



SECURITY INTELLIGENCE  
REVIEW COMMITTEE

# **Annual Report**

**1984-85**

Security Intelligence Review Committee  
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The Hon. Elmer MacKay, P.C.  
Solicitor General of Canada  
House of Commons  
Ottawa, Ontario  
KIA OA6

June 14, 1985

Dear Mr. MacKay:

Pursuant to section 53 of the Canadian Security Intelligence Service Act, I hereby transmit to you the annual report of the Security Intelligence Review Committee for the fiscal year 1984-85 for submission to Parliament.

Yours sincerely,

Ronald G. Atkey, P.C., Q.C.  
Chairman

Jean Jacques Blais, P.C., Q.C.

Frank McGee, P.C.

Saul Cherniack, P.C., Q.C.

Paule Gauthier, P.C.

# Table of Contents

<b>Preface</b>	1
<b>Section I -- The Review Committee's Mandate</b>	3
General	3
The Review Function	3
The Complaint Function Regarding CSIS	5
The Complaint Function Regarding Security Clearances	5
Complaints under the Canadian Human Rights Act	7
Reports from the Secretary of State and the Minister of Employment and Immigration	8
<b>Section II -- Committee Activities</b>	11
The Review Function	11
Briefings	11
Review of Warrants and Arrangements	12
Special Events or Reports	13
CSIS Employment Policy Regarding Homosexuals	13
The Complaint Function Regarding CSIS	14
The Complaint Function Regarding Security Clearances	14
Committee Staffing	15
<b>Section III -- Committee Assessment, 1984-85</b>	17
Separation from RCMP	17
Foreign and Domestic Arrangements	18
Personnel Recruitment and Training	19
Operational Priorities	19
<b>Section IV -- The Future</b>	21
The Review Function	21
The Review Committee and its Clients	22
Complaints Procedures	23
<b>Section V -- Conclusion</b>	25

## Preface

The Security Intelligence Review Committee was created under the provisions of the Canadian Security Intelligence Act (the "Act"), which received Royal Assent on June 28, 1984, and which came into force on July 16, 1984.

Subsections 34.(1) and (2) of the Act read as follows:

34.(1) There is hereby established a committee, to be known as the Security Intelligence Review Committee, consisting of a Chairman and not less than two and not more than four other members, all of whom shall be appointed by the Governor in Council from among members of the Queen's Privy Council for Canada who are not members of the Senate or the House of Commons, after consultation by the Prime Minister of Canada with the Leader of the Opposition in the House of Commons and the leader in the House of Commons of each party having at least twelve members in that House.

(2) Each member of the Review Committee shall be appointed to hold office during good behaviour for a term not exceeding five years.

The Chairman, the Honourable Ronald G. Atkey, P.C., Q.C., and four Members, the Honourable Frank McGee, P.C., the Honourable Jean-Jacques Blais, P.C., Q.C., the Honourable Saul M. Cherniack, P.C., Q.C., and the Honourable Paule Gauthier, P.C. were appointed by Order in Council on November 30, 1984.

This report is made to the Solicitor General under section 53 of the Act and covers the activities of the Committee for the four months ending on March 31, 1985. It has been prepared without benefit of the annual report of the Director of the Canadian Security Intelligence Service (CSIS) to the Solicitor General or certificate of the Inspector General under section 33 of the Act for the period ending December 31, 1984, neither of which had been received by the Committee at the time of writing.

## **Section I -- The Review Committee's Mandate**

### **General**

Parliament has entrusted the Review Committee with a heavy responsibility. Not only must the Committee act on behalf of all Canadians as the external review mechanism for the Canadian Security Intelligence Service, it must also act as a tribunal to consider complaints about activities of CSIS. As well, it must act as an appeal tribunal for all disputes about security clearances involving federal employees or those who wish to provide goods or services to the federal government. The Committee, then, has three distinct functions.

### **The Review Function**

There is little doubt that Parliament would not have given the CSIS its extraordinary powers if Parliamentarians had not been satisfied that the use of those powers was to be subject to continuous and thoroughgoing review. To this end, the Act establishing CSIS not only requires all intrusive powers to be used only upon the authority of a warrant issued by a Judge of the Federal Court, but also puts in place permanent internal and external review mechanisms.

