

Government Response to the Report of the Standing Committee on Citizenship and Immigration

"HANDS ACROSS THE BORDER:

Working Together at our Shared Border and Abroad to Ensure Safety, Security and Efficiency"

MAY 2002

The Government has carefully considered the sixty-seven recommendations made by the Standing Committee in its report, **Hands Across The Border: Working Together at our Shared Border and Abroad to Ensure Safety, Security and Efficiency**. What follows is a specific response to each recommendation.

A. The Effects of 11 September 2001

i. Security Misconceptions After September 11th

Recommendation 1

Citizenship and Immigration Canada and other government departments make an effort to educate the public, both here and abroad, so that unsubstantiated and unwarranted concerns about Canada's border security are refuted. Ongoing and proposed measures must be communicated widely. Such educational efforts should also be addressed to American legislators.

Since September 11, the Government has encouraged Canadian missions in the United States to take a proactive stance to educate the public regarding misperceptions about Canadian policies, management of the border and alleged threats to U.S. security coming from Canada. Our missions have been actively engaged in a forceful advocacy campaign to effectively deliver our message that Canada is not a haven for terrorists. Our strategy has included measures such as correcting misstatements on security issues in the U.S. media, providing factual information on border security to key interlocutors and meeting with U.S. political representatives at all levels to inform them of Canada's commitment to the fight against terrorism and to seek their support to brief other American interlocutors on Canadian security policy and border issues. In addition, Ministers travelling to the United States have taken advantage of numerous speaking opportunities to regularly and consistently deliver our message on the economic and security importance of the border.

ii. The Immediate Effects Felt at the Border

Recommendation 2

Border practices should continue to be guided by the primary objectives of safety, security and efficiency.

The Government is committed to enhancing security and public safety by making greater use of programs that enable closer scrutiny of individuals and goods prior to their arrival at ports of entry.

B. The Impact of the New *Immigration and Refugee Protection Act* (Bill C-11)

Recommendation 3

National standards for front-end screening be established based on best practices and that staffing levels be increased where necessary to ensure that front-end screening is an effective and expeditious process. Proper training, including training in cross-cultural understanding, will be necessary to implement these national standards.

The Government agrees that fair and equitable treatment of all persons seeking admission is the basis on which any new screening measures are implemented. National standards are being developed for front-end screening of refugee claimants and training will include cross-cultural understanding.

Recommendation 4

Specialized teams be established to process refugee claimants at high volume ports of entry.

The Government believes that new measures being introduced will meet the objective of processing refugee claims as expeditiously as possible, while improving effectiveness and maintaining the integrity of the refugee determination process. Under the *Immigration and Refugee Protection Act*, decisions on refugee eligibility will be made within three working days, hearings on straightforward cases will be more expeditious, and persons inadmissible on security or criminal grounds will be deemed ineligible to have a hearing before the Immigration and Refugee Board.

Clearly it is in our interest that specialized staff be dedicated to the refugee claims process, especially at high volume ports of entry. Because of this, CIC has been given additional resources in the 2001 Budget to establish dedicated units at high volume ports of entry to administer the security screening processing of refugee claimants. Expansion of this program is presently underway. It is not evident that having IRB

members and Adjudicators on call at ports-of-entry would be beneficial. A hearing in front of the Board involves a number of resources in addition to the IRB member, including support staff, Refugee Claims Officers (in the case of a refugee hearing) and interpreters. In addition, individuals subject to IRB proceedings have a right to counsel.

Recommendation 5

Citizenship and Immigration Canada should ensure that sufficient resources are allocated to address concerns surrounding implementation of the Pre-Removal Risk Assessment.

The Government is sensitive to the committee's concern regarding the allocation of resources to Pre-Removal Risk Assessment (PRRA) for persons under consideration for removal. PRRA is an integral step in the removal process. Resources have been allocated to ensure the process operates smoothly, effectively and appropriately.

C. Canada and the U.S. -- Cooperation, Coordination, Partnerships

Recommendation 6

Canada and the United States place an increased emphasis on the speedy implementation of joint initiatives developed, and continuing to be developed, under the Shared Border Accord.

Canada and the U.S. recognize the mutual benefits of on-going partnership and cooperation. Under the *Smart Border Declaration*, the two countries have made significant progress on several joint border programs. For example, the NEXUS program is now being implemented and expanded to high-volume ports-of-entry across our shared border. NEXUS represents an excellent model of ongoing cooperation between U.S. and Canadian Customs and Immigration agencies in determining our future border strategy.

i. Refugee Claimants from the United States

a. Safe Third Country

Recommendation 7

While maintaining Canada's commitment to the Refugee Convention and our high standards in respect of international protection, the Government of Canada should pursue the negotiation of safe third country agreements with key countries, especially the United States.

The Government is actively pursuing a safe third agreement with the United States. These negotiations began last December with both sides committed to reaching agreement at the earliest possible date. Once these negotiations are successfully concluded, we will then determine where best to direct our efforts to obtain other agreements.

b. Direct-Backs

Recommendation 8

Pending the establishment of a safe third country agreement, which would be preferable, direct-backs be used where possible as an alternative to detention when initial checks cannot be completed expeditiously.

Currently, Immigration officers may direct persons back to the United States under certain specific circumstances, for example where a Senior Immigration Officer is not reasonably available. Examinations may also be deferred, and persons rejected, when they cannot be properly examined due to inebriation or a lack of necessary documents.

Direct-backs are contentious when they involve persons applying to enter Canada seeking to make a refugee claim. Canada's obligations under the Geneva Convention require that caution be exercised when deferring examination of persons who wish to enter a refugee claim. The Government believes that the United States does not pose a risk to persons who choose to make a refugee claim at a Canadian border. Detention in Canada is used only when absolutely necessary, i.e. when persons pose a threat to public safety, are considered to be a flight risk, or are undocumented and uncooperative in establishing their identity.

ii. Coordinate Visa Requirements

Recommendation 9

Canada work with the United States to coordinate visa requirements where possible to address any impact felt at the border as a result of incongruity.

