



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **STANDING ON GUARD FOR THEE: ENSURING THAT CANADA'S IMMIGRATION SYSTEM IS SECURE**

## **Report of the Standing Committee on Citizenship and Immigration**

**David Tilson  
Chair**

**MARCH 2013**

**41st PARLIAMENT, FIRST SESSION**

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# **THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION**

has the honour to present its

## **SEVENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), and the motion adopted by the Committee on Thursday, December 8, 2011, the Committee has studied the security of Canada's Immigration System.

On Monday, December 10, 2012, the Committee agreed that the evidence and documentation received by the Committee specifically in relation to the security of the Canadian Immigration System, during its studies on Bill C-31, C-43 and C-45, be taken into consideration by the Committee for this study.

The Committee reports the following:



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# **STANDING ON GUARD FOR THEE: ENSURING THAT CANADA'S IMMIGRATION SYSTEM IS SECURE**

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## **PREFACE**

On December 8, 2011, the Committee determined that a security study regarding the immigration system was necessary. The Committee decided to study what actions the Government has implemented or what plans should be taken to enhance the security of Canada's immigration system, as well as what gaps exist, and provide recommendations to the Government as to what further actions should be taken to improve the security of Canada's immigration system. From February 14 to December 3, 2012, the Committee heard from numerous witnesses on the topic; they brought a wide range of views to the issues. The Committee wishes to thank all witnesses who took the time to appear before it.

During the period of this study, the Committee reviewed three bills relevant to the study's terms of reference: Bill C-31, now the *Protecting Canada's Immigration System Act*, Bill C-43, the Faster Removal of Foreign Criminals Act and Division 16, Part 4 of Bill C-45, the second budget implementation Act.

The Committee travelled to Vancouver, Montréal and Toronto to see the conditions in the Immigration Holding Centres (IHCs) and in one provincial correctional facility (Rivière-des-Prairies). The Immigration and Refugee Board of Canada (IRB) in Toronto provided the Committee with an overview of detention review during which the reasons for continued detention are evaluated.

## INTRODUCTION

The Committee wished, with this study, to understand what policy and programs are in place to ensure the security of Canada's immigration system and to provide recommendations if any gaps were found. Citizenship and Immigration Canada's (CIC) mission is to develop and implement policies that will facilitate the arrival and integration of people while ensuring that Canadians' health, safety and security are protected.<sup>1</sup> Since 2003, the Canada Border Services Agency (CBSA) shares responsibility for the enforcement of the *Immigration and Refugee Protection Act* (IRPA). During this study, the concept of security in the immigration system went beyond the notion of identifying individuals who may pose a threat to Canadian society. Protecting the security and integrity of the immigration system was a key theme throughout the study. The Committee heard testimony and recommendations to strengthen the immigration system which most believed to be open to levels of abuse. Witnesses were asked to describe the current situation, with questions also addressing specific topics such as biometrics, war criminals, security clearance checks, border security, visas, detention and removal.

### A. Current process

When an individual applies for a visa to come to Canada, an immigration officer must review the information provided against criteria that would determine whether that person should be refused entry into Canada. Required information in the forms includes previous travels, previous requests to travel to Canada (and the outcome), information about siblings, convictions and employment. All of this information is assessed and cross-referenced by the officer to ensure that there is no misrepresentation and no grounds to refuse entry into Canada. The next steps involve security clearance checks: the Royal Canadian Mounted Police (RCMP) and the Canadian Security Intelligence Service (CSIS) assist CIC and the CBSA to perform criminal and security checks when requested. Depending on the type of visa, medical checks, proof of language abilities and financial assets are also examined. A selection decision is eventually reached, (often under exceptional circumstances after an in-person interview) and, if the applicant meets all the requirements, a visa is issued. The final decision to issue a visa rests with the immigration officer.