The Solicitor General is, of course, accountable to Parliament for the actions of CSIS; his is the ultimate responsibility. To assist him, the Act creates the new position of Inspector General. This officer's functions are: -- to monitor the compliance by the Service with its operational policies; -- to review the operational activities of the Service; and -- to submit to the Minister a certificate stating the extent to which the Inspector General is satisfied with the Annual Report, or any other periodic report to the Minister, prepared by the Director of the Service, and noting whether the Service has, in his opinion, done anything not authorized by the Act, contrary to Ministerial directives, or involving an unreasonable use of the powers given to the Service.

Thus, the Inspector General's major role is to strengthen the internal review of the Service which is the responsibility of the Solicitor General. However, because the Review Committee will receive from the Minister copies of both the Director's reports, and the certificates issued by the Inspector General, and because the Inspector General may also be required by the Review Committee to conduct investigations into specific activities of the Service, his office is something more than just an internal review mechanism. It is also the link between the internal and external review functions so carefully put in place by Parliament.

The external review mechanism is the Security Intelligence Review Committee which was created to monitor and report to Parliament on the activities of CSIS. The Committee has been given powers that are as far reaching as its responsibilities. In particular, it may call for any information whatsoever from CSIS (with the sole but important exception of Confidences of the Queen's Privy Council of Canada) in order to fulfil its responsibilities under the provisions of sections 38 and 40 of the Act.

38. The functions of the Review Committee are

(a) to review generally the performance by the Service of its duties and functions and, in connection therewith,

(i) to review the reports of the Director and certificates of the Inspector General transmitted to it pursuant to subsection 33(3),

(ii) to review directions issued by the Minister under subsection 6(2),

(iii) to review arrangements entered into by the Service pursuant to subsections 13(2) and (3) and 17(1) and to monitor the provision of information and intelligence pursuant to those arrangements,

(iv) to review any report or comment given to it pursuant to subsection 20(4),

(v) to monitor any request referred to in paragraph 16(3)(a) made to the Service,

(vi) to review the regulations, and

(vii) to compile and analyse statistics on the operational activities of the Service;

(b) to arrange for reviews to be conducted, or to conduct reviews, pursuant to section 40.

The object of reviews under section 40 is to ensure that the activities of CSIS are carried out in accordance with this Act and with the regulations and directives issued by the Minister; and also to ensure that these activities do not involve any unreasonable or unnecessary exercise by the Service of any of its powers. To achieve this, the Review Committee may

(a) direct the Service or Inspector General to conduct a review of specific activities of the Service and provide the Committee with a report of the review; or

(b) where it considers that a review by the Service or the Inspector General would be inappropriate, conduct such a review itself.

Clearly, these are onerous responsibilities. To fulfil them adequately the Committee will need to know, in considerable detail, virtually everything that is being done by CSIS. A later section in this report will outline how the Committee plans to accomplish this.

### **The Complaint Function Regarding CSIS**

The Review Committee, under the provisions of section 41 of the Act, must investigate complaints made by any person with respect to any act or thing done by CSIS. Such complaints must not be trivial or frivolous, they must have been submitted first to the Director of CSIS, and they must not be complaints which would normally be handled under established grievance procedures.

These are reasonable conditions, and they do not diminish the Committee's ability to investigate and to make independent recommendations in cases where individuals do not feel that they have had their complaints answered satisfactorily by CSIS. The Committee's function with respect to complaints is, in a very real sense, an integral part of its major role as the external review body overseeing the activities of CSIS.

### **The Complaint Function Regarding Security Clearances**

Quite distinct from its external review function, the Committee has been constituted as an appeal tribunal to consider any matter having to do with federal security clearances.

42.(1) Where, by reason only of the denial of a security clearance required by the Government of Canada, a decision is made by a deputy head to deny employment to an individual or to dismiss, demote or transfer an individual or to deny a promotion or transfer to an individual, the deputy head shall send, within ten days after the decision is made, a notice informing the individual of the denial of the security clearance.



