy head and with any person other than the person concerned to assist him in determining what circumstances and information should not, in the interest of the safety or security of Canada or any state allied or associated with Canada, be disclosed in the course of or in relation to the inquiry.

6. The Commissioner shall take all precautions that are necessary

- (a) to prevent the disclosure, in the course of or in relation to the inquiry, of any circumstances and information that in his opinion should not, in the interest of the safety or security of Canada or any state allied or associated with Canada, be so disclosed; and
- (b) to protect the secrecy of any source of the circumstances and information referred to in paragraph (a) and of any other classified material or information.

Obligations du Commissaire

5. Le Commissaire doit

- a) examiner tous les dossiers et renseignements relatifs à l'enquête; et
- b) consulter le sous-chef et une personne autre que la personne concernée pour déterminer les renseignements qui ne doivent pas être divulgués, dans le cours de l'enquête ou accessoirement à celle-ci, pour des raisons intéressant la sécurité du Canada ou d'un État allié ou associé du Canada.

6. Le Commissaire doit prendre les mesures nécessaires

- a) pour empêcher la divulgation, dans le cours de l'enquête ou accessoirement à celle-ci, des renseignements qui, à son avis, ne doivent pas être divulgués pour des raisons intéressant la sécurité du Canada ou d'un État allié ou associé du Canada; et
- b) pour protéger l'anonymat des sources qui fournissent les renseignements visés à l'alinéa a) ou des documents ou renseignements ayant reçu une cote de sécurité.

Notice to Person Concerned

7. The Commissioner shall, as soon as practicable, send to the person concerned

- (a) a notice that it is proposed to dismiss the person concerned in accordance with subsection 7(7) of the Act;
- (b) a statement summarizing such of the circumstances and information available to him as will, in his opinion, enable the person concerned to be as fully informed as possible of the nature of the case against him, having regard to the duties of the Commissioner referred to in sections 5 and 6; and
- (c) a notice of the time and place where the person concerned may be heard in respect of the proposal to dismiss him.

Avis à la personne concernée

7. Le Commissaire doit, le plus tôt possible, communiquer à la personne concernée

- a) un avis l'informant que sa destitution a été proposée en vertu du paragraphe 7(7) de la Loi;
- b) un résumé des renseignements dont il dispose et qui, à son avis, permettront à la personne concernée de se faire une idée exacte des accusations qui pèsent contre elle, sous réserve des articles 5 et 6; et
- c) un avis l'informant de l'heure et du lieu où elle pourra présenter une défense.

Conduct of Inquiry

8. The Commissioner may require any person other than the person concerned to make available to him any information relevant to the inquiry and may receive evidence or information considered credible or trustworthy by him in the circumstances of the inquiry.

Procédure d'enquête

8. À l'exception de la personne concernée, le Commissaire peut obliger toute personne à lui communiquer les renseignements utiles à l'enquête dont elle dispose; il peut recevoir des éléments de preuve et recueillir les renseignements qu'il juge exacts ou dignes de foi, compte tenu des circonstances de l'enquête.

9. The Commissioner shall permit the person concerned to give evidence, to be heard personally or by counsel and

9. Le Commissaire doit permettre à la personne concernée de déposer des éléments de preuve, de témoigner,

to have testify, on his behalf, persons who are likely to give material evidence.

10. The Commissioner may require any evidence or information given to him in writing to be verified by a statutory declaration.

Report

11. Upon the conclusion of the inquiry, the Commissioner shall submit to the Governor in Council a report in writing in relation to the inquiry.

personnellement ou par l'intermédiaire d'un avocat d'assigner les témoins susceptibles de présenter des éléments de preuve importants.

10. Le Commissaire peut exiger que les écrits déposés en preuve soient appuyés d'une déclaration statutaire.

Rapport

11. À l'issue de l'enquête, le Commissaire doit présenter un rapport écrit au gouverneur en conseil.

November 8, 1976

TO ALL EMPLOYEES

Re: Security

With the recent expansion of our security program a number of questions have arisen concerning security and the processes necessary to obtain a security clearance. I wish to further expand on this program and hope to eliminate doubts in your mind by the following question and answer format.

1. Q. What is the authority under which a Security Clearance is obtained?
 - A. The authority relative to the obtaining of security clearances is the Department of National Revenue Act, Section 3(2) and/or the Public Service Employment Regulations, Section 26.
2. Q. What are we really looking for through a security clearance?
 - A. We are simply trying to confirm an employee's reliability and loyalty in a department where classified material is often available to most employees and especially in those cases where an employee is expected to deal with classified information. The security

Le 8 novembre 1976

A TOUS LES EMPLOYES

Objet: Sécurité

A la suite des derniers développements apportés à notre programme de sécurité, un certain nombre de questions ont été soulevées au chapitre de la sécurité et des démarches à faire pour obtenir une cote de sécurité. Je voudrais préciser davantage les divers aspects de ce programme et aussi dissiper les doutes qui ont pu surgir dans votre esprit, par le biais des questions et réponses qui suivent.