Sections 34 to 42 of IRPA detail serious facts in a person's history that render a foreign national's entry into Canada unlikely.<sup>2</sup> They include concerns regarding security (which includes espionage and terrorism), violation of human rights (which includes war crimes), "serious criminality" and "criminality", organized criminality, health grounds, financial reasons, misrepresentation, non-compliance with the Act and being a family member of an inadmissible person.

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1 Citizenship and Immigration Canada, [Our Mandate](#).

2 It is always possible for a foreign national to request a Temporary Resident Permit that allows the officer to exercise discretion if it is justified under the circumstances (ex. death in a family). In 2011, there were 11,526 temporary resident permits issued. (*Annual Report to Parliament on Immigration*, 2012, p. 22).

The CBSA also examines the person arriving at the border and has the authority to deny that person entry if he or she has become inadmissible since the visa was issued. The CBSA is responsible for the detention and removal programs.

The CBSA detains individuals if their identity is not established upon arrival, they constitute a danger to the public, or they pose a flight risk when facing deportation.<sup>3</sup> Currently the CBSA operates three detention centres: one in Vancouver, one near Montréal, and one in the Greater Toronto Area. All other detainees, either high-risk or where there are no IHC, will be held in provincial jails when they must be detained for more than a day, as per various agreements. After 48 hours, the Immigration Division of the IRB must review the reasons for detention and assess if any alternative can be found, such as release with terms and conditions or release under the supervision of a guarantor.<sup>4</sup> If the IRB determines that detention should continue, the decision must be reviewed after 7 days and then every 30 days.

When a foreign national or a permanent resident suddenly is no longer welcomed in Canada, the CBSA asks the IRB to hold an inadmissibility hearing. The Immigration Division of the IRB may conclude with the Board member ordering the removal of the individual.

There are three types of removal orders: departure orders, exclusion orders and deportation orders.<sup>5</sup> They differ in their consequences. A person with a departure order who complies with the order may return to Canada without seeking authorization. A person with an exclusion order must ask for an authorization to come back within the year or can come back without authorization after two years (except for those who committed misrepresentation). A departure order that is not respected will become a deportation order, after which an authorization must be obtained if the individual wishes to return to Canada at any time.

A key issue identified in this study was that Canada does not keep track of visitors exiting its territory. However, in the case of removals, individuals are instructed to identify themselves at the airports and border crossings so that their departure can be verified and recorded in the CBSA database.<sup>6</sup> Unfortunately, in the case of voluntary departures, not everyone complies nor understands the significance of this measure so it is impossible to tell how many people are still in Canada when they no longer should be. In cases where the person is a fugitive or a danger to the public, the removal will be enforced by the border officials.<sup>7</sup> Costs incurred must be reimbursed before the person can come back to Canada.<sup>8</sup>

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3 IRPA, section 55; *Immigration and Refugee Protection Regulations (IRPR)*, sections 244–248.

4 IRPA, section 57.

5 IRPR, sections 223 to 226.

6 *Ibid.*, s. 237 and 240 — voluntary compliance.

7 *Ibid.*, sections 239 and 241.

8 *Ibid.*, s. 243.

The CBSA places the highest priority on removal cases involving national security, organized crime, crimes against humanity and criminality. As a result of the *Balanced Refugee Reform Act*<sup>9</sup> (BRRRA), the CBSA also places a priority on apprehending and removing failed refugee claimants.<sup>10</sup>

The remainder of this report will describe the additional security practices and initiatives that are currently in place, provide a more detailed look on detention practices in the context of immigration, and recommend ways to move forward.

## SECURITY: WHAT HAS BEEN DONE AND WHAT IS ON-GOING

### A. The Canada-U.S. Perimeter Security and Economic Competitiveness Action Plan

On February 4, 2011, the Prime Minister of Canada and the President of the United States (U.S.) issued a declaration entitled *Beyond the Border: a shared vision for perimeter security and economic competitiveness*.<sup>11</sup> The subsequent action plan<sup>12</sup> includes joint priorities and areas of cooperation such as information sharing,<sup>13</sup> establishing a common approach to the screening of travellers and putting in place entry and exit systems.