(2) Where, by reason only of the denial of a security clearance required by the Government of Canada to be given in respect of an individual, a decision is made to deny the individual or any other person a contract to provide goods or services to the Government of Canada, the deputy head concerned shall send, within ten days after the decision is made, a notice informing the individual and, where applicable, the other person of the denial of the security clearance.

(3) The Review Committee shall receive and investigate a complaint from

- (a) any individual referred to in subsection (1) who has been denied a security clearance; or
- (b) any person who has been denied a contract to provide goods or services to the Government of Canada by reason only of the denial of a security clearance in respect of that person or any individual.

This quasi-judicial role as an appeal tribunal is of immediate interest to individuals who are denied a security clearance and are adversely affected in their employment with the Federal Government as a result. Of course, an individual cannot appeal the denial of a security clearance unless he knows that such a decision has been made. In the past, there was often no requirement that he be so informed. As is evident from the subsections cited above, the Act remedies this by requiring deputy heads or the Minister to inform the individuals concerned.

The Committee has heard some criticism of the wording of section 42 of the Act from officials who must comply with it. The major criticism is that it is often not possible to determine with precision whether the denial of a security clearance will, alone, adversely affect the employment of the individual concerned. It is often the case that even though future employment may be adversely affected, this is not certain at the time of the denial of the security clearance, and the Departments concerned are unsure as to their immediate obligations in such situations. The Committee will continue to consult with various departments to determine whether this ambiguity can be resolved satisfactorily without an amendment to the Act.

Until the Act was promulgated, not only were many individuals unaware that they had been denied a security clearance, but even those who were informed were often not told why their application had been denied. Now, the law requires the Committee to give each individual who registers a complaint as much information about the circumstances giving rise to the denial of a security clearance as is consistent with the requirements of national security. The Committee must then examine all facts pertinent to the case, and make its own judgement as to the basis of the decision of the deputy head concerned.

All parties have the right to present evidence before the Committee in person, or to be represented by counsel. The Committee has the right to examine all the available evidence, and may summon witnesses or demand the production of documents in the same manner as a superior court of record, though it may often receive "national security" testimony or documents in the absence of the complainant or counsel.

### **Complaints under the Canadian Human Rights Act**

The Canadian Human Rights Act is amended to read:

36.1 (1) In this section, "Review Committee" has the meaning assigned to that expression by the Canadian Security Intelligence Service Act.

(2) When, at any stage after the filing of a complaint and before the commencement of a hearing before a Human Rights Tribunal in respect thereof, the Commission receives written notice from a Minister of the Crown in right of Canada that the practice to which the complaint relates was based on considerations relating to the security of Canada, the Commission may

- (a) dismiss the complaint; or
- (b) refer the matter to the Review Committee.

In such references from the Human Rights Commission, the Review Committee will conduct an investigation in essentially the same way as if the matter had originated as a security clearance complaint. However, the Committee's report and recommendations will be made to the Human Rights Commission as well as to the appropriate Minister.

## **Reports from the Secretary of State and the Minister of Employment and Immigration**

The Citizenship Act has been amended so as to provide that when the Minister is of the opinion that a person should not be granted citizenship because there are reasonable grounds to believe that the person will engage in activity that either constitutes a threat to the security of Canada or is part of a pattern of organized criminal activity, the Minister may make a report to the Review Committee. The Minister must also cause a notice to be sent to the person concerned within ten days of making the report. This notice will inform the individual that a report has been made to the Review Committee, and that, following an investigation by the Committee, a declaration with respect to that individual may be made by the Governor in Council denying citizenship.

The Immigration Act, 1976 is also amended so as to provide that when the Minister and the Solicitor General believe that an applicant for admission to Canada will engage in activity that is inimical to Canada's interests because it is part of a pattern of organized criminal activity, a threat to national security, the instigation of the subversion by force of any government, or acts of violence that could endanger the lives or safety of persons in Canada, they may make a report to the Review Committee.

As is the case with reports to the Review Committee made under the Citizenship Act, the individual concerned must be informed within ten days that such a report has been made.