1. Q. En vertu de quelle autorité peut-on accorder une cote de sécurité?
 - R. Les cotes de sécurité sont accordées en vertu du paragraphe 3(2) de la Loi sur le ministère du Revenu national et (ou) de l'article 26 du Règlement sur l'emploi dans la Fonction publique.
2. Q. Pourquoi attribuer une cote de sécurité?
 - R. Il s'agit simplement de confirmer l'honnêteté et la loyauté d'un employé travaillant dans un ministère où des documents à caractère confidentiel sont souvent à la portée de la plupart des employés, surtout dans le cas où un employé est appelé à traiter des renseignements

...2

Ottawa
K1A 0L8Ottawa
K1A 0L8

A0142212_25-000741

clearance is also a protection of the employee against any attempts by others to compromise them on the basis of background information. In other words, once the background information is open between employer and employee, the occasion for compromise is diminished. *diminished*

3. Q. Where are security records maintained?

A. All security documents (records) are maintained by the Departmental Security Office at Head Office to which no one else has access. The Departmental Security Officer and his staff are located at Head Office.

4. Q. What is classified information?

A. Eight categories of information which would be classified in nature are as follows:

Information that would:

- 1) endanger the security of the state
- 2) damage Canada's interests in international relations
- 3) constitute an invasion of privacy
- 4) damage federal - provincial relations

confidentiels. La cote de sécurité constitue également une protection pour l'employé contre toute tentative par d'autres personnes de le compromettre sur la foi de renseignements personnels. En d'autres termes, une fois que les antécédents de l'employé sont connus par l'employeur, les risques de compromission s'en trouvent diminués.

3. Q. Où les dossiers des cotes de sécurité sont-ils conservés?

R. Tous les documents ou dossiers portant sur les cotes de sécurité sont conservés au bureau de la sécurité du Ministère, au Bureau principal, et il n'y a personne d'autre qui y a accès. L'agent de sécurité du Ministère de même que son personnel travaillent au Bureau principal.

4. Q. Qu'est-ce que des documents à caractère secret?

R. Ce sont huit catégories de documents qui sont confidentiels en soi, c'est-à-dire qui renferment des renseignements dont la divulgation peut:

- 1) compromettre la sécurité de l'Etat
- 2) nuire aux intérêts du Canada dans les relations internationales
- 3) constituer une violation de l'intimité
- 4) détériorer les relations fédérales - provinciales

...3

- 5) jeopardize a government process of financial or commercial negotiations
 - 6) jeopardize the integrity of legal opinions
 - 7) constitute a breach of confidence, of the law, or of the rules of Parliament
 - 8) jeopardize the confidence necessary to the advisory, consultation and deliberative processes of government administration
5. Q. What are the security classifications of information?
- A. The four security classifications of information are Top Secret, Secret, Confidential and Restricted.
6. Q. What are the levels of security clearance of personnel?
- A. The security clearances of personnel are Top Secret, Secret or Confidential.
7. Q. On what is the requirement of a security clearance based?
- A. A security clearance is required when an employee is expected to deal with classified information or when there is a probability that an employee will be expected to deal with classified information.
8. Q. What levels of security clearance are required for positions in this department?
- 5) compromettre les négociations financières ou commerciales du Gouvernement
 - 6) compromettre l'intégrité des avis motivés
 - 7) constituer un abus de confiance, une infraction à la loi ou aux règles du Parlement
 - 8) compromettre la confiance nécessaire aux processus de consultation et de délibération de l'administration gouvernementale
5. Q. Quels sont les classifications de sécurité des documents?
- R. Les documents sont classés selon quatre classifications: Très secret, Secret, Confidentiel et Réserve.
6. Q. Quelles sont les différentes mentions inscrites sur les visas des employés?
- R. Les visas de sécurité des employés peuvent porter la mention Très secret, Secret ou Confidentiel.
7. Q. Sur quoi se fonde la nécessité d'avoir un visa de sécurité?
- R. Il est nécessaire lorsqu'un employé doit avoir accès à des documents réservés ou lorsqu'il pourrait y avoir accès.
8. Q. Quelles mentions doivent porter les visas de sécurité des employés du Ministère?

...4

A. The majority of positions in this Department require a confidential security clearance however, there are some positions, such as those in Special Investigations, Head Office and Special Investigations - Head Office project positions in District Offices which require Top Secret Clearance. Appendix "A" indicates the positions requiring Top Secret clearance in this Department. All other positions usually require a clearance at the Confidential Level only.

9. Q. Who determines whether an employee is security cleared?

A. It is the Department which grants a security clearance to its employees. The Departmental official concerned is the Departmental Security Officer.