Canada and the United States are currently reviewing our respective lists of countries whose nationals require visas to visit either country. Since September 11, these reviews have highlighted our need to increase consultations on the imposition of visa requirements for new countries or on the lifting of visa requirements. Canada has imposed requirements on eight new countries, and, the United States recently imposed visa requirements on citizens of Argentina whose nationals were exploiting the U.S. visa exemption provisions to lodge spurious refugee claims at our border. The Government encourages Canadian and U.S. immigration agencies to exchange

information to ensure that each other's concerns are formally considered and coordinated so that the security concerns are met through the visa regimes of both countries.

ii. Pre-Clearance of People and Goods

Recommendation 10

The Canadian and U.S. governments facilitate entry of low-risk travellers by reinstating the CANPASS/PORTPASS programs at land border crossings, as long as each person in the car is checked. Emphasis should also be placed on full implementation of the NEXUS program at all land ports of entry.

NEXUS is being implemented in accordance with the *Smart Border Declaration* signed on December 12, 2001 by Deputy Prime Minister John Manley and Governor Tom Ridge. NEXUS will next be implemented at the British Columbia/Washington crossing at Pacific Highway/Blaine, Douglas/Blaine and Boundary Bay/Point Roberts by the summer 2002. NEXUS will be further expanded to all high-volume ports at the land border.

Recommendation 11

The Canadian and U.S. governments facilitate the entry of low-risk, frequent air travellers between Canada and the U.S. by reinstating the CANPASS Airport and INSPASS programs, respectively, at applicable international airports, and expanding it to all Canadian international airports.

USINS resumed its INSPASS program in February 2002.

The Government is developing the Expedited Passenger Processing System (EPPS) as an alternative air inspection program to replace the current CANPASS Air program. We will implement EPPS at Vancouver International Airport and Pearson International Airport by December 2002. EPPS will allow immigration and customs officials at airports to readily identify pre-approved low risk travelers through the use of secure pass cards, biometrics and automated kiosks, thus enabling us to concentrate enforcement activities elsewhere. EPPS will begin accepting enrolment applications in October 2002.

Recommendation 12

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work with their U.S. counterparts to put in place customs self-assessment and pre-

arrival release programs to facilitate movement across the border of low-risk commercial traffic thus freeing up resources for use on higher risk traffic.

As part of the Customs re-engineering initiative implemented in December 2001, the Canada Customs and Revenue Agency's Self-Assessment (CSA) program facilitates the movement of low risk commercial traffic. This program will enable the CCRA to focus additional resources on traffic that represents higher risk.

Recommendation 13

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work with their U.S. counterparts to implement a joint commercial driver registration program.

Driver Registration forms part of the CCRA CSA initiative, designed to facilitate the movement of low-risk commercial traffic. The CCRA is now working with our US counterparts to develop harmonized commercial processes, which will build on key concepts within CSA.

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency are committed to participating in alternative inspection programs as they facilitate the lawful movement of travelers while preventing the admission of inadmissible people. Joint programs strengthen cooperative efforts of both countries and ensure the integrity of the immigration systems.

Recommendation 14

The governments of Canada and the United States seek new ways of sharing information relating to border security. Cross-border information sharing initiatives that have proven effective should be implemented throughout Canada.

Long before the events of September 11th, Canada and the United States have been sharing information on a wide range of issues and people under a variety of agreements. These information-sharing agreements are being reviewed in light of the events of September 11th because we want to strengthen and enhance our mutual abilities to share information in order to counter the threat. This is in line with the *Smart Border Declaration* signed on December 12, 2001, and is the reflection of a long standing desire by both governments to work as closely as possible to protect our citizens from security threats.

Recommendation 15

The governments of Canada and the U.S. be more proactive about encouraging the flow of information and the coordination of intelligence efforts at all levels. If privacy and disclosure laws prove to be impediments to information flow, the countries should consider amending the legislation in question and/or negotiating new bilateral agreements to facilitate information sharing.

As allies and neighbours, Canada and the United States have worked together in the past to share information and coordinate intelligence efforts and the Government expects that we will continue to collaborate closely with our most important ally on these matters.

Both countries recognize that there is an ongoing need to review the agreements that are already in place to ensure that they reflect the full extent of our needs and the changing environment. Current bilateral discussions are focusing on enhancing existing information-sharing provisions and exploring new ones, including agreements to exchange data on asylum seekers, and overseas lookout information and visa refusals.

Recommendation 16

Citizenship and Immigration Canada actively pursue the development of formal partnerships with other agencies to facilitate the flow of information when dealing with security issues.

CIC and other departments and agencies have been actively engaged in developing joint strategies to facilitate the exchange of information on border security issues. These efforts are not new. Since 1995, officials have maintained regular discussions on these issues in the national and bilateral settings created by fora such as Border Vision between immigration agencies, the Shared Border Accord between customs and immigration agencies and the Cross-Border Crime Forum between police, customs and immigration agencies. These fora have been instituted in order to facilitate information sharing. In the post-September 11th environment of heightened security, information exchange initiatives have been accelerated. Discussions on enhancing the information sharing provisions of current agreements are underway, with a view to obtaining as comprehensive an agreement as possible. In some instances, we are expecting that agencies will agree to exchange officers and this too will bring increased information sharing benefits.

v. Joint Enforcement and Investigation

Recommendation 17

The governments of Canada and the United States put in place sufficient regional Integrated Border Enforcement Teams to cover the entire Canada-U.S. land border at all times.

The IBET is a multi-agency intelligence led law enforcement team that emphasizes a harmonized approach to Canadian and U.S. efforts to target cross border criminal activity, including illegal migration, between the ports of entry. The model is built on the premise of partnership, and on sharing information more effectively.