Reports made to the Review Committee under both the Citizenship and the Immigration Act, 1976, will be investigated in essentially the same way as complaints made by an individual. The Committee will judge the merits of the case before taking the actions or making the reports specified in each Act, and so, though the procedures and the statutory requirements differ somewhat in each case, the net effect is the same. That is, an individual making a complaint under the Canadian Security Intelligence Service Act, or a person being judged under the Citizenship or Immigration Acts, is now accorded the opportunity of a thorough review of the case by an independent body.

The Committee is not empowered by the Act to make the final decision on cases submitted to it, and so investigations culminate in the Committee's making a report or a recommendation to the appropriate Minister or the Governor in Council as the case may be. Because the Act requires the Committee's annual report to be tabled in Parliament, it was envisaged, no doubt, that reports and recommendations made on complaints would receive serious consideration and probable action.

Reports are also provided where appropriate to the Director of CSIS and the deputy head concerned, and the Review Committee will always provide the complainant, or the individual concerned, with as full a report as possible of its findings.

## **Section II -- Committee Activities**

### **The Review Function**

From the very beginning, it was clear to members of the Committee that CSIS would have reservations about being totally open with information which was not distributed even within CSIS itself except on a "need-to know" basis.

To help allay these concerns about preserving secrecy, the Chairman asked that all Committee staff be cleared to Top Secret by CSIS after a thorough review of their files and any further investigation the Director deemed necessary.

With the same aim in mind, the Committee relied on CSIS personnel to transport sensitive documents from Ottawa to CSIS regional offices closest to members' homes, and enlisted the aid of RCMP specialists to ensure that its permanent offices will be completely secure.

Though the Committee realizes that there will certainly be occasions when it differs with the Director, and that its function may create an adversarial relationship in certain circumstances, it is also very conscious of the need to establish a solid foundation of trust between the two organizations. Without such an atmosphere of mutual confidence, both CSIS and the Committee would fulfil their respective responsibilities much less effectively.

Since its formation on November 30, 1984, the Committee has been briefed on many of CSIS' activities, and has met with several experts in the field. During the four months ending on March 31, 1985, Committee Members devoted, on average, twenty-four days to the Committee's business.

### **Briefings**

Introductory briefings have been given to the Committee by CSIS on the following subjects:

- CSIS's current organization and its plans for the future.
- Recruiting and personnel training and development plans.
- Arrangements with foreign agencies.
- Arrangements with other federal departments, and with provincial governments and agencies.
- The development and maintenance of sources of information.
- Warrant procedures before the Federal Court.
- Terrorist organizations of current concern.
- The orientation and allocation of CSIS's resources vis-a-vis current threats to Canada's security.

The Committee is well aware that there is still a great deal to learn about the above matters and is carrying on continuing discussions with and receiving additional briefings from CSIS. In particular, the Committee is not satisfied that it has sufficient knowledge or understanding of the extent of arrangements between CSIS and other foreign or domestic agencies, nor does it believe that it is sufficiently well briefed on CSIS' recruiting and training activities.

The Committee has also been briefed by the Solicitor General, the Honourable Elmer MacKay, M.P.; the former Solicitor General, the Honourable Robert Kaplan, M.P.; the Clerk of the Privy Council, Gordon Osbaldeston; the Deputy Solicitor General, Fred Gibson; the Commissioner of the RCMP, Robert Simmonds; the Assistant Secretary to the Cabinet for Security and Intelligence, Nicholas d'Ombrain; a former Director General of the RCMP Security Service, John Starnes; and Professor Alan Grant, an expert in the field from Osgoode Hall Law School of York University. Arrangements were also made to meet, in the spring of 1985, with Blair Seaborne, Security and Intelligence Coordinator in the Privy Council Office; Senator Michael Pitfield; Mr. Justice David McDonald of the Supreme Court of Alberta and former Royal Commissioner; Professor Peter Russell of the University of Toronto and former Research Director for the McDonald Commission; and Svend Robinson, M.P., Justice critic for the New Democratic Party.

Briefings from External Affairs and National Defence on their security clearance procedures and from the Communications Security Establishment (CSE) on current operations were also arranged for the spring of 1985.

The Chairman met the Solicitor General three times on Committee business and the Committee met for an evening with the Inspector General (designate) Dr. Richard Gosse, Q.C., and arranged to meet him again when he assumed his responsibilities in Ottawa.