10. Q. Why would a security clearance be withheld?

A. Should an employee falsify a Personal History Form this would lead us to question his/her reliability and might be a reason for withholding clearance. It should be noted that every case is individually considered so that if something arises which causes us to question either loyalty or reliability the employee will be interviewed by the Departmental Security Officer to clarify the situation.

11. Q. What is required for a security clearance?

R. La plupart des employés du Ministère doivent posséder un visa de sécurité avec la mention "Confidentiel"; cependant, certains employés, comme ceux qui travaillent pour la division des Enquêtes spéciales, au Bureau principal, ou aux projets des Enquêtes spéciales du Bureau principal dans les bureaux de district doivent posséder un visa portant la mention Très-secret. L'Annexe (A) renferme une liste des postes du Ministère qui exigent une cote "Très secret". Pour la plupart des autres postes, une cote de niveau "Confidentiel" est suffisante.

9. Q. Qui décide si un employé doit détenir un visa de sécurité?

R. Le Ministère, par le biais de son agent de sécurité, accorde les visas de sécurité à ses employés.

10. Q. Dans quel cas un visa de sécurité serait-il refusé?

R. Si un employé falsifiait une formule de renseignements personnels, nous nous interrogerions sur sa bonne foi et nous pourrions lui refuser un visa. Il est à remarquer que chaque cas est traité individuellement, de sorte que si quelque chose nous porte à douter de la loyauté ou de la fiabilité d'un employé, celui-ci aura une entrevue avec l'agent de sécurité du Ministère pour tirer la situation au clair.

11. Q. Quelles conditions faut-il remplir pour obtenir une cote de sécurité?

...5

A. The employee must complete a Personal History Form and have his/her fingerprints taken. Fingerprinting is done through the personnel offices in each District Office, Data Centre and Head Office. Personnel will provide the employee with a blank Personal History Form and pre-addressed envelope. The employee forwards the completed documents (i.e. the fingerprints and Personal History Form) directly to the Regional Personnel Office. The employee must notify Personnel that this has been done.

The Regional Personnel Services Administrator has been assigned the responsibility to ensure that these documents are dealt with in a confidential manner when submitting them to the Departmental Security Officer - Personnel, at Head Office, for processing.

Once a clearance is granted a letter of notification is placed on the employee's personnel file.

All security documents are retained by the Departmental Security Office located in Head Office, Ottawa.

Each employee who completes a Personal History Form should retain a copy for his/her own record.

Both the Personal History Form and the fingerprints are integral parts of a security clearance and both are required no matter the level of security classification of a position.

R. L'employé désirant obtenir une cote de sécurité doit remplir une formule de renseignements personnels. Il doit également faire prendre ses empreintes digitales par le Service du personnel du bureau de district, du centre des données ou du Bureau principal, selon le cas. On fournira à l'employé une formule de renseignements personnels et une enveloppe de retour. L'employé devra envoyer directement les documents remplis (c'est-à-dire ses empreintes digitales et la formule de renseignements personnels) au Bureau régional du personnel. De plus, il devra en aviser la division du Personnel.

L'administrateur des Services du personnel régional a la responsabilité de préserver le caractère confidentiel de ces documents lorsqu'il les transmet à l'agent de sécurité du Ministère, division du Personnel du Bureau principal.

Une fois que la cote a été accordée, une lettre de notification est versée au dossier personnel de l'employé.

Tous les documents relatifs à la sécurité sont conservés au Bureau de la sécurité du Ministère, au Bureau principal à Ottawa.

Chaque employé remplissant une formule de renseignements personnels doit en conserver une copie pour son usage.

La formule de renseignements personnels et les empreintes digitales sont les deux conditions essentielles pour l'obtention d'une cote de sécurité, quel que soit le niveau de sécurité attribué à un poste.

12. Q. Who is being security cleared at present?

A. All new appointments to the Department from outside the Public Service, computer systems employees upon appointment, and employees being promoted or assigned to positions requiring a Top Secret clearance and who have not already been cleared to Top Secret.

As of December 1, 1976 any new appointment from within the Public Service and transfers or promotions within the department will require a security clearance.

13. Q. When will security clearances be required for present staff?

A. The proposed implementation date for this phase of the security program is April 1, 1977. However, this implementation date depends on the progress made in the security program to that date.

14. Q. Will term employees be required to be security cleared?

A. Term employees require a security clearance depending upon the sensitivity of their immediate employment, eg. mailroom, cash handling etc. Once the security program is in full operation all term employees will require a security clearance.

12. Q. Qui possède actuellement un visa de sécurité?

R. Tous les nouveaux employés du Ministère qui ne faisaient pas partie de la Fonction publique, les employés des services informatiques et les employés promus ou affectés à des postes qui nécessitent un visa de sécurité portant la mention Très secret, dont le visa ne porte pas cette mention.