IBETs enable U.S. and Canadian police services and law enforcement communities to work together daily with local, state and provincial enforcement agencies. The IBETs goal is to help protect Canada and the U.S. from potential threats of terrorism, and to impede smuggling by land, air or water.

The RCMP is the lead agency with respect to IBETs, and they are currently consulting their investigative partners on the mandate, composition and location of the teams across Canada.

Recommendation 18

The IBETs should be sufficiently equipped to communicate effectively and to respond immediately to irregular border activities. They should be assisted by tools and technological aids such as air support, motion detectors and motion-triggered cameras. The efforts and equipment of both countries should be coordinated to ensure maximum efficiency.

IBETs are designed to be joint intelligence-led units rather than operational response teams. The RCMP is working closely with CIC and CCRA to identify the most effective locations and their corresponding infrastructure needs. The United States Border Patrol are investing in new technology and manpower along the border, and IBETs will liaise with their U.S. counterparts to make best use of these resources, to our mutual benefit.

vi. Joint Facilities

Recommendation 19

The governments of Canada and the United States consider constructing more joint border facilities. Such facilities would be most effective at small, remote ports of entry.

Canada and the U.S. are examining the option for a joint shared facility before either country initiates a port replacement project. If it is determined that a joint facility is

not the optimum course of action (e.g. the facility on the other side may be in good repair) then Canada and the U.S. will examine if options exist for the sharing of infrastructure (water, sewer, electrical, etc).

The issue of joint facilities is being addressed in the *Smart Border Declaration*. The direction coming from this initiative could have a significant impact on the direction of joint facilities.

D. Canada and the World -- Overseas Interdiction

Recommendation 20

More information exchanges and coordinated intelligence activities be pursued with other governments for the screening of travellers.

The Government strongly supports activities that will increase information exchanges and coordinate intelligence activities with other governments. The December budget clearly underlined the importance that we attach to these activities. Screening travellers abroad is a function currently carried out by Canadian Immigration Control Officers (ICOs) in conjunction with airline staff and control authorities of other countries. International cooperation has proven effective in reducing the risks, but clearly there is more work to be done. CIC and other Government departments and agencies are working more closely together to broaden the impact of screening initiatives.

Recommendation 21

More immigration control officers be hired to work overseas and that related infrastructure resources be provided. This should be a top priority.

The Government agrees that interdiction activity performed by Immigration Control Officers (ICOs) is a top priority to enhance the safety and security of our citizens by keeping the threat as far as possible away from our actual territory. The December budget provided additional resources to CIC to strengthen its existing network of 44 ICOs and enhance cooperation with airline and foreign control partners. The deployment of additional ICOs abroad is only one component of a comprehensive disruption strategy. A multi-faceted approach to the problems posed by irregular migration is more likely to be effective. More resources are being devoted to intelligence collection and analysis, fraud prevention and joint operations with partner agencies and other countries, to more effectively combat irregular migration.

Recommendation 22

Greater intelligence resources be made available by the RCMP, CSIS and the Communications Security Establishment to our visa posts abroad. This may entail more RCMP and CSIS officers being posted overseas.

CSIS and RCMP support to CIC programs both in Canada and abroad has been longstanding and of significant benefit for Canada. For effective program delivery, all departments constantly monitor and adjust this support to better respond to new requirements such as changing threat environments and immigration flows. Furthermore, regular high level meetings between officials have resulted in more effective business practices and better mutual support.

CSIS is currently expanding its support to CIC abroad. CSIS presence abroad continues to benefit Immigration Program Managers and Immigration Control Officers (ICOs). On a daily basis, CSIS Security Liaison Officers (SLO), visiting temporary duty officers and HQ operational units have extensive and close interchange with CIC personnel abroad. Through various CSIS operational programs, ICOs in particular are assisted in verifying bona fides of visitors travelling to Canada. CSIS intelligence reports, through the SLO or via CIC HQ, are also shared with CIC abroad to assist officers in carrying out their duties. Moreover, reciprocal CSIS-CIC secondments have facilitated intelligence exchanges and thus support ICO activities abroad.

Similarly, RCMP presence abroad facilitates the provision of criminal information to CIC officers, especially in those states where local law enforcement officers cannot provide criminal information directly to non-police personnel. In such instances, the RCMP Liaison Officer (LO) can obtain the needed information on behalf of CIC through a request to INTERPOL or through an existing Mutual Legal Assistance Treaty.

Recommendation 23

Locally engaged personnel at our visa posts overseas be required to undergo enhanced security screening.

A reliability check is done by DFAIT on all locally engaged staff prior to their being employed by Canadian missions. The form and format for this procedure is identical to that for Canadians receiving similar checks. Due to differences in local conditions and local laws, the reliability and availability of police certificates, credit checks, etc. is not always the same as in Canada. In those circumstances, we rely on the information that is available. The Treasury Board, in conjunction with other Departments, is currently reviewing personal security procedures and locally engaged staff procedures will be included in this review.

Recommendation 24

Travel documents be scanned digitally prior to boarding.

Although there is no legislative requirement for transportation companies to digitally scan travel documents prior to boarding, this process would assist CIC in linking improperly documented passengers to inbound carriers. It would help us to eliminate identity fraud, and assist us in securing travel documents for removal.

We will continue to explore the potential for document scanning and electronic manifests as part of our Advance Passenger Information (API) strategy.

Bill C-42 and the *Immigration and Refugee Protection Act* introduce requirements upon transportation companies to provide basic data concerning all Canada-bound passengers prior to arrival. The Government will build upon this new legislation by meeting with leaders in the field of new border technology, and consulting with airlines.

Recommendation 25

Disembarkation teams should be used as much as possible for flights identified as problematic.

