

Committee recommends that both Acts be amended to ensure that there is provision for a public education mandate, and for the education and training of government employees.

At present, the Acts do not apply to all government institutions—hence there is confusion as to which are subject to this legislation. The Committee recommends that the *Access to Information Act* be extended to all government institutions and to offices directly responsible to Parliament, but not to judicial institutions. It also recommends that the *Privacy Act* be extended to all government institutions, to offices directly responsible to Parliament, and to judicial institutions. The Committee finally recommends that both Acts be extended to cover all Crown corporations and their wholly-owned subsidiaries, but that the *Access to Information Act* not apply to program material held by the Canadian Broadcasting Corporation.

At present, only Canadian citizens and permanent residents of this country have rights of access to information under both Acts. The Committee recommends that any person, natural or legal, should have access rights under the *Access to Information Act* and the *Privacy Act*.

Although the 'designated head' of each government institution named by regulation under the *Access to Information Act* and the *Privacy Act* is legally responsible for the administration of the legislation, in fact, the day-to-day work is carried out by Access/Privacy Coordinators who receive and process access requests. The Committee has concluded that Coordinators are the prime movers for the implementation of both Acts and that this status should be formally entrenched in the legislation. The Committee recommends that, because of the importance of their role, Coordinators should be officials of senior rank, wherever possible, and should have direct working and reporting relationships with senior management and program officials. The Committee has also concluded that Coordinators will do their jobs more effectively if they are provided with more training, backup, and coordination services by the Treasury Board Secretariat and the Department of Justice.

Chapter 3 of the Report deals with exemptions and the exclusion of Cabinet confidences in both the *Access to Information Act* and the *Privacy Act*. At present, both Acts are a confusing mixture of numerous exemptions: some are class- or harms-tested; some are discretionary or mandatory in nature. The Committee examined this confusing situation and has concluded that all exemptions in both Acts, with the exception of its proposed exemption dealing with Cabinet confidences, should be discretionary in nature and subject to a 'significant injury' test. This Chapter of the Report also contains a number of recommendations dealing with the narrowing of specific exemptions in both Acts.

Chapter 3 of the Report also deals with the exclusion of Cabinet confidences contained in both the *Access to Information Act* and the *Privacy Act*. Under the present legislation, Cabinet confidences are excluded from the ambit of both Acts: this means not only that there is no access to such documents, but also that a refusal of access to such documents is not reviewable by either the Commissioners or the Federal Court of Canada. The Committee received more submissions on the issue of Cabinet confidences than on any other question. The conclusion reached by the Committee is that Cabinet confidences should be subject to a class-tested, discretionary exemption. This Cabinet confidences exemption should only cover agendas, minutes of meetings and draft legislation or regulations which have been in existence for fewer than fifteen years. The Committee concluded that the remaining elements of the current provisions on Cabinet confidences would be adequately protected by other exemptions in both Acts. Because of the unique role of Cabinet in our parliamentary system of government, the Committee concluded that a refusal of access to Cabinet confidences should not be reviewable by the Commissioners but only by the Associate Chief Justice of the Federal Court.

The Committee deals with the Commissioners and the Federal Court in Chapter 4 of its Report. Under present legislative arrangements, the Information Commissioner and the Privacy Commissioner do not have the power to issue binding orders. They also share premises as well as some administrative and management staff. The Committee concludes that the office of the Information Commissioner and the Privacy Commissioner should be separated so that there should be no real or perceived conflict of