A compter du 1er décembre 1976, tout nouvel employé de la Fonction publique et tout employé obtenant une mutation ou une promotion au sein du Ministère, devra détenir un visa de sécurité.

13. Q. Quand les employés actuels devront-ils posséder un visa de sécurité?

R. Le 1er avril 1977 est la date prévue à cet effet; cependant, tout dépend des progrès accomplis en ce qui concerne le programme de sécurité à ce jour.

14. Q. Les employés nommés pour une période déterminée devront-ils posséder un visa de sécurité?

R. Les employés nommés pour une période déterminée doivent posséder un visa de sécurité si leur emploi actuel est dans un poste de confiance, ex. Service du courrier, maniement d'argent comptant, etc. Lorsque le programme de sécurité sera pleinement en vigueur, les employés nommés pour une période déterminée devront posséder un visa de sécurité.

15. Q. What causes delays in the security clearance process?

A. The major cause of delay is an incomplete Personal History Form. Employees should ensure that all the required information is indicated on the Personal History Form. If you have any doubts about this, contact the Regional Personnel Services Administrator for assistance.

16. Q. When information is missing from a Personal History Form, how must it be obtained?

A. Every effort will be made to maintain the confidentiality of information. Further information will be requested in writing with an explanation that it is requested by the Departmental Security Officer. It should be noted that, the missing information is requested through the Regional Personnel Services Administrator.

17. Q. If an employee has been previously cleared, is a new security clearance required?

A. Yes. A new Personal History Form is required for updating purposes as well as a new clearance. It has been found that prior clearances are usually out of date.

15. Q. Qu'est-ce qui retarde la remise d'un visa de sécurité?

R. Il y a retard surtout lorsque la formule de renseignements personnels est incomplète. Les employés doivent s'assurer que leur formule contient tous les renseignements nécessaires. En cas de doute, ils doivent consulter l'administrateur régional aux services du personnel.

16. Q. Lorsque la formule de renseignements personnels est incomplète, comment faut-il procéder pour obtenir les renseignements nécessaires?

R. Il faut faire tout en son possible pour garder le statut confidentiel des renseignements. C'est pourquoi les demandes de renseignements supplémentaires devront être adressées par écrit et indiquer que les renseignements sont demandés par l'agent de sécurité du Ministère. Il est à remarquer que les demandes de renseignements se font par l'entremise de l'administrateur régional aux services du personnel.

17. Q. Si un employé a déjà obtenu un visa de sécurité, doit-il en obtenir un autre?

R. Oui, il doit remplir une nouvelle formule de renseignements personnels à des fins de mise à jour et faire une demande de visa. On a constaté que les visas antérieurs sont généralement périmés.

...8

18. Q. How long is a security clearance valid?

A. A security clearance is valid for five (5) years after which an update is required.

However, employees appointed to positions requiring a higher level of security will have to undergo a security update.

I hope that these questions and answers have provided you with a greater insight to our security program and the processes in which it operates.

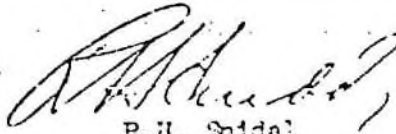
18. Q. Pour combien de temps un visa de sécurité est-il valable?

R. Un visa de sécurité est valable pour cinq ans, après quoi il doit être mis à jour.

Néanmoins, les employés nommés à des postes exigeant une cote de sécurité d'un niveau plus élevé doivent obtenir un visa de sécurité à des fins de mise à jour.

J'espère que ces questions et réponses vous ont donné un meilleur aperçu de notre programme de sécurité et de ses modes d'opération.

Director General, Personnel Administration Branch



R.H. Snidal

Directeur général, Direction de l'Administration du personnel

Security Clearance Requirement by Position Title

Those to be cleared at the "Top Secret" level are as follows:

- 1) Principal Officers at Head Office eg. Branch Heads and certain staff members.
- 2) Special Investigations - All Head Office personnel; field personnel engaged in Head Office project work and all supervisory staff.
- 3) Directors - Taxation District Offices and their secretaries;
 - Data Centres and their secretaries;
 - Chiefs of Audit and their secretaries.
- 4) Tax Policy - all personnel (Head Office).
- 5) Members of the Departmental Security Advisory Committee and certain staff members.
- 6) Regional Directors of Personnel, Regional Personnel Services Administrators and immediate staff.