Disembarkation teams are an integral part of the Government's enforcement and security strategy in managing access to Canada. They have proved to very useful to detect and reduce the number of improperly documented and undocumented arrivals at airports, to the benefit of our intelligence, interdiction and removals programs. Flexible response teams have also proved to be effective in the detection of contraband. We will continue to augment this activity at our airports, making best use of existing and new technologies, to determine which flights should be met on arrival.

Recommendation 26

Airlines be required to provide passenger lists to Citizenship and Immigration Canada and other appropriate governmental agencies prior to flight departure for all flights bound for Canada.

The Government agrees with this recommendation. The requirement to provide prescribed passenger information was included in the Immigration and Refugee Protection Act (IRPA) which received Royal Assent on 1 November 2001. Similar provisions are also included in amendments to the Customs Act -- which also received Royal Assent last November -- and in the new Bill C-42. Regulations to support the new immigration and customs legislation will be implemented this summer.

The regulations detail the requirement for all transportation companies to provide Advance Passenger Information (API) and complete reservation details (PNR) upon request.

Recommendation 27

As part of the sharing of information with other nations, we seek access to the information provided in the course of their exit control processes.

Canada continues to be actively involved in the development of information-sharing agreements with foreign partners. However, many of our international partners currently have no exit controls, so it is unlikely that we will actively seek access to such information in the near future.

E. Enforcement and Program Delivery

i. A Greater Role for Immigration at the Primary Inspection Line

Recommendation 28

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work together to enhance security by improving the immigration presence at the primary inspection line. These cooperative efforts could involve full cross training of immigration and customs officers, or possibly consolidation of the two bodies into a single entity.

The Government supports and encourages the cooperation of customs and immigration at all levels to enhance security. Officers from both agencies are trained and have the tools at their disposal to effectively perform their functions. The CCRA and CIC are working very closely together to ensure the Canada-U.S. border is secure and efficient.

Recommendation 29

Citizenship and Immigration Canada ensure that marine ports of entry across the country are staffed with sufficient immigration personnel to meet capacity challenges, especially during the months spanning spring to autumn.

Marine ports must have sufficient staff to meet capacity challenges, especially during the months spanning spring to autumn. The CCRA will continue to provide the required staff at Marine Ports of Entry to fulfil their primary screening mandate. CIC will continue to provide immigration support through the tactical deployment of resources during peak times, when required.

ii. "Streaming" Traffic at Ports-of-Entry

Recommendation 30

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency jointly test and evaluate the effectiveness of "streaming" processes for air travellers, and consider implementing successful initiatives at international airports across Canada.

The Government supports the recommendation to stream travelers at airports, where possible. However, previous experiments with streaming have not yielded the expected results. The Government will continue to explore ways to enhance our services. Accordingly, we are conducting a pilot program at Dorval, to test local enhancements to services for foreign students and migrant workers. We have also initiated new streaming arrangements at Vancouver which cater for a more rapid throughput of transit passengers, whilst maintaining our requirements on segregation for security purposes.

We believe that the travelling public will obtain greater dividends if we focus on developing and deploying modern electronic tools for streaming.

API/PNR will provide management tools to identify and respond to risk; and EPPS will enable pre-approved travellers to quickly pass through special kiosks, which will employ secure, high-technology tools, such as iris scanners.

Recommendation 31

A national airport security authority be created to assess security risks and to implement stringent, uniform security standards at all Canadian international airports.

On December 11, 2001, Transport Minister Collenette outlined details concerning the wide-ranging air security initiatives contained in the federal budget, which included the creation, through legislation of a new Canadian Air Transport Security Authority. Establishing a new Canadian Air Transport Security Authority under federal government control will result in a consistent and integrated air transport security system across Canada, as well as enhanced security performance standards and services. It will also provide the benefits of flexible delivery mechanisms and sensitivity to local needs. As a Crown Corporation, the Authority will be accountable to the Minister of Transport for the delivery of consistent, effective and highly professional service at or above the standards set by federal regulations.

The Authority will be responsible for: pre-board screening of passengers and their belongings and others who access aircraft or restricted areas through screening points; certification of screening officers and screening contractors; acquisition, deployment and maintenance of screening equipment, including explosives detection systems at airports; federal contributions towards mandatory airport policing related to civil aviation security measures; and agreements with the Solicitor General to provide RCMP officers on board aircraft.

The Authority was established on April 1, 2002, and has assumed responsibility for the costs of air transport security services under its mandate. The Authority will participate with Transport Canada and other entities in the ongoing assessment and mitigation of security risks. Transport Canada will continue to regulate the provision of security services and will dedicate new resources, including additional inspections, to increase the level of monitoring and testing of the aviation security system."

Recommendation 32

All non-travellers -- including airport employees -- be required to pass through a security checkpoint before accessing an airport departure area.

All non-travellers requiring access to airport restricted areas must hold a valid and suitable Airport Restricted Area Pass in their name, which is verified by airport security staff. Restricted Area Pass holders are subject to rigorous background security checks. Restricted Area Passes coupled with background security checks are long-standing security measures at Canadian airports. In certain circumstances, a pass holder also may be required to pass through a screening checkpoint and be subject to the same security procedures as travellers.

Recommendation 33

Threat assessments be conducted at all land border crossings to assist in the development of security standards at each crossing point.

The CCRA conducts threat assessments for individual ports of entry. Threat assessments determine risks associated with illicit activities. The CCRA will work with CIC, the United States Customs Service and the United States Immigration and Naturalization Service to further identify risks.

iv. Protective Tools for Officers

Recommendation 34

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work together to ensure their officers are equipped with sufficient protective tools and the training and authorization to use them when necessary.

Both the CCRA and CIC are ensuring that officers are provided with the appropriate protective tools, training and direction to enable them to perform their respective duties.

Recommendation 35

There be a greater armed presence at ports of entry in the form of uniformed police officers, such as the RCMP or local police.

