

RECOMMENDATION 11

The Committee recommends that section 21(5)(a) of the *CSIS Act* be repealed.

3.3 CSIS's Primary Mandate

Section 12 of the *CSIS Act*, which establishes CSIS's primary mandate, reads as follows:

12. The Service shall collect, by investigation or otherwise, to the extent that it is strictly necessary, and analyze and retain information and intelligence respecting activities that may on reasonable grounds be suspected of constituting threats to the security of Canada and, in relation thereto, shall report to and advise the Government of Canada.

A number of terms and phrases in this provision are ambiguous or unclear. Some of these phrases are: "by investigation or *otherwise*", "to the extent that it is strictly necessary", "reasonable grounds be suspected" and "constituting threats to the security of Canada". It is difficult to come up with amendments that would give the Service a more precise definition of its primary mandate than section 12 already establishes. Nevertheless, there is no doubt that the Service needs guidance on how to interpret its primary mandate as set out in the definition of threats to the security of Canada and section 12 of the *CSIS Act*.

To this end, in March 1985 the Inspector General circulated to various elements of the Canadian security and intelligence community an exhaustive 300-page legal memorandum prepared by a consultant dealing with CSIS's primary mandate. It dealt with many of the issues addressed in this chapter. This initiative by the Inspector General appears to have met with little or no interest from the security and intelligence community. In April 1987, the Inspector General circulated a legal memorandum prepared by another consultant dealing with the "strictly necessary" limitation on the Service's primary mandate. It included principles or guidelines for the interpretation of this phrase. In October 1987, the IAT urged that the Solicitor General's Ministry Secretariat develop, in collaboration with the Service, legal/policy frameworks for the section 12 primary mandate and the section 2 definition of threats to the security of Canada.

In an implementation report on the status of the recommendations made by the IAT in 1987, the Service informed the Committee that "directives" dealing with section 12 and the definition of threats to the security of Canada were in preparation and a draft would be ready for consideration by the Deputy Solicitor General and the Director of the Service in the spring of 1990. Despite the work of the Inspector General and the urging of the IAT, there is still, six years after CSIS was established, no comprehensive ministerial direction