Exigences, par titre de poste, relatives à l'établissement de cotes de sécurité

Seront cotés au niveau "Très secret" les postes détenus par les personnes suivantes:

- 1) Les principaux agents au Bureau principal, c'est-à-dire, les chefs de direction et certains employés.
- 2) Le personnel des Enquêtes spéciales - tout le personnel du Bureau principal; le personnel sur place relié directement aux travaux du projet du bureau principal ainsi que tous les superviseurs.
- 3) Les directeurs - des bureaux de district d'impôt et leurs secrétaires
- des centres des données et leurs secrétaires
- les chefs de la vérification et leurs secrétaires.
- 4) Tout le personnel de la Politique fiscale (Bureau principal).
- 5) Les membres du comité ministériel consultatif de sécurité et certains employés.
- 6) Les directeurs régionaux du personnel, les administrateurs régionaux aux services du personnel et leur employés immédiats.

[Department "B"]

PERSONNEL SECURITY CLEARANCE POLICYPolicy:

1. The personnel security clearance policy for the new integrated organization(s) will be that the need for an employee, or potential employee, to be security cleared and the level to which such clearance will be necessary, will be determined by whether or not such a person occupies a classified position.
2. The classification of positions will, in turn, be determined by the responsible Executive Director, Assistant Deputy Minister or Director General in consultation with the Security Officer and in accordance with the definitions of security gradings.
3. Procedures will be established to ensure consistent application of the policy.

PRINCIPE DIRECTEUR DU COTE SECURITAIRE DU PERSONNELPrincipe directeur:

1. La ligne de conduite qu'adoptera le nouvel organisme fusionné en matière de cote sécuritaire du personnel sera la suivante: l'obligation pour un employé, actuel ou éventuel, d'avoir la cote sécuritaire et le niveau auquel cette dernière deviendra indispensable devront tenir compte du fait que le poste occupé exige ou n'exige pas un visa sécuritaire.
2. C'est au directeur exécutif, au sous-ministre adjoint ou au directeur général qu'incombera la responsabilité d'établir avec l'agent de sécurité la classification sécuritaire des postes et ce, conformément aux définitions des cotes figurant.
3. Les procédures adoptées devront assurer une application cohérente de ce principe directeur.

A0142212_35-000751

DEFINITIONS OF SECURITY CLASSIFICATIONSTOP SECRET

Documents, information and material 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. From this general description it will be seen that the classification of Top Secret should be used only rarely. When it is used, the user should first be certain that all the special measures which are contingent upon its use are in fact fully justified. The following are examples of subjects falling within this category.

- a) Documents or material containing plans for the defence of the nation as a whole or of strategic areas vital to its defence;
- b) Information on new and important munitions of war, including important scientific and technical developments directly connected
- c) Detailed information on new or proposed defence alliances, and on the defence plans of allied nations.

SECRET

Documents, information and material are to be classified Secret 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. The following are examples of subjects falling within this category:

- a) Minutes or records of discussions of Cabinet or Cabinet Committees;

DÉFINITION DES COTES SÉCURITAIRESTRÈS SECRET

Doivent porter la mention "Très secret", les documents, renseignements et objets qui sont d'une très haute importance sécuritaire et dont la divulgation illicite causerait un tort exceptionnellement grave à la nation. On voit d'après cette description générale que la classification "Très secret" ne doit être employée que dans de rares cas. Dans une telle éventualité l'intéressé doit tout d'abord s'assurer que toutes les mesures spéciales qui s'appliquent lorsqu'on recourt à cette classification sont pleinement justifiées. Voici des exemples d'éléments à ranger dans cette catégorie:

- a) Documents ou objets renfermant des plans pour la défense de la nation ou de celle de régions hautement stratégiques;
- b) Renseignements sur de nouvelles et importantes munitions de guerre, y compris de grandes innovations techniques et scientifiques liées à la défense du pays;
- c) Information détaillée au sujet d'alliances nouvelles ou projetées en vue de la défense, ou au sujet des plans de défense de nations alliées.

SECRET

Doivent être marqués "Secret", les documents, renseignements et objets dont la divulgation illicite mettrait en danger la sécurité nationale, porterait un préjudice grave aux intérêts ou au prestige de la nation ou assurerait à une puissance étrangère un avantage sensible. Voici des exemples de cas entrant dans cette catégorie:

- a) Procès-verbaux ou comptes rendus des délibérations du Cabinet ou de ses comités;

- b) Documents or material containing plans for the defence of areas and installations of other than vital strategic importance;
- c) Documents or material directly pertaining to current and important negotiations with foreign powers;
- d) Particulars of the national budget prior to its official release;
- e) Information about foreign powers, the value of which lies in concealing our possession of it;
- f) Information about new and important scientific and technical developments pertaining to national defence;
- g) Information about the identity or composition of scientific or military units employed on operations involving techniques, the knowledge of which would be of substantial value to a foreign power.