The Health and Safety of our officers is our first priority at ports of entry. We ensure that our officers have the enforcement tools, training and equipment they need to do their job, and that police agencies provide excellent support to CIC and CCRA at ports of entry.

v. Detention of Refugee Claimants

Recommendation 36

Detention continue to play a role in our border security procedures, but cautions that people should be detained for the minimum period necessary and that a detention review should occur within 48 hours, as contemplated by section 57 of the *Immigration and Refugee Protection Act*.

The Government agrees with the notion that people should be detained only for a justified period of time. In order to safeguard a person's rights the *Immigration and Refugee Protection Act* requires that there be a review of the reasons for detention by an independent tribunal, the Immigration Division of the Immigration and Refugee Board, within statutory timeframes. A first review occurs within 48 hours or without delay afterwards and at least once during the following 7 days and every 30 days following the last review.

A factor contributing to longer detention periods can be the time it takes to establish identity. International investigations can rarely be completed within 48 hours, and CIC encourages its officials to shorten the time required to complete these investigations, wherever possible and within reason. In working with officials of other countries to establish a person's identity, it is essential to recognize the full range of sensitivities required to approach a country against which a claimant alleges persecution.

The December budget underlined our commitment to the use of detention as an enforcement tool to ensure the safety, security and integrity of Canada's immigration and refugee protection programs.

Recommendation 37

The detention of minors be avoided and that the best interests of the child be a factor in detention decisions.

Consistent with the *UN Convention on the Rights of the Child*, the *Immigration and Refugee Protection Act* codifies the principle that a minor child be detained only as a measure of last resort after having taken into account the other applicable grounds and criteria including the best interests of the child. Regulations supporting the *Immigration and Refugee Protection Act* provide for special considerations relating to the detention of minor children.

In essence, the Regulations further limit the likelihood that minors will be detained, although detention of a minor is not precluded if the child is considered a danger to the public.

The special considerations that apply in the detention of minor children less than 18 years are:

- the availability of alternative arrangements with local child care agencies or child protection services for the care and protection of the minor children;
- the anticipated length of detention;
- the possibility of continued control by organized human smugglers or traffickers who brought the children to Canada;
- the type of detention facility envisaged and the conditions of detention;
- the availability of accommodation that allow for the segregation of the minor children from adult detainees who are not a parent or an adult legally responsible for the detained minor children; and
- the availability of services in the detention facility, including education, counselling and recreation.

Recommendation 38

Citizenship and Immigration Canada ensure that undocumented refugee claimants who are uncooperative in establishing their identity are detained.

The Government agrees that whenever refugee claimants are uncooperative in establishing their identity, consideration should be given to detention. However, the

Government must balance the effectiveness of detention on the basis of identity versus the cost of detention. In order to safeguard a person's rights, not only does the Minister need to make reasonable efforts to establish identity but also establishing identity must be possible.

In light of increased security precautions and in recognizing the importance of detention within the Government's public safety agenda, immigration detention is argued before the Immigration Division and is maintained if, after assessing all the elements, the member concludes that the person should not be released.

The decision to detain must always be assessed on a case by case basis. It should be recognized that the decision to detain may be based on a single ground such as identity or on a combination, such as identity and flight risk, or flight risk and danger to the public.

Recommendation 39

More detailed statistics be maintained in respect of immigration detentions, particularly the grounds for detention, and that these statistics be provided in the annual report to Parliament made by the Minister of Citizenship and Immigration.

The Government concurs in the Committee's assessment for more detailed statistics. The implementation of the *National Case Management System*, currently being developed, will help address this concern. This system will allow the Government to extract complete immigration detention hold data, including: when and where an individual is detained; the grounds and reasons for detention; and the current detention review stage of an individual.

This system is currently piloted in Toronto, Montreal, Vancouver and is now being implemented in other centres across the country. Given adequate resources and subject to governmental and departmental priorities, it is anticipated the system will be made available nation-wide within the next two years.

Once the provision of national data is available, it will be included in the Departmental Annual Report and also made available to the public.

Recommendation 40

Where necessary, longer term detention facilities be established for refugee claimants who are ordered detained.

In principle, the Government agrees and will continue to explore options for suitable detention facilities to better serve immigration needs including long term detention. It is usually failed refugee claimants who are awaiting removal who are long term detainees.

Given the global movement of people, the number of persons seeking entry into Canada through illegal means is likely to increase with a corresponding increase in detention.

CIC currently operates two immigration detention facilities, one in Laval, Quebec (capacity 120), serving Quebec and Atlantic regions and the other in Mississauga, Ontario (capacity 110) serving the greater Toronto area. For those detained on a danger or security basis in Ontario and Quebec and for all detention needs for other areas not served by these two facilities, CIC uses provincial correctional facilities. CIC recently opened a third detention centre with a 24-bed capacity *for short-term stays* (maximum 72 hours) at Vancouver International Airport.

Recommendation 41

There be improved training of immigration officers regarding detention review jurisprudence.

The Government agrees with the Committee's recommendation that immigration officers receive training. Training on relevant detention review jurisprudence is provided. Guidelines have been issued to Hearing's Officers regarding such existing jurisprudence.

Recommendation 42

The Department ensure that all relevant information gathered by the front-line immigration officers is presented in the Adjudication Division.

The Government agrees with this recommendation. Hearings Officers, who represent the Minister, are responsible for identifying what information is relevant and what needs to be presented. They ensure that submissions before the Adjudication Division deal strictly with issues relevant to detention or release. It should be noted that at the time of a detention review, there can be information that was not available at the time of the decision to detain.

The Government intends to continue strengthening communications between front-line immigration officers and Hearing's Officers. Guidelines for the new legislation will emphasize that all relevant information is to be presented. Information that was

relevant at the time of the decision to detain may no longer be of importance at a detention review in light of new information.

vi. Backlog of Deportation Orders

Recommendation 43

There be relaxed landing requirements for applications made on humanitarian and compassionate grounds for people illegally in Canada who can demonstrate that they pose no risk to our country and are self-sufficient.