### **Review of Warrants and Arrangements**

The Committee had the opportunity to make initial reviews of all CSIS applications and supporting affidavits seeking warrants from the Federal Court, and will continue its review of new and renewed applications. It has also received from CSIS copies of documents relating to arrangements with other agencies, both domestic and international, and is making plans for a comprehensive review of these, having conducted only a cursory review of some of them in the time available.

Despite in-depth briefings and extensive reading, both in Ottawa and at the CSIS regional offices closest to their homes, the members of the Committee recognize that they do not have a complete understanding or knowledge of CSIS activities in these areas. This is hardly surprising since the McDonald Commission found that it took a considerable amount of fulltime effort over four years to even begin to understand the complexities of the RCMP Security Service.

### **Special Events or Reports**

The Chairman, on behalf of the Committee, and following consultation with the Solicitor General, asked CSIS to provide its post mortem report on CSIS activities related to events leading up to the terrorist attack on the Turkish Embassy in Ottawa on March 12, 1985.

Also, after similar consultation with the Solicitor General, the Chairman, on behalf of the Committee, asked CSIS to provide its post mortem report on CSIS activities related to the terrorist threat of March 26, 1985 to bomb the Toronto transit system on the following Monday, April 1, 1985.

Both CSIS reports were considered by the Committee at its meetings on April 18-19, 1985. It appeared from the reports that CSIS had done all it could to obtain information which would be of use to all concerned agencies.

While considering the reports referred to above, the Review Committee discovered that, though information from the Canadian Police Information Centre (CPIC) is available to the Service through the co-operation of the RCMP, CSIS itself is not a direct participant in the system and does not, therefore, have CPIC terminals directly available to its officers. It seems to the Committee that direct access to CPIC information by CSIS officers is essential to their operational capability.

The Review Committee is of the opinion that the Canadian Police Information Centre Advisory Committee should allow CSIS direct access to CPIC.

### **CSIS Employment Policy Regarding Homosexuals**

The Chairman wrote to the Director on March 29, 1985 asking him for information on the Service's employment policy regarding homosexuals. The Committee has been informed that both the Armed Forces and the RCMP refuse to employ or retain known homosexuals, and state that this policy is not based on concerns as to their vulnerability as security risks.

The Director replied to the Chairman's letter on April 12, 1985. He explained that CSIS does not have a formal policy on the employment of homosexuals; it being possible in such a relatively small organization to judge each case individually. The Director added that one of the major ways in which senior management is attempting to civilianize CSIS is by avoiding the issuance of detailed guidelines and regulations, and relying on the intelligent and humane application of broad policies.

The Committee is of the opinion that this is an entirely acceptable approach, and will monitor its implementation in the context of the more general review of CSIS' personnel activities.

#### **The Complaint Function Regarding CSIS**

The Committee received a complaint respecting the activities of CSIS in the questioning of refugees seeking permission to immigrate to Canada. This complaint had not been submitted previously to the Director as it should have been under the provisions of section 41 of the Act, and so the complainant has been informed of the correct procedure in such cases.

#### **The Complaint Function Regarding Security Clearances**

By March 31, 1985, the Committee had received three complaints. One was prematurely filed, one was delayed at the request of the complainant, and one is being considered.

Several complaints have been submitted to the Committee since March 31, 1985. But it is evident that the small number received in the first four months of the Committee's existence is due not only to the fact that the Committee has been established for such a short time but also to the fact that Public Service managers are not yet fully informed as to the requirements of the Act. Many potential complainants, therefore, are not aware of their rights. To remedy this, the Committee has suggested to the Clerk of the Privy Council that he instruct deputy heads to inform in writing all persons who have their employment adversely affected by the denial of a security clearance of their right to complain to the Review Committee. The Committee also intends to take other steps to ensure that prospective complainants are made aware of their statutory rights.

To ensure procedural fairness to those complainants and their counsel who do come forward, the Committee on March 9, 1985 adopted Rules of Procedure applicable to complaints under sections 41 or 42 of the Act, or to proceedings under the Canadian Human Rights Act, the Citizenship Act and the Immigration Act.