CONFIDENTIAL *

Documents, information and material are to be classified Confidential when 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. The following are examples of subjects falling within this category:

- a) Information of a personal or disciplinary nature which should be protected for administrative reasons;
- b) Minutes or records of discussions of interdepartmental committees when the content of such minutes or records does not fall within a higher category;
- c) Political and economic reports which would be of advantage to a foreign power but which do not fall in the secret category;

- b) Documents ou objets renfermant des plans pour la défense de régions et d'installations autres que d'une haute importance stratégique;
- c) Documents ou objets directement liés à d'importantes négociations se déroulant entre le Canada et des puissances étrangères;
- d) Renseignements sur le budget national avant sa présentation officielle;
- e) Information relative à des puissances étrangères qui a de la valeur tant que le pays parvient à dissimuler le fait qu'il la possède;
- f) Renseignements sur d'importantes innovations scientifiques et techniques ayant trait à la défense nationale;
- g) Renseignements sur la nature et la composition d'organes scientifiques ou militaires travaillant à des opérations qui mettent en oeuvre des techniques particulières dont la divulgation assurerait à une puissance étrangère un avantage marqué.

CONFIDENTIEL *

Doivent être marqués "Confidentiel" les documents, renseignements, objets dont la divulgation illicite nuirait aux intérêts ou au prestige de la nation, porterait atteinte à une personne ou avantagerait une puissance étrangère. Voici des exemples de cas à ranger dans cette catégorie:

- a) Renseignements de caractère personnel ou disciplinaire qu'il faut protéger pour des raisons administratives;
- b) Procès-verbaux et comptes rendus des délibérations de comités inter-ministériels, dont la teneur n'exige pas une classification plus élevée.
- c) Rapports de caractère politique ou économique n'entrant pas dans la catégorie "Secret" et susceptibles d'être avantageux pour une puissance étrangère.

d) Private views of officials on public events which are not intended to be disclosed.

d) Position de représentants officiels sur des événements d'actualité qu'ils n'avaient pas l'intention de porter à la connaissance du grand public.

* Documents which are 'Confidential' not in the sense of a security classification as used here, but merely private and personal, should be marked "In Confidence" or "Private and Personal". These designations can be used, for instance, on certain letters to provincial governments or to commercial organizations where the contents are for the private information of the addressee and must not be made public, but do not need the protection given to a document bearing the security classification 'Confidential'.

* Les documents qui ne sont pas confidentiels au sens de la classification sécuritaire employée ici, mais demeurent de caractère personnel et privé, doivent porter la mention "En confidence" ou "Privé et personnel". Il est possible d'employer ces désignations pour certaines lettres adressées aux gouvernements provinciaux ou à des établissements commerciaux dont le contenu garde un caractère privé et ne doit pas être rendu public, sans toutefois nécessiter la protection accordée à un document de la catégorie "Confidentiel".

RESTRICTED

Documents, information and material are to be classified Restricted when they should not be published or communicated to anyone except for official purposes, and when they are not classified in any of the three previous categories.

DIFFUSION RESTREINTE

Doivent porter la mention "Diffusion restreinte" les documents, renseignements et objets qui ne doivent pas être publiés ou communiqués à quiconque sauf pour des fins officielles et qui n'entrent pas dans l'une des catégories précédentes.

C-414

C-414

Second Session, Thirtieth Parliament,
25-26 Elizabeth II, 1976-77

Deuxième Session, Trentième Législature,
25-26 Elizabeth II, 1976-77

THE HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-414

BILL C-414

An Act to amend the Public Service Employment Act
(oaths and confidential information)

Loi modifiant la Loi sur l'emploi dans la Fonction
publique (serments et renseignements confidentiels)

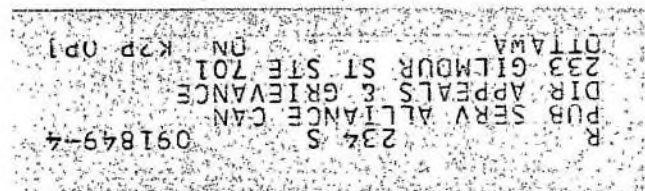
First reading, April 27, 1977

Première lecture, le 27 avril 1977

MR. LEGGATT

M. LEGGATT

22212



A0142212_39-000755

THE HOUSE OF COMMONS OF CANADA

CHAMBRE DES COMMUNES DU CANADA

BILL C-414

BILL C-414

An Act to amend the Public Service Employment Act (oaths and confidential information)

Loi modifiant la Loi sur l'emploi dans la Fonction publique (serments et renseignements confidentiels)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et du consentement du Sénat et de la Chambre des communes du Canada, décrète:

1. Section 23 of the *Public Service Employment Act* is repealed and the following substituted therefor:

1. L'article 23 de la *Loi sur l'emploi dans la Fonction publique* est abrogé et remplacé 5 par ce qui suit:

"23. (1) Every deputy head and every employee employed in a managerial or confidential capacity or having access to any information of a confidential nature shall, upon appointment from outside the Public Service, take and subscribe the oath or affirmation of allegiance and the oath or affirmation set out in Schedule III.