#### 1. Electronic Travel Authorization

The *Jobs and Growth Act, 2012*,<sup>14</sup> amends the requirements prior to entry into Canada for foreign nationals by requiring foreign nationals to obtain a new document called the electronic travel authorization (eTA). The traveller will have to provide data online that will be assessed automatically. The examination will determine if the person is admissible to Canada and meets the requirements of the IRPA. The eTA will be issued by the system. The application that cannot receive an automatic approval will be sent to a triage centre in Ottawa, staffed 24/7.<sup>15</sup> The immigration officer can either issue the eTA after verification or inform the applicant to go to the nearest mission for an interview with

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9 *Balanced Refugee Reform Act*, S.C. 2010, c. 8.

10 Canada Border Services Agency, *Balanced Refugee Reform — Improving Canada's asylum system*, <http://cbsa-asfc.gc.ca/agency-agence/refugee-refugie/menu-eng.html#s2em>.

11 Stephen Harper, Prime Minister of Canada, *Beyond the Border: a shared vision for perimeter security and economic competitiveness*, 4 February 2011.

12 Government of Canada, *Beyond the Border Action Plan*, December 2011.

13 Citizenship and Immigration Canada, *News Release — Strengthening Border Security*, December 13, 2012. Biographic immigration information sharing is set to begin in 2013 and biometric sharing in 2014.

14 Division 16 of Part 4, Bill C-45 establishes section 11(1.01) in IRPA and the electronic travel authorization. Bill C-45 received Royal Assent December 14, 2012 and is now the *Jobs and Growth Act, 2012*. Since the content of the bill was studied by the Committee as Bill C-45, reference to it in this report will continue to be Bill C-45.

15 Mr. Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Citizenship and Immigration Canada, Committee *Evidence*, Meeting No. 59, November 19, 2012, 1010. (Linklater, November 19)

an immigration officer.<sup>16</sup> This initiative will, in time, be coupled with the interactive advance passenger initiative (IAPI) that will inform airlines directly of the status of the passenger's eTA.<sup>17</sup>

Information on how the eTA will be implemented was first provided to the Committee in the course of this study. In describing the Government's plans for a common approach with the U.S. for screening travellers, Assistant Deputy Minister Claudette Deschênes stated, "We will require that visa-exempt foreign nationals, except U.S. citizens, apply for an electronic travel authorization before flying to Canada."<sup>18</sup> This measure is expected to extend security screening to those who don't require a temporary resident visa to come to Canada.

More details about this initiative were made available to the Committee during its study of the subject matter of Bill C-45. Officials from CIC stated that the eTA will be in place by the spring of 2015.<sup>19</sup> As the initiative will be further developed in regulations, CIC has committed to working closely with the Office of the Privacy Commissioner.<sup>20</sup> The databases against which the applicant's information is screened would be the field operations support system (FOSS), the global case management system (GCMS) and the lost, stolen and fraudulent documents database.<sup>21</sup> The eTA program is currently intended only for foreign nationals travelling by air.<sup>22</sup> An individual's eTA is expected to be valid for multiple years and will be withdrawn if the foreign national becomes inadmissible.<sup>23</sup> CIC is planning to deploy additional resources<sup>24</sup> to ensure that persons directed to a visa office to clarify the eTA refusal will not wait more than two to three days.<sup>25</sup> Cost savings were estimated at \$30,000 per individual whose legitimacy and intent may have been questioned and the eTA refused, had this person reached Canadian shores and made a refugee claim.<sup>26</sup>

The U.S. implemented the Electronic System for Travel Authorization (ESTA) as part of the legislative reforms included in the *Implementing Recommendations of the*

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16 Ibid., 1035.

