

interest in the discharge of their respective duties. The Commissioners should continue generally to have powers of recommendation only, although the Information Commissioner should be empowered to issue binding orders in the areas of delays, fees, fee-waivers, and time extensions.

At present, the *Access to Information Act* and the *Privacy Act* provide two different standards under which the Federal Court of Canada can exercise judicial review under each Act. The Committee examined this issue and concluded that both Acts should be amended to allow the Federal Court to conduct *de novo* judicial review. In this way, the Federal Court of Canada could put itself in the place of the government institution and render the decision that, in its view, should have been made by the government institution.

In Chapter 5 of the Report, the Committee makes recommendations dealing with a number of particular issues under the *Privacy Act*. In the area of computer-matching, the Committee recommends that the *Privacy Act* be amended to ensure that this exercise in linking personal records is conducted only when demonstrably necessary and under the continued vigilant oversight of the Privacy Commissioner. The widespread collection of Social Insurance Numbers in all sectors of society has long been a source of controversy. The Committee examined this situation and has concluded that the *Privacy Act* should be amended to restrict the collection of Social Insurance Numbers by making it unlawful to collect them without lawful authorization. The Committee examined the provision of the *Privacy Act* (section 18) which permits the establishment of exempt banks containing personal information thereby deemed to be entirely beyond access. It was concluded that the arguments in favour of retaining exempt banks were unconvincing and that these banks should be deleted entirely from the *Privacy Act*.

In other issues dealt with in this part of the Report, the Committee recommends that there be civil remedies in damages and criminal penalties for breaches of the *Privacy Act*, that the Privacy Commissioner be consulted regularly by policy-makers and law-makers, that the *Privacy Act* be amended to cover the Canadian Police Information Centre and similar collection systems for sensitive data, that the provisions of the *Privacy Act* defining 'consistent use' and 'personal information' be clarified, and that a provision on security of personal information be added to the *Privacy Act*.

The Committee deals with a number of particular issues under the *Access to Information Act* in Chapter 6. At present, there are no detailed criteria under which government institutions may waive fees for access to information. The Committee recommends that the Act or the Regulations be amended to set out the criteria under which fee waivers would be granted; a proposed set of such criteria is set out in the recommendation. One of the major complaints heard by the Committee was about the length of time government institutions often take in fulfilling access requests. The Committee recommends that the initial response time available to a government institution should be 20 days, rather than 30 days as at present, subject to a further 40-day extension. Under the Committee's proposal, an extension beyond the additional 40 days may only be obtained through the issuance of a certificate by the Information Commissioner.

The Committee also looked at the issue of delays at the office of the Information Commissioner. To resolve these difficulties, the Committee recommends that after 60 days a complainant be allowed to obtain a certificate showing that a complaint investigation has not been completed—this would permit the complainant to seek review of the complaint by the Federal Court, if so desired. This recommendation would also apply to investigations by the Privacy Commissioner. The Committee concludes this Chapter by recommending that the *Access to Information Act* be amended to permit government institutions to release records without the need for an access request when the public interest so requires and a grave environmental, health or safety hazard makes it necessary to do so.

Chapter 7 of the Report deals with a series of emerging privacy issues. On electronic surveillance, the Committee recommends that the *Privacy Act* be amended to deal with it in explicit terms and that the Privacy Commissioner continue to monitor developments in this area. Similarly, the Committee makes these same recommendations in relation to drug tests and the use of the polygraph.