«23. (1) Dès leur nomination, chaque sous-chef et chaque employé préposé à la gestion ou à des fonctions confidentielles ou ayant accès à des renseignements de nature confidentielle doivent, lorsqu'ils sont choisis hors de la Fonction publique, prêter le serment ou faire l'affirmation d'allégeance ainsi que le serment ou l'affirmation que contient l'annexe III.

(2) Every other employee shall, upon appointment from outside the Public Service, take and subscribe the oath or affirmation of allegiance and the oath or affirmation set out in Schedule III.1."

(2) Dès sa nomination, chaque autre employé choisi hors de la Fonction publique doit prêter le serment ou faire l'affirmation d'allégeance ainsi que le serment ou l'affirmation que contient l'annexe III.1.»

2. Schedule III of the said Act is repealed and the following substituted therefor:

2. L'annexe III de ladite loi est abrogée et remplacée par ce qui suit:

"I, A.B., solemnly and sincerely swear (or affirm) that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Public Service and that I will not, without due authority, disclose any matter of a confidential nature that comes to my knowledge by reason of such employment to any person or class of persons prohibited by

«Je, A.B., jure (ou affirme) solennellement et sincèrement que je remplirai avec fidélité et honnêteté les fonctions qui m'incombent en raison de mon emploi dans la Fonction publique et que, sans y être dûment autorisé, je ne révélerai aucun renseignement de nature confidentielle qui viendra à ma connaissance par suite de cet emploi à aucune personne ou catégorie de

EXPLANATORY NOTE

In view of the increased demand for more open government in Canada, this Bill would facilitate the flow of confidential and non-confidential information both within the Public Service and between the Public Service and the general public. Existing legislation places a specific responsibility on public servants at all levels to withhold any and all information until "due authority" is given. This Bill makes a distinction between confidential and non-confidential information and job capacities, and implicitly requires the government to more clearly define the word "confidential", which is used liberally throughout the *Revised Statutes of Canada*. This Bill is also significant in that it makes the individual Minister responsible for determining which persons or class of persons are ineligible to receive information of a confidential nature.

NOTE EXPLICATIVE

Pour tenir compte de la demande croissante d'un élargissement de l'information de la part du gouvernement du Canada, ce bill faciliterait la circulation des renseignements confidentiels et non confidentiels à la fois au sein de la Fonction publique et entre la Fonction publique et l'ensemble de la population. La législation actuelle oblige les fonctionnaires à ne rien divulguer sans être « dûment autorisés » à le faire. Ce bill fait une distinction entre renseignements confidentiels et non confidentiels et entre les fonctions. Il demande implicitement au gouvernement de définir plus clairement le mot « confidentiel » qui est largement utilisé dans l'ensemble des *Statuts révisés du Canada*. Le bill est en outre important du fait qu'il charge chaque ministre de décider quelles personnes ou catégories de personnes n'ont pas le droit d'obtenir des renseignements de nature confidentielle.

the Minister from receiving such matter.
(In the case where an oath is taken add,
"So help me God")."

3. The said Act is further amended by inserting, immediately after Schedule III, the following schedule:

"SCHEDULE III.1

OATH OR AFFIRMATION OF OFFICE

I, A.B., solemnly and sincerely swear (or affirm) that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Public Service."

personnes à laquelle le Ministre interdit de fournir de tels renseignements. (Dans le cas d'une prestation de serment, ajouter «Ainsi Dieu me soit en aide».)»

3. Ladite loi est en outre modifiée par l'insertion, immédiatement après l'annexe III, de l'annexe suivante:

«ANNEXE III.1

SERMENT OU AFFIRMATION D'OFFICE

Je, A.B., jure (ou affirme) solennellement et sincèrement que je remplirai avec fidélité et honnêteté les fonctions qui m'incombent en raison de mon emploi dans la Fonction publique.»

Published under authority of the Speaker of the House of Commons by the Queen's Printer for Canada

Available from Printing and Publishing, Supply and Services Canada, Ottawa, Canada K1A 0S9

Publié en conformité de l'autorité de l'Orateur de la Chambre des communes par l'Imprimeur de la Reine pour le Canada

En vente: Imprimerie et Édition, Approvisionnements et Services Canada, Ottawa, Canada K1A 0S9

*I wonder how
this crept in here?*

Discrimination?

Citizen

18-5-77

Admitted lesbian says armed forces threatening to dismiss her

By Rob Sinclair

Citizen staff writer

An Ottawa-based servicewoman says she has been threatened with dismissal from the armed forces because she is a lesbian.

Private Barbara Thornborrow said Tuesday she has been under investigation by the armed forces special investigation unit (SIU) since May 9.

The disclosures came on the same evening as the Commons justice and legal affairs committee began examination of the government's proposed human rights legislation.