17 Ibid.

18 Ms. Claudette Deschênes, Assistant Deputy Minister, Operations, Citizenship and Immigration Canada, Committee *Evidence*, Meeting No. 21, February 14, 2012, 1535. (Deschênes, February 14)

19 Linklater, November 19, 1000.

20 Ms. Maia Wellbourne, Director, Document and Visa Policy, Admissibility Branch, Citizenship and Immigration Canada, Committee *Evidence*, Meeting No. 59, November 19, 2012, 1020. (Wellbourne, November 19)

21 Ibid., 1120.

22 Linklater, November 19, 1030.

23 Ibid., 1020.

24 Ibid., 1025.

25 Ibid., 1050.

26 Ibid., 1030.

9/11 Commission Act of 2007.<sup>27</sup> The ESTA applies only to nationals of the 37 countries that are part of the U.S. visa waiver program that don't require a visa for short term visits. The U.S. ESTA began as a voluntary measure but became mandatory in 2010. According to a study prepared for the European Commission, the ESTA automated approval process is fast (within a couple of minutes) and only 0.5% of applicants are denied authorization to travel.<sup>28</sup> The same study found that screening for people of concern at a point further from the U.S. is of benefit to the U.S. government, as well as to those denied an ESTA, who still have the option of applying for a visa. Disadvantages cited by the study include the outreach necessary to inform travellers of the new requirement and some implementation challenges faced by airlines and passengers.<sup>29</sup>

Witnesses commented on the eTA, with majority support for the use of the new eTA as a tool to enhance security.<sup>30</sup> One witness stated the eTA's usefulness depended on the watch lists with which the information would be compared.<sup>31</sup> He explained that there were deficiencies in the use of both abstract risk profiles and watch lists of known inadmissible persons. He also expressed concern about the potential use of the data. One witness stated although the eTA was not a perfect tool, it would act as a deterrent.<sup>32</sup> One witness saw the initiative as a benefit for travellers coming to Canada as it is expected to facilitate rapid clearance of the majority of individuals.<sup>33</sup> Another witness stated that the eTA coupled with biometrics provided a way to address the problem of assumed identities and false documentation.<sup>34</sup> One witness expressed concern about the information that would be collected, especially since in a similar initiative, inaccuracies mined the reliability of the data.<sup>35</sup>

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27 PricewaterhouseCoopers, [Policy study on an EU Electronic System for travel Authorization \(EU ESTA\)](#), February 2011, p. 3.

28 Ibid., p. 13.

29 Ibid., [Policy study on an EU Electronic System for travel Authorization \(EU ESTA\): Annexes](#), U.S. Mission Chapter, February 2011, p. 6 and 37. Implementation challenges cited include: people applying for an ESTA with one passport but travelling with another and various errors in completing the ESTA form that lead to non-matches when checked by the carrier.

30 Mr. J.D. Gordon, Senior Communications Advisor, Centre for a Secure Free Society, Committee *Evidence*, Meeting No. 61, November 20, 2012, 0925.

31 Dr. Mark Salter, Professor, School of Political Studies, University of Ottawa, Committee *Evidence*, Meeting No. 51, October 1, 2012, 1610. (Salter)

32 Mr. James Bissett, Board of Directors, Centre for Immigration Policy Reform, as an individual, Committee *Evidence*, Meeting No. 59, November 19, 2012, 1230. (Bissett, November 19)

33 Mr. Martin Collacott, Spokesperson, Centre for Immigration Policy Reform, Committee *Evidence*, Meeting No. 59, November 19, 2012, 1210. (Collacott, November 19)

34 Mr. Robert Bell, Senior Vice-president, Corporate and Business Development, NextgenID Canada Inc., Committee *Evidence*, Meeting No. 59, November 19, 2012, 1135. (Bell, November 19)

35 Ms. Emily Gilbert, Associate Professor, Director, Canadian Studies Program, University of Toronto, as an individual, Committee *Evidence*, Meeting No. 61, November 20, 2012, 0900. Ms. Gilbert makes reference to the advance passenger information that the Canada Border Service Agency receives from carriers, 40% of which was found inaccurate by the Office of the Auditor General in 2007.

## 2. Entry and Exit Information Systems

The *Beyond the Border Action Plan* calls for the development of a system to exchange biographical information<sup>36</sup> on the entry of travellers, including citizens, permanent residents, and third country nationals, such that a record of entry into one country could be considered as a record of exit from the other.

Many witnesses testified that Canada does not have exit checks and therefore does not know how many people have overstayed time permitted by their visa or how many people without authorized status remain in Canada.<sup>37</sup> Two witnesses discussed the issue of a temporary foreign worker arriving in Canada but not appearing at the authorized workplace.<sup>38</sup> There is currently no obligation for the employer to report this either to CIC or to Human Resources and Skills Development Canada. Another witness underlined as a rule of thumb that if within the number of undocumented persons in Canada, 1% present a security risk, there is a significant threat to Canada.<sup>39</sup>

One witness stated that the exit-entry data exchange that is to be part of the new border agreement with the United States needs a regulatory framework that ensures that the data collected is sufficiently protected.<sup>40</sup> More broadly, one witness indicated that persons who travel regularly to regions where terrorism flourishes are persons of concern regardless of their status in Canada.<sup>41</sup>

Witnesses were generally positive about the potential for the entry-exit system to address residency fraud.<sup>42</sup>

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36 Biographical information is the tombstone information found on passports such as name, date of birth and country of origin.

37 Mr. Martin Collacott, Spokesperson, Centre for Immigration Policy Reform, Committee *Evidence*, Meeting No. 23, February 28, 2012, 1545. (Collacott, February 28); Mr. John Petryshyn, Lawyer, as an individual, Committee *Evidence*, Meeting No. 24, March 1, 2012, 1610 (Petryshyn); Mr. Joe Greenholtz, as an individual, Committee *Evidence*, Meeting No. 24, March 1, 2012, 1705. (Greenholtz)

38 Mr. James Bisset, as an individual, Committee *Evidence*, Meeting No. 25, March 6, 2012, 1700 (Bisset, March 6); Petryshyn, 1540.

39 LCol Walter Perchal, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, Committee *Evidence*, Meeting No. 28, March 15, 2012, 1700. (Perchal, March 15); Under this witness' view, there are 200,000 to 500,000 undocumented individuals living in this country.

40 Ms. Catherine Dauvergne, Professor, Canada Research Chair in Migration Law, University of British Columbia, Faculty of Law, as an individual, Committee *Evidence*, Meeting No. 24, March 1, 2012, 1610. (Dauvergne, March 1)

41 Mr. John Amble, as an individual, Committee *Evidence*, Meeting No. 25, March 6, 2012, 1535. (Amble)

42 Mr. Peter Edelmann, Lawyer, Committee *Evidence*, Meeting No. 51, October 1, 2012, 1615. (Edelmann, October 1); Salter, 1610; Dr. Benjamin Muller, Professor of Political Science, King's University, Committee *Evidence*, Meeting No. 52, October 3, 2012, 1600. (Muller)

## Recommendation 1

**The Committee recommends that the Canada Border Services Agency implement an exit control system for visitors.**

## Recommendation 2

**The Committee recommends that Citizenship and Immigration Canada require individuals to report to a local Citizenship and Immigration Canada office at the end of the validity of their visa if they have not either left Canada or applied for an extension.**

### **B. Bill C-31 — Protecting Canada’s Immigration System Act<sup>43</sup>**

Bill C-31 was referred to the Committee on April 23, 2012 and was studied during a total of 15 meetings. It received Royal Assent June 28, 2012. It has amended IRPA in significant ways, such as introducing a new regime for designated foreign nationals who are part of an irregular arrival. These new terms are explained below in the section on human smuggling, which this bill intends to deter. Bill C-31 also modified the refugee determination system in Canada with the consequence of placing more emphasis on removals. Bill C-31 introduced an additional requirement of submitting biometrics with a temporary resident application.

#### **1. Biometrics**

Bill C-31 created in IRPA the legislative authority to collect biometrics, such as facial photographs and fingerprints, from applicants for temporary resident visas, work, and study permits.<sup>44</sup> Officials from CIC explained that the biometric measure will be implemented incrementally starting in September 2013, applying to more and more countries over time, until nationals of all non-visa exempt countries are required to submit biometric data with their applications for temporary stays.<sup>45</sup> The intention is that biometric information will help confirm the identity of applicants overseas and at the border as well as to prevent abuses of the immigration system, such as repeat refugee claims or the unauthorized return of people inadmissible to Canada.<sup>46</sup> In terms of policy and procedure,

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43 Bill C-31, once it received Royal Assent, became the *Protecting Canada’s Immigration System Act*. In this report, the Committee studied Bill C-31 and will refer to this legislation in this way in this report.

44 Citizenship and Immigration Canada, *News Release — Facilitating Travel to Canada — Canada to Begin Collecting Biometrics From Certain Foreign Nationals*, December 7, 2012: “Starting in 2013, persons from the following countries and territory who apply for a visitor visa, study permit or work permit will be required to provide their fingerprints and photograph at the time of application: Afghanistan, Albania, Algeria, Bangladesh, Burma (Myanmar), Cambodia, Colombia, Democratic Republic of Congo, Egypt, Eritrea, Haiti, Iran, Iraq, Jamaica, Jordan, Laos, Lebanon, Libya, Nigeria, Pakistan, Palestinian Authority, Saudi Arabia, Somalia, Sri Lanka, Sudan, South Sudan, Syria, Tunisia, Vietnam, and Yemen.”

45 Mr. Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Citizenship and Immigration Canada, *Committee Evidence*, Meeting No. 65, December 3, 2012, 1615. (Linklater, December 3)

46 *Ibid.*, 1555.

the Committee heard that individuals providing their data should be informed about the purpose of the collection and how it will be used to avoid any unintended use as cross-matching.<sup>47</sup> An official from CIC told the Committee that the design of the biometrics program provided for the use of a dedicated channel for the exchange of the sensitive personal information, independent of the Internet and potential cybercrime.<sup>48</sup>

The Privacy Commissioner reminded the Committee that the *Privacy Act* imposes obligations each time the federal government gathers personal information.<sup>49</sup> An official from the Office of the Privacy Commissioner said that extensive consultations with CIC had occurred regarding the introduction of biometrics in the temporary resident program.<sup>50</sup> He explained that although technology can be a useful tool in establishing identity, in immigration programs this often leads to the collection of vast amounts of data in large databases which poses privacy risks.<sup>51</sup>

The Committee heard a range of testimony on implementing biometric technology to improve immigration security. Two witnesses suggested that biometric technology was simply the latest in the evolution of tools for identification;<sup>52</sup> another thought its use was inevitable, as it is quickly becoming the global standard for establishing identity.<sup>53</sup>

Witnesses in favour of using biometric technology thought these concerns could be mitigated or overcome, or felt that the potential security gains outweigh privacy infringements.<sup>54</sup> One witness from the biometrics industry informed the Committee that technology has improved to the point where it can handle large volumes and is more accurate.<sup>55</sup> In his opinion, Canada was benefiting by introducing biometrics using third generation technology.<sup>56</sup> He informed the Committee about the Biometrics for National

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47 Dr. Andrew Patrick, Information Technology Research Analyst, Office of the Privacy Commissioner, Committee *Evidence*, Meeting No. 22, February 16, 2012, 1720. (Patrick)

48 Linklater, December 3, 1625.

49 Ms. Jennifer Stoddart, Privacy Commissioner, Office of the Privacy Commissioner of Canada, Committee *Evidence*, Meeting No. 22, February 16, 2012, 1640.

50 Patrick, 1645.

51 *Ibid.*, 1640.

52 Mr. George Platsis, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, Committee *Evidence*, Meeting No. 52, October 3, 2012, 1715 (Platsis, October 3); RAdm Donald Loren, Senior Distinguished Faculty, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, Committee *Evidence*, Meeting No. 52, October 3, 2012, 1655 (Loren, October 3).

53 LCol Walter Perchal, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre, Committee *Evidence*, Meeting No. 41, May 7, 2012, 1620. (Perchal, May 7)

54 Mr. Herbert Grubel, Senior Fellow, Fraser Institute, Committee *Evidence*, Meeting No. 36, May 2, 2012, 1230 (Grubel); Mr. Salim Mansur, Professor of Political Science, University of Western Ontario, Committee *Evidence*, Meeting No. 51, October 1, 2012, 1635.

55 Mr. Pierre Meunier, Portfolio Manager, Surveillance, Intelligence and Interdiction, Centre for Security Science, Defense Research and Development Canada, Committee *Evidence*, Meeting No. 49, June 19, 2012, 1550. (Meunier)

56 *Ibid.*, 1610.

Security Community of Practice, led by Defence Research and Development Canada (research facilities under the responsibility of National Defence), that brings together key stakeholders from federal departments and agencies. The Committee heard that this community of practice has undertaken a number of biometrics studies looking at the performance of various technologies in different operational settings, and provides a forum for the sharing of best practices.<sup>57</sup>

Those closely involved in implementing CIC's biometrics program assured the Committee that they had been working closely with the Office of the Privacy Commissioner and that the initiative respected the related laws and policies set by the Government.<sup>58</sup>

Finally, two witnesses told the Committee that Canada's plans for using biometric data could go further. One suggested that facial recognition software could be used in airports to control identity and compare against a look-out list, such as that for repeat offenders, with upgrades to surveillance cameras and minimal additional training.<sup>59</sup> Another witness encouraged the program to cover all immigrants, rather than the temporary resident stream only.<sup>60</sup>

### **Recommendation 3**

**The Committee recommends that Citizenship and Immigration Canada develop policy and procedures with respect to the collection of biometrics prior to the collection of the data and that the policy clarify that the data collection must be for a limited purpose, and must be clearly understood by the individual providing data.**

### **Recommendation 4**

**The Committee recommends that Citizenship and Immigration Canada should collect biometric data from all non-Canadians.**

### **Recommendation 5**

**The Committee recommends that the Canada Border Services Agency verify all biometrics (photographs and fingerprints) at point of entry for all non-residents' entry into Canada.**

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57 Ibid.

58 Mr. Robert Bell, Senior Vice-President, Corporate and Business Development, NextgenID Canada Inc., Committee *Evidence*, Meeting No. 49, June 19, 2012, 1555. (Bell, June 19)

59 Ibid., 1535.

60 Collacott, February 28, 1545, 1620.

## **Recommendation 6**

**The Committee recommends that Citizenship and Immigration Canada cross reference the collected biometrics against shared databases.**

## **Recommendation 7**

**The Committee recommends that Citizenship and Immigration Canada, the Canada Border Services Agency and the Royal Canadian Mounted Police, who will share the responsibility for the collection, use and storage of the biometric information, develop and implement stringent security protections for the databases, to withstand potential cyber-attacks.**

## **Recommendation 8**

**The Committee recommends that the Government of Canada encourage independent research on the use of biometrics.**

## **Recommendation 9**

**The Committee recommends increased cultural awareness training for officers of Citizenship and Immigration Canada and officers of the Canada Border Services Agency for the purpose of identification.**

## **2. Human smuggling**

Bill C-31 amended section 117 of IRPA that defines human smuggling, changing the emphasis from improper documentation to the broader concept of knowingly contravening IRPA.<sup>61</sup> Individuals organizing human smuggling now face mandatory minimum sentences and there are aggravating factors when determining penalties for trafficking in persons and disembarking persons at sea.

According to the government, these provisions of the bill aim to crack down on human smugglers and to facilitate prosecution, responding to concerns that Canada is increasingly a target of organized smuggling rings.<sup>62</sup> One professor specifically praised the changes proposed to the offence for smuggling in IRPA, suggesting they more effectively capture the full scope of what migrant smugglers do and the mental fault (*mens rea*) they

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61 Section 117 of IRPA was found unconstitutional by Justice Silverman on January 11, 2013, in *R v. Appulonappa*, 2013 BCSC 31. The Supreme Court of British Columbia is a superior court.

62 James Bissett, "Abusing Canada's Generosity and Ignoring Genuine Refugees," *Frontier Centre for Public Policy, Policy Series*, No. 96, October 2010, p. 27.

bear.<sup>63</sup> However, some commentators argue that Canada already has very tough penalties for human smuggling and that measures such as those proposed by Bill C-31 will only drive up the costs that human smugglers can charge, and encourage them to use more dangerous routes into Canada, putting lives at risk.<sup>64</sup> Others suggest that while the organizers of human smuggling stand to profit the most from human smuggling operations, they likely never come to Canada and may not be deterred by increased punishments for the agents they hire to facilitate a human smuggling operation.<sup>65</sup>

During the study of Bill C-31, detention provisions were addressed by many witnesses. The Government responded to these concerns by amending the detention review regime applicable to “designated foreign nationals” so that the first review occurs within 14 days and subsequent reviews occur every 6 months. For more information on detention, please see the section below.

### 3. Removal

During the course of this study, few witnesses spoke to the subject of removals specifically. One witness stated that, despite the impediments that can cause delays in removals, it is a key enforcement action for security-related cases.<sup>66</sup> He and another witness stressed that removals should take place quickly after a negative refugee protection decision.<sup>67</sup> This testimony was heard prior to the study of Bill C-43 in which appeal rights are denied for persons inadmissible on grounds of serious criminality, which is discussed below.

Bill C-31 introduced modifications to the BRRRA<sup>68</sup> that established a new administrative framework for the refugee determination process. In particular, the Minister of Citizenship and Immigration may now list designated countries of origin ( DCO) that are deemed safe and persons from DCO who make a refugee claim in Canada will have accelerated proceedings before the Refugee Protection Division (RPD) of the IRB. These timelines for the presentation of documents accompanying the Basis of Claim and for the hearing are developed in regulations.<sup>69</sup> Furthermore, a person coming from a DCO is not entitled to an appeal before the Refugee Appeal Division and is not entitled to an automatic stay when an application is made for judicial review by the Federal Court regarding the negative RPD decision.<sup>70</sup> Failed claimants from DCO will only be eligible for

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63 Benjamin Perrin, *Migrant Smuggling: Canada's Response to a Global Criminal Enterprise*, The Macdonald-Laurier Institute, October 2011, p. 10.

64 Sean Rehaag, et al., *Legislation Won't Stop Asylum Seekers Using Human Smugglers*, November 2, 2010. Document found on the University of Ottawa Web site: several professors spoke out against Bill C-49, a bill which was later re-introduced in part in Bill C-31.

65 Lorne Waldman, “New Refugee Legislation Misses the Mark,” *thestar.com*, October 28, 2010.

66 Amble, 1535.

67 Collacott, February 28, 1605; Amble, 1625.

68 *Balanced Refugee Reform Act*, S.C. 2010, c. 8.

69 *Canada Gazette, Part II*, SOR/2012-252, November 30, 2012.

70 *Ibid.*, SOR/2012-272, December 7, 2012.

a pre-removal risk assessment after 36 months since their negative RPD decision. The list