

(JULY 13, 2002); VOL. 136, NO. 14, PART II, (JULY 3, 2002)
VOL. 25, NO. 1, PART III, (MAY 2, 2002)

SECURITY OF INFORMATION ACT

SPECIAL OPERATIONAL INFORMATION AND PERSONS PERMANENTLY BOUND TO SECRECY

R.S.C. 1985, c. O-5, s. 12

12. [MARGIN NOTES: Certificate; Disclosure of certificate]

Certificate

(1) Subject to subsection (2), a certificate purporting to have been issued by or under the authority of a Minister of the Crown in right of Canada stating that a person is a person permanently bound to secrecy shall be received and is admissible in evidence in any proceedings for an offence under section 13 or 14, without proof of the signature or authority of the Minister appearing to have signed it, and, in the absence of evidence to the contrary, is proof of the fact so stated.

Disclosure of certificate

(2) The certificate may be received in evidence only if the party intending to produce it has, before the trial, served on the party against whom it is intended to be produced reasonable notice of that intention, together with a duplicate of the certificate.

HISTORY: 2001, c. 41, s. 29 (in force December 24, 2001).

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CONSOLIDATED STATUTES OF CANADA

THIS DOCUMENT IS CURRENT THROUGH VOL. 136 THE CANADA GAZETTE, NO. 28, PART I
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SECURITY OF INFORMATION ACT

SPECIAL OPERATIONAL INFORMATION AND PERSONS PERMANENTLY BOUND TO SECRECY

R.S.C. 1985, c. O-5, s. 13

13. [MARGIN NOTES: Purported communication; Truthfulness of information; Punishment]

Purported communication

(1) Every person permanently bound to secrecy commits an offence who, intentionally and without authority, communicates or confirms information that, if it were true, would be special operational information.

Truthfulness of information

(2) For the purpose of subsection (1), it is not relevant whether the information to which the offence relates is true.

Punishment

(3) Every person who commits an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for a term of not more than five years less a day.

HISTORY: 2001, c. 41, s. 29 (in force December 24, 2001).

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SPECIAL OPERATIONAL INFORMATION AND PERSONS PERMANENTLY BOUND TO SECRECY

R.S.C. 1985, c. O-5, s. 14

14. [MARGIN NOTES: Unauthorized communication of special operational information; Punishment]

Unauthorized communication of special operational information

(1) Every person permanently bound to secrecy commits an offence who, intentionally and without authority, communicates or confirms special operational information.

Punishment

(2) Every person who commits an offence under subsection (1) is guilty of an indictable offence and is liable to imprisonment for a term of not more than 14 years.

HISTORY: 2001, c. 41, s. 29 (in force December 24, 2001).

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SECURITY OF INFORMATION ACT

SPECIAL OPERATIONAL INFORMATION AND PERSONS PERMANENTLY BOUND TO SECRECY

15. [MARGIN NOTES: Public interest defence; Acting in the public interest; Paragraph (2) (a) to be considered first; Factors to be considered; Prior disclosure to authorities necessary; Exigent circumstances]

Public interest defence

(1) No person is guilty of an offence under section 13 or 14 if the person establishes that he or she acted in the public interest.

Acting in the public interest

(2) Subject to subsection (4), a person acts in the public interest if

(a) the person acts for the purpose of disclosing an offence under an Act of Parliament that he or she reasonably believes has been, is being or is about to be committed by another person in the purported performance of that person's duties and functions for, or on behalf of, the Government of Canada; and

(b) the public interest in the disclosure outweighs the public interest in non-disclosure.

Paragraph (2) (a) to be considered first

(3) In determining whether a person acts in the public interest, a judge or court shall determine whether the condition in paragraph (2) (a) is satisfied before considering paragraph (2) (b).

Factors to be considered

(4) In deciding whether the public interest in the disclosure outweighs the public interest in non-disclosure, a judge or court must consider

(a) whether the extent of the disclosure is no more than is reasonably necessary to disclose the alleged offence or prevent the commission or continuation of the alleged offence, as the case may be;

(b) the seriousness of the alleged offence;

(c) whether the person resorted to other reasonably accessible alternatives before making the disclosure and, in doing so, whether the person complied with any relevant guidelines, policies or laws that applied to the person;

(d) whether the person had reasonable grounds to believe that the disclosure would be in the public interest;

(e) the public interest intended to be served by the disclosure;

(f) the extent of the harm or risk of harm created by the disclosure; and

(g) the existence of exigent circumstances justifying the disclosure.

Prior disclosure to authorities necessary

(5) A judge or court may decide whether the public interest in the disclosure outweighs the public interest in non-disclosure only if the person has complied with the following:

(a) the person has, before communicating or confirming the information, brought his or her concern to, and provided all relevant information in his or her possession to, his or her deputy head or, if not reasonably practical in the circumstances, the Deputy Attorney General of Canada; and

(b) the person has, if he or she has not received a response from the deputy head or the Deputy Attorney General of Canada, as the case may be, within a reasonable time, brought his or her concern to, and provided all relevant information in the person's possession to,

(i) the Security Intelligence Review Committee, if the person's concern relates to an alleged offence that has been, is being or is about to be committed by another person in the purported performance of that person's duties and functions of service for, or on behalf of, the Government of Canada, other than a person who is a member of the Communications Security Establishment, and he or she has not received a response from the Security Intelligence Review Committee within a reasonable time, or

(ii) the Communications Security Establishment Commissioner, if the person's concern relates to an alleged offence that has been, is being or is about to be committed by a member of the Communications Security Establishment, in the purported performance of that person's duties and functions of service for, or on behalf of, the Communications Security Establishment, and he or she has not received a response from the Communications Security Establishment Commissioner within a reasonable time.

Exigent circumstances

(6) Subsection (5) does not apply if the communication or confirmation of the information was necessary to avoid grievous bodily harm or death.

HISTORY: 1992, c. 47, s. 80 (in force August 1, 1996); 2001, c. 41, s. 29 (in force December 24, 2001).

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SECURITY OF INFORMATION ACT

COMMUNICATIONS WITH FOREIGN ENTITIES OR TERRORIST GROUPS

R.S.C. 1985, c. O-5, s. 16

16. [MARGIN NOTES: Communicating safeguarded information; Communicating safeguarded information; Punishment]

Communicating safeguarded information

(1) Every person commits an offence who, without lawful authority, communicates to a foreign entity or to a terrorist group information that the Government of Canada or of a province is taking measures to safeguard if