Stuart Leggatt (NDP—New Westminster) and Gordon Fairweather (PC—Fundy-Royal) plan to introduce amendments to the bill to outlaw discrimination on grounds of sexual orientation.

The 25-year-old photo technician said she was questioned at CFB Rockcliffe by an SIU sergeant and a military policeman about her alleged homosexual activities.

She was told she was being questioned for reasons of national security.

"They said I was susceptible to blackmail."



Barbara Thornborrow
Consulting lawyer

Thornborrow said she admitted she was a lesbian. She said the sergeant asked her to either sign a document confirming this or agree to psychiatric counselling.

She believes if she had signed the document, she would have been released from the service.

Refusing both courses, she asked to consult a lawyer.

She said her barracks room was searched and some personal belongings confiscated.

Her roommate was questioned about her activities and later moved to other quarters.

"I have no idea how the forces found out I was a lesbian. It was definitely not my roommate who told them," she said.

"My roommate was annoyed at being moved. She was asked to keep quiet more or less against her wishes."

A new roommate moved in with her Monday. "It could be she is there to make me feel uncomfortable," said Thornborrow.

Thornborrow, who has been in the armed forces 16 months and in Ottawa since last December, said she had been warned by friends that something like this could happen if she joined the services.

"I don't see what lesbianism has to do with how I do my job, in the Canadian forces or anywhere else," she said. "It's totally irrelevant. My private thoughts and feelings are my own business."

Armed forces Administrative Order 19-20 bars "homosexual members or members with a sexual abnormality" from staying in the service.

Thornborrow says she has applied for a general release.

Army denies pressure

Citizen 19-5-77

Lesbian wanted out

The armed forces said today a lesbian who said she had been threatened with dismissal had already asked for and received permission to leave the army.

A defence department spokesman said Pte. Barbara Thornborrow, 25, had received permission to leave the forces before it was discovered she is a lesbian.

Reacting to the force's explanation, Thornborrow said today that though she had asked for an early voluntary discharge on May 3, she had been concerned that she would be released with a "not so honorable" discharge after she was questioned about her homosexuality by the armed forces special investigation unit on May 9.

"The voluntary release could have been rejected if they decided to release me as a lesbian. That's how it looked to me. Otherwise, I don't see why they would bother talking to me. I have had a very low profile since I joined the service."

Thornborrow, who works in the armed forces photography department, is due to leave in November and her commanding officer has said if she finds a job that requires she leave earlier, it will be arranged.

The armed forces statement suggests that she will get the voluntary discharge she sought. But Thornborrow thinks media attention to her case this week is responsible. "They would be in a lot of hot water if they threw me out now."

JUN 2 1977

A0142212_43-000759

ACTION REQUEST - FICHE DE SERVICE
FROM/DE: OFFICE OF SSEA/CABINET DU SEAE

24-6-77

Date

1129
 Ref. No.

To/À <i>PSI → PSS</i>	Information to/Renseignement à <i>APD</i>
Letter dated/Lettre en date du <i>17-6-77 (copy)</i>	Referred by/Référer par
From/De <i>A.I. Stewart, Pres. PSAC, Ottawa</i>	Subject/Sujet <i>Application & administration of security clearance</i>

ACTION REQUIRED/ACTION REQUISE

☐ Reply for minister's signature
 Réponse pour la signature du ministre

☐ Reply by division
 Réponse de la division

☐ For appropriate action
 Pour action requise

☐ Reply for the signature of
 Réponse pour la signature de

☒ Note and file
 Noter et mettre au dossier

FOR DIVISIONAL USE/POUR L'UTILISATION DE LA DIVISION

Date received in division/Date reçue à la division

27 June 1977

Action officer/Officier responsable

PSS

Disposition and date/Disposition et date

A0142212_44-000760

EXT 439 (6/76)

ACTION REQUEST - FICHE DE SERVICE
FROM/DE: OFFICE OF SSEA/CABINET DU SEAE

4429

Date 24-6-77		Ref. No.
To/À PSI → PSS	Information to/Renseignement à APO	
Letter dated/Lettre en date du 17-6-77 (copy)	Referred by/Référer par	
From/De A I. Stewart Pres PSAC Ottawa	Subject/Sujet Application - administration of security clearance	

ACTION REQUIRED/ACTION REQUISE

☐ Reply for minister's signature
 Réponse pour la signature du ministre

☐ Reply for the signature of
 Réponse pour la signature de

☐ Reply by division
 Réponse de la division

☒ Note and file
 Noter et mettre au dossier

☐ For appropriate action
 Pour action requise

FOR DIVISIONAL USE/POUR L'UTILISATION DE LA DIVISION

Date received in division/Date reçue à la division

27 June 1977

Action officer/Officier responsable

PSS

Disposition and date/Disposition et date

A0142212_45-000761