## **Committee Staffing**

The Committee has employed an Executive Secretary and a small staff to assist in research and investigation, and to help collate, categorize and summarize the large volume of information available. Maurice Archdeacon, formerly Deputy Assistant Secretary to the Cabinet Committee on Foreign and Defence Policy in the Privy Council Office, was recruited as Executive Secretary to the Committee following a personnel search and a competition. He commenced his duties on February 11, 1985, and has been authorized to employ a small professional research and investigative staff, as well as the administrative staff necessary to the Committee's support. The Committee has established its permanent offices on the sixteenth floor of the Journal Building (South Tower) at 365 Laurier Avenue West, Ottawa, Tel. (613) 990-8441.

### **Section III -- Committee Assessment, 1984-85**

Despite the fact that the Committee was in operation for only four months, the members were able to form some preliminary views concerning the activities and operational methods of the Service.

#### **Separation from RCMP**

Overall, it appears to the Committee that the new civilian Service has weathered the separation from the RCMP quite well. The Committee did not have an opportunity to visit CSIS Regional offices and, therefore, cannot comment on the morale of the Service as a whole. However, morale at the Headquarters level seems to be quite good in spite of the magnitude of the organizational change and the additional frustration inherent in moving such a complex organization from 1200 Alta Vista Drive to the East Memorial Building on Wellington Street in Ottawa.

The CSIS regional organization in Toronto moved from its location on Jarvis Street to new offices on Front Street at the end of May. The Toronto region's new offices provide CSIS employees with much better and more modern facilities. This is not entirely true with respect to the offices which have been allocated to the CSIS Headquarters staff in the East Memorial Building in Ottawa. The Committee believes that it would be desirable to have modern self-contained facilities for CSIS in Ottawa as soon as financial and other circumstances permit.

## Foreign and Domestic Arrangements

When the Committee first asked to be briefed on arrangements for the exchange of security intelligence with other countries and with other agencies in this country, CSIS did not have the information organized or collated in a way which would have allowed Committee members to review all of it. Since then, CSIS has organized the relevant material in a series of volumes which have been made available to members at CSIS regional offices. The Committee was not surprised to learn that all exchanges of information with other agencies, both domestic and international, are still authorized on the basis of arrangements made with those organizations by the RCMP. This is understandable in the short term, but it is the Committee's view that arrangements should be consolidated by CSIS itself under the provisions of section 17 of the Act.

Canada's security intelligence arrangements with foreign organizations fall within three general categories:

-- *Formal*

- a) the terms of agreements are explicitly documented;
- b) there is an exchange of notes stating that both sides agree to the terms and the notes are duly signed by the person in charge of both services; and

- c) there is an exchange of notes between the Canadian Embassy and the foreign ministry of the country concerned.

-- *Informal*

there is an exchange of notes or letters at the service or embassy level, stating an implicit understanding of cooperation.

-- *Ad Hoc*

there is only an oral understanding to cooperate, conveyed to a liaison officer.

Some examples of normal agency to agency cooperation are:

*immigration/visa vetting*

acquisition or exchange of security/criminal information on applications for admission to Canada;

*security assessments*

acquisition or exchange of security/criminal information for the purpose of appraising an individual's loyalty to Canada and so far as it relates thereto, the reliability of an individual;

*security intelligence liaison*

acquisition or exchange of information and intelligence respecting activities that may, on reasonable grounds, be suspected of constituting threats to the security of Canada.

## **Personnel Recruitment and Training**

The personnel recruitment and training programmes of CSIS since the establishment of the new organization remain for the Committee somewhat of a question mark. Two Royal Commissions of Inquiry concluded that the establishment of a new civilian agency separate from the RCMP was necessary, and this was clearly the intent of Parliament in Bill C-9 which was given Royal Assent on June 28, 1984; we understand that 95 percent of the members of the RCMP Security Service chose to transfer to the new agency. The Committee intends to become thoroughly familiar with the personnel recruitment and training activities of CSIS as a matter of high priority, and will be seeking detailed briefings from the Director or other appropriate CSIS officials in June, 1985 to determine what further review and assessment should be undertaken and then reported to the Minister.