The existing guidelines for assessing humanitarian and compassionate applications already include instructions on assessing establishment factors for persons with or without legal status for landing in Canada. These guidelines provide the decision-makers adequate flexibility to take into consideration a range of factors when assessing individual circumstances including the degree of establishment, self-sufficiency and the risk to Canada. No change to these guidelines is anticipated at this time.

vii. Combating Organized Crime -- People Smuggling and Trafficking

Recommendation 44

Given the serious nature of the offences of smuggling and trafficking in people, which is reflected in the increased fines and jail sentences available under the new legislation, prosecutors should be encouraged by CIC and Justice Canada to vigorously pursue more severe penalties.

In order to promote prosecution and sentencing of offenders to the full extent of the law under the new legislation, CIC will continue to work closely with its partners, the RCMP and the Department of Justice. The three agencies have agreed to cooperate more effectively in the investigation and prosecution of smugglers and traffickers.

Recommendation 45

The Government of Canada continue to work closely with the U.S. and other countries in joint operations to combat organized crime, including human smuggling and trafficking.

Canada, the U.S. and other international partners are accelerating efforts to more effectively prevent and combat organized criminal activity, including human smuggling and trafficking. Canadian and U.S. inspection agencies, other government departments and local, provincial/state and federal police will continue to actively

participate in joint anti-organized crime task forces and investigative bodies. Canada is an active participant in international efforts, including through the G8, to combat organized crime, human smuggling and trafficking.

Recommendation 46

Citizenship and Immigration Canada continue to foster regional, national and international partnerships to promote the free-flow of valuable intelligence information, while respecting the Canadian Charter of Rights and Freedoms.

CIC has worked hard to foster both domestic and international relationships. New Memoranda of Understanding are being drafted with the Royal Canadian Mounted Police and CCRA to cover the exchange of intelligence information. International partnerships continue to be strengthened through bilateral arrangements, which permit the exchange of information while ensuring compliance with each country's legislation.

CIC has exchange-of-information agreements on matters relating to illegal migration with the US, the UK and Australia and will conclude one with the Netherlands at the end of March.

F. Resources and Technology

Recommendation 47

The relevant government agencies, including Citizenship and Immigration Canada and the Canada Customs and Revenue Agency, work together to evaluate all resource needs at ports of entry. Based on this evaluation, the Government of Canada should provide more resources to ports of entry to ensure border security and to facilitate the movement of low-risk border traffic.

The Government recognizes the need to closely monitor resource levels at ports of entry.

The 2001 Budget provided additional funding to CIC and CCRA for intelligence, better screening of entrants to Canada, and more than \$1.2 billion to create the most modern, sophisticated border possible -- using state-of-the-art technology to speed legitimate traffic while stopping those who would do our country harm.

Of this funding, \$646 million will go to speeding-up implementation of pre-screening programs for frequent travellers, introducing state-of-the-art detection equipment and establishing Integrated Border Enforcement Teams.

CIC was specifically given additional resources to conduct more front end screening interviews with refugee claimants arriving at ports. Also, a new automated fingerprinting identification system (AFIS) will be installed at all main ports of entry this summer. AFIS will enable immigration officers to scan and transmit digital fingerprints electronically to the RCMP, and will significantly improve our capacity to identify criminals and overcome identity abuse at our ports.

CIC is also building a new resource model for ports of entry based on performance measurement and service standards. Further initiatives such as alternate means of examination, joint passenger analysis units, and new technology solutions are also under active consideration by both agencies.

i. More People

Recommendation 48

The Government of Canada provides sustainable resources to deal with current customs and immigration needs at ports of entry across the country.

Following the December 2001 federal budget, both CCRA and CIC will receive extra resources for the enhancement of border security and facilitation. As a result of this, additional customs and immigration officers have already been deployed to the ports.

Recommendation 49

These resources include more front-line officers, administrative support staff and Immigration and Refugee Board personnel. Sufficient human resources should also be provided in the areas of removal enforcement and detention capacity.

In line with the priority given to front-end screening for asylum claimants at the ports of entry in the 2001 Budget, the number of front-line officers at ports-of-entry recently increased by 28%. This may have an impact on the number of inadmissible or detained cases that may be reviewed by the Immigration Refugee Board and could lead to more cases being scheduled for removal.

The Government believes that an effective enforcement and removals policy is fundamental to the integrity of the Immigration program. The removal of criminals, failed refugee claimants and other inadmissible persons, who are in Canada, is a priority for the Government and for CIC. Approximately 350 inland Enforcement Officers are currently responsible for investigations, removals, and escorts. These officers work closely with the RCMP, various municipal and provincial police forces and participate in task forces in order to increase our capacity to locate and remove

individuals. In many of these cases, valid travel documents are not held and must be applied for. Detention will continue to be used as an enforcement tool to ensure the integrity of Canada's immigration and refugee protection programs. With the cooperation of its law enforcement partners, CIC makes every effort to arrest and detain criminals until a removal order can be effected.

ii. Different Customs and Immigration Pay Scales

Recommendation 50

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work with their bargaining agents to evaluate the issue of remuneration for port-of-entry immigration and customs staff.

The Government is known to be a fair employer. It tries to keep its wages and salaries competitive with the private sector. It also enters into collective agreements with recognized bargaining units. Remuneration of CIC staff is covered under these collective agreements and Treasury Board negotiates them for CIC. Employment is governed by the Public Service Staff Relations Act (PSSRA), the Financial and Administration Act (FAA) and the Public Service Employment Act (PSEA). CIC is covered under Part 1 of the Act. Recently CCRA was granted "Agency" status and therefore is no longer covered by part 1 of the Acts. They are a separate agency and employer and they negotiate separately with the unions.

iii. Resources for Training

Recommendation 51

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency provide resources to ensure that all customs officers are adequately trained in immigration matters. Citizenship and Immigration Canada should use its best efforts to ensure the immigration knowledge of customs officers is sufficient.