## **Operational Priorities**

A clear, understandable analysis of the operational priorities of the Service has not yet been made available to the Committee. Such information is necessary to an assessment of the allocation of resources, the effectiveness of the operational priorities system, targeting effectiveness, recruitment criteria and activities, and the training and development programmes being put in place. The Committee intends to request that such a comprehensive analysis, including an analysis of the allocation of financial and human resources, be provided to it before the end of the 1985-86 fiscal year.

The Committee is aware that the balance of resources between counter-intelligence, counter-subversion, and counter-terrorism will change from time to time, perhaps annually. However, the Committee believes that CSIS should have an operational plan which, though subject to change, reflects CSIS management's view of current operational and administrative priorities.

The Committee expects that the Director's report to the Solicitor General under section 33 of the Act for the period ending December 31, 1984 (not yet received) will be a useful starting point in this area.

## Section IV -- The Future

### The Review Function

During 1985-86, its first full year of operation, the Committee intends to become intimately familiar with every aspect of CSIS' activities.

Priority areas for investigation and research will be:

- personnel recruitment, training and development activities;
- the use of human sources, an evaluation of the intelligence product from such sources, and an assessment of where CSIS' apparent priorities lie in this regard;
- the collection and analysis of information from open sources by CSIS (this was an area of criticism by the McDonald Commission);
- the CSIS budget and CSIS priorities in the allocation of resources to its targets;
- the exchange of information with other countries and agencies by CSIS. (The Act requires the Committee to monitor this facet of CSIS' activities, and the Committee is particularly interested in examining how this exchange of information affects the rights of Canadians and how it might affect Canada's sovereignty); and
- the collection and analysis of statistics, including financial statistics, so as to arrive at an independent view of how CSIS uses its human and material resources; also appropriate means of reporting such statistics to the Minister and Parliament on an annual basis.

The Committee is mindful that, similar to the practices of the past nine years, all warrants issued by the Solicitor General under subsection 16(2) of the Official Secrets Act in 1984 and any interceptions and seizures made thereunder up until December 31, 1984 will be the subject of an annual report to Parliament by the Solicitor General. However, with the transference of the authority to grant warrants to the Federal Court under section 21 of the Canadian Security Intelligence Service Act, the reporting to Parliament of the number of such warrants in future years (including average length of time in force, the method of interception and seizure utilized, and an assessment of the importance of such warrants in meeting the objectives of the Act) seems to have fallen into abeyance. It is not clear from the Act whether reporting this information is initially the responsibility of the Solicitor General, the Director of CSIS, the Inspector General or the Committee. However, it is clear that the Committee has the responsibility to "compile and analyse statistics on the operational activities" of CSIS.

In the first three months of 1985, it was not possible for the Committee to develop a statistical reporting system for warrants sufficient to inform Parliament in any meaningful way. Definitions relating to the persons or classes of persons or places against which a warrant may be directed have changed from the Official Secrets Act system, and statistical comparisons would have been difficult for the short period in question. However, the Committee intends to include in its statistical analysis for future years a comprehensive review of warrants applied for and issued under the Act, so as to be in a position to include in its annual report to the Minister and Parliament statistical information which is at least equal to that formally provided under the Official Secrets Act.

### **The Review Committee and its Clients**

The Committee believes that Parliamentarians intended it to act on their behalf to ensure that the new civilian agency, while effectively protecting the nation's security against non-military threats, treats individual Canadians fairly, and that CSIS uses its intrusive powers with restraint and with an overriding sensitivity to democratic values.

The Committee is well aware that to draw the correct line between the protection of national security and the preservation of individual liberty has never been easy in any democratic society. Parliament has attempted to do so, in general terms, in the Act which created both CSIS and the Review Committee. The Committee must now attempt to establish the balance between national security and individual liberty by applying those general guidelines to specific activities and particular cases. Future reports to Parliament will reveal the degree to which the Committee is able to meet this challenge.

In the meantime, the Rules of Procedure adopted by the Committee on March 9, 1985 are designed to give the Committee's clients some insight into how it plans to investigate complaints brought before it. Copies of the Rules of Procedure in English and French are available to members of the public. The Committee wishes to consider appeals or complaints expeditiously and with concern for fairness to persons affected, but always having due regard to the requirements of national security.

Individuals, or their counsel, will find that the Committee's objective is to attempt to avoid unnecessary confrontation between the complainants and the government and to have before it all pertinent information so as to attempt to establish the true facts of any complaint over which it has jurisdiction.

Parliament has given the Committee, acting as a tribunal, the right to require the production of any information or documents whatsoever. However, it may not be possible in some instances to give complainants or their counsel access to some of this information or documents because of the requirements of national security.

### **Complaints Procedures**

Any person who has a complaint under section 41 of the Act against any actions of CSIS should write in the first instance to the Director, Mr. T.D. Finn at 1200 Alta Vista Drive, Ottawa, Ontario, K1A 0R2. Should the response be unsatisfactory to the individual concerned, or should no response be received, he or she may then write to the Chairman, The Security Intelligence Review Committee at P.O. Box 2430, Station "D", Ottawa, Ontario, K1P 5W5, or deliver the complaint to the Committee's offices on the sixteenth floor of the Journal Building (South Tower) at 365 Laurier Avenue West, Ottawa. Complaints under section 41 which have not been first submitted to the Director cannot be considered by the Committee.

Any person who has been adversely affected in employment with the federal government or any of its agencies, or who has been refused an opportunity to provide goods or services to the federal government or its agencies solely by reason of the denial of a security clearance, may complain directly to the Committee. The information kit available from the Executive Secretary of the Committee outlines in non-legal language the rights and duties of individuals who wish to make use of this procedure. In each case, the Committee will consult with the deputy head concerned to determine whether the negative actions of government were "solely by reason of the denial of a security clearance"; a statutory precondition to the Committee's assuming jurisdiction over the complainant's case.

Any person, though not so informed, who has been adversely affected in either employment with or ability to supply goods or services to the federal government or any of its agencies by reason of the denial of a security clearance may write to the Committee asking that the case be considered. The Committee will then attempt to establish the facts in consultation with the deputy head concerned and decide whether it has jurisdiction.

Complainants will be informed by the Committee of the outcome of every complaint, and of the government's reasons for the refusal to hire or promote, the dismissal, demotion, or transfer of an individual, or the denial of a contract.

## Section V -- Conclusion

The Committee is deeply conscious of its onerous responsibilities in representing the interests of Parliament in the external oversight of CSIS. In the short time since its formation, the Committee has adopted a collegial non-partisan approach to its assigned tasks, with the emphasis being on acquiring a working knowledge of security intelligence matters and attempting to ask the right questions to those who should be in a position to provide answers.

Given its statutory and part-time role as an external review body, the Committee's perspective is necessarily that of detached outsiders. With this comes a genuine curiosity sprinkled with a healthy dose of skepticism -- factors which are an important part of the Canadian Parliamentary tradition. In addition, Committee members bring a wide range of parliamentary, legislative, governmental, and public service experience to the job: as former federal or provincial ministers responsible for security, defence, immigration, and treasury matters, and as activists who continue to play a public role in their respective communities or professions. Members of the Committee have a combined legislative experience totalling thirty-nine years. The Committee believes that this experience constitutes a pool of knowledge and insight which enables it to pursue its oversight and complaint functions with intelligence and sensitivity to the competing interests at stake.

In every aspect of its functions, the most difficult issue facing the Committee is balancing the rights of individual Canadians against the requirements of national security. While Parliament has attempted to make this task somewhat easier through a new definition of "threats to the security of Canada", there is still broad scope for differences of opinion under the Act. Also, this sort of issue cannot be solved through legislative drafting alone. Much depends on the nature and extent of the information available and the philosophy of decision makers in positions of authority.

For its part in the process, the Committee plans to ferret out with vigour information relevant to its duties and functions, and then, in deliberating and determining the national security requirements involved, to provide fairness to individual Canadians affected. The Committee is only one body in a complex maze of checks and balances established by Parliament in the Act. But through its report, the Committee is the single body which can give Parliament annually an independent insight into the workings of the maze. This the Committee intends to do to the best of its abilities, judgement, and experience.