CIC already provides training to the CCRA in immigration matters. This includes providing significant input to new Customs Officers as part of their induction course; and subsequent "in-house" training at the respective ports of entry. CIC continue to update this through individual initiatives -- for example, a new training module and customs officer handbook have been prepared for delivery to Customs Officers, on the detail of the new Immigration and Refugee Protection Act (IRPA).

Recommendation 52

Students hired and trained to work at ports of entry be closely monitored to ensure their training is sufficient to effectively carry out their duties. If not, they should undergo further training.

The student program is proven. Both CIC and the CCRA ensure that students are sufficiently trained to carry out their duties. The CCRA provides a three week training course for new students, which includes three days of immigration training.

Students are closely supervised. Port managers and supervisors monitor student officer activities, providing written and oral evaluations when the students are first assigned to border offices. The mentoring program provides ongoing guidance to new officers while they learn to effectively exercise their authority.

Recommendation 53

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency work with Justice Canada to make legal assistance directly available at all times to officers working at ports of entry and on investigations.

The Government is committed to ensuring its front line officials are aware of their legal authorities, and have sufficient access to legal advice when it is required.

Recommendation 54

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency ensure that front-line officers receive training in how to deal with offensive behaviour -- such as extreme rudeness, harassment and violence -- and in how to ensure their own safety.

CIC and the CCRA are presently instructing all CIC and CCRA port of entry officers on tactical communication and disengagement techniques. The Government is, and has taken steps, to ensure that its personnel are properly equipped and trained.

The CIC Officer safety and disengagement policy mandates that immigration officers be trained and certified in defensive techniques whose primary goal is control and, when possible, de-escalation of potentially volatile situations.

The training course provided to all new Customs Inspectors includes a number of modules dealing with diffusing challenging situations and problem solving; this training is sufficient for current customs requirements.

Recommendation 55

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency ensure that sufficient resources are allocated for the implementation of the new *Immigration and Refugee Protection Act*, keeping in mind the need for training while simultaneously continuing existing duties.

Funding has been specifically allocated for the implementation of the *Immigration and Refugee Protection Act*, with further allocations under the security portions of the autumn 2001 budget to further augment the implementation process. Training plans are being developed to ensure that all personnel involved in delivery of the immigration program are adequately prepared to fulfill their duties. CIC is ensuring that all existing responsibilities will continue to be met during the training period.

iv. Intelligence and Mobile Capacity Resources

Recommendation 56

Citizenship and Immigration Canada and its partner agencies hire more intelligence officers both in Canada and overseas to reflect the need for better intelligence information.

CIC received approximately \$650 million in the December budget, which will be used, among other things, to enhance intelligence capacity. CIC has developed its own intelligence-led strategy to combat threats, and will be deploying more Immigration Control Officers (ICOs) abroad. CIC continues to work on improving its intelligence collection, analysis and liaison capabilities to detect, deter and disrupt those who pose a threat to the safety and security of Canada.

Recommendation 57

Interactions between Citizenship and Immigration Canada and its intelligence partners should be better coordinated to optimize information flow. This should be a priority because better intelligence is a deterrent and preventative measure against illegal border activity.

In line with the importance the Government attached to the intelligence function in the December budget, CIC has been focussing its attention on increased interaction with its intelligence partners. This will significantly optimize the flow of information between agencies and will assist Canada's capacity to counter the terrorist threat. CIC is considering participation in numerous initiatives, such as exchange and liaison officers between partners, joint passenger analysis units, expanding IBETs, developing common data bases, and achieving full API/PNR status availability for all parties. The RCMP and CCRA are both heavily involved in these initiatives.

Recommendation 58

Technological tools should be incorporated into intelligence-gathering activities when relevant and possible.

The implementation of new technological tools is essential to successful intelligence-gathering activities. This includes increased use of biometric tools, electronic fingerprint systems, linked databases and proximity card technology (establishing CIC, government-wide and international standards for the creation and vetting of documentation). The *Smart Border Declaration* underlines the importance of the application of biometrics to the movement of people, and the Government is clearly committed to implementing biometric tools, where appropriate, to ensure the safety and security of our citizens.

Recommendation 59

Citizenship and Immigration Canada and the Canada Customs and Revenue Agency have greater mobile capacity to respond to problems that arise between ports of entry.

CIC is examining protocols for responding to activity that takes place between the ports of entry. Discussions continue on the creation of Integrated Border Enforcement Teams (IBETs), whose mandate will be conducting focused investigations between ports under the lead of the RCMP. The IBETs will focus on national security issues by harmonizing information and intelligence gathering, and co-ordinate cross border enforcement activities. IBET teams will work closely with American counter-parts on issues involving cross-border criminal activities and mutual security.

The responsibility for enforcement of Customs laws at the border is shared. Canada Customs concentrates its activities at ports of entry, while the responsibility for border enforcement between ports of entry rests with the RCMP. Although patrolling between border crossings rests with RCMP, the CCRA Flexible Response Teams (FRT) monitor alternate reporting sites.

The Government is committed to a joint coordinated approach to these activities. Patrolling between border crossings is the responsibility of the RCMP. The CCRA FRTs will continue to monitor alternate reporting sites, however, customs will limit their participation in the IBETs network to providing intelligence services.

v. Technology

Recommendation 60

Citizenship and Immigration Canada update its Field Operational Support System to a more user-friendly interface and work with the Canada Customs and Revenue Agency to integrate their databases for cross-access by customs and immigration officers.

CIC is providing more user friendly (graphical user interface) versions of FOSS query in the Client Status Query system, and building the Global Case Management System (GCMS) which will integrate the FOSS data in this system. CIC works closely with CCRA to provide query results on non-Canadians, and collaborates on the Advance Passenger Information System, Passenger Name Record and Expedited Passenger Processing Systems. Additional integration efforts will occur in response to the business needs of either organization.

Recommendation 61

Primary Automated Lookout System traffic lanes with cameras should be installed at all land border ports of entry or, at least initially, at the busiest ones.

The Primary Automated Lookout System - Highway mode (PALS-Hwy) has been installed at 32 border crossings across Canada, with a total of 162 lanes in service. This technology is a front end screening tool used for 70 million travelers (88% of all land border passenger traffic).

The CCRA continues to explore innovative ways of applying technology at the border. The Government is therefore studying available options in order to develop the next generation of the PALS technology.

PALS provides an efficient means for automatically searching lookout data banks from a variety of enforcement agencies. Should we determine that further installations are required, we will actively explore such investments.

Recommendation 62

The Government of Canada work with the airline companies to obtain access to their passenger and booking information database, the Advance Passenger Information/Passenger Name Record (API/PNR), for use at ports of entry.

This work is already well underway. CIC and CCRA are working jointly on this project, and Transport Canada is seeking similar legislative authority under Bill C-42. Together we have met with the airline associations (ATAC, IATA etc.) to advise them of the requirements of the *Immigration and Refugee Protection Act* and S-23 (*Act to amend the Customs Act*), and that the regulations are scheduled to come into effect in June 2002.

A communication strategy announcing the launch of API/PNR will be developed for transportation associations, travel agents and other stakeholders. CIC and the CCRA have been in touch with other border inspection partners (US, UK, Australia etc.) that have a similar mandate to ours. Our aims include harmonizing processes, legislation and policies to generate greater consistency and cooperation on international enforcement initiatives.

Recommendation 63

Automated Fingerprint Identification System (AFIS) technology be installed at all busy air and land ports of entry to complement other technology, such as photo identification, in the processing of refugee claimants and potentially inadmissible persons.

The Government has purchased an Automated Fingerprint Identification System (AFIS) which will be deployed in immigration offices across the country this summer. AFIS will significantly improve our ability to screen persons seeking entry to Canada. The RCMP, in partnership with CIC, and Transport Canada, are presently implementing the AFIS program. CIC has acquired fifty-four (54) AFIS units; forty (40) units to be installed at Ports of Entry, and a further fourteen (14) units for high volume CIC Inland Offices. The systems are scheduled to be operational in the summer of 2002. The deployment of these units underscore the Government's commitment to provide immigration officers on the front line with the latest technology, to support them in the identification of criminals and the prevention of identity abuse.

Recommendation 64

Citizenship and Immigration Canada purchase more hand-held heat detection devices for marine ports of entry with high volumes of container-bearing commercial ships. The purchase of gamma ray technology for viewing the interior of containers should also be considered.

All agencies responsible for marine security are committed to quickly and efficiently searching vessels and cargo containers for improperly documented persons and stowaways at Canadian seaports. We will continue to explore options for the deployment of new technology to support us in this quest.

CCRA has begun a procurement process that will result in the immediate order of high-energy x-ray equipment (valued at approximately \$17 million) such as truck mounted mobile x-ray systems and stationary cargo/pallet x-ray systems for implementation at marine, air and highway ports across Canada. These highly

effective systems use a Cobalt 60 energy source that provides approximately twice the penetration for better examinations of densely loaded containers.

Recommendation 65

Citizenship and Immigration Canada develop national technology standards on what technological equipment is necessary for each port of entry.

CIC is acquiring a range of technological equipment to support their mandate of managing access to Canada. All ports of entry will soon have automated fingerprinting equipment, and document examination readers in addition to regular forgery detection devices. Both CIC and the CCRA are members of an interdepartmental committee that is working to ensure that interconnectivity and perimeter protection technology employed by federal departments and agencies can interface successfully and that digital information of all kinds (text, fingerprints, images etc.) can be readily exchanged and shared. A government blueprint for the comprehensive use of technological systems and data interchange to support public safety and security in Canada is being prepared.

vi. Resources for Facilities

Recommendation 66

The Government of Canada, through Public Works and Government Services, provide resources for the modernization, expansion and rebuilding of port-of-entry facilities that are out of date and in need of repair. Where possible, joint Canada-U.S. facilities should be considered.

The bridge and tunnel authorities provide customs and immigration facilities at major international bridges and tunnels free of charge under Section 6 of the *Customs Act* and Section 89 of the *Immigration Act*.

As custodial owner of the land border crossings, CCRA receives capital appropriations for the maintenance and replacement of these facilities. Investment of these funds is guided by the "Long Term Facility Investment Plan" which is approved annually by the Board of Management. The initiatives outlined in the *Smart Border Declaration* will provide an additional framework to guide the development of shared Canada-U.S. facilities.

Recommendation 67

The efficient operation of primary trade corridors be ensured through the provision of sufficient resources for improved facilities and highway infrastructure.

Acknowledging the importance of trade and transportation corridors to Canada-U.S. trade and economic development, the 2001 budget committed \$600 million to border infrastructure. These funds will be used to improve infrastructure -- such as highways leading to the border, commercial vehicle processing centres and technology -- that supports major border crossings. These resources are in addition to the \$600 million provided by Budget 2000 for the Strategic Highway Infrastructure Program (SHIP), which is aimed at improving highway infrastructure. Of this, \$65 million will be targeted towards strategic border crossing improvements.

The signing of the Canada-U.S. "*Smart Border Declaration*" on December 12, 2001, was a significant watershed event that will shape border management and corridor development. Along with Infrastructure Improvements, the *Declaration Action Plan* outlines a number of initiatives that have the potential to facilitate the secure and efficient movement of travellers and goods across the border and along corridors. These include a Single Alternative Inspection System such as Nexus, Harmonized Commercial Processing for truck and rail cargo, clearance away-from-the-border/preclearance initiatives, and deployment of Intelligent Transportation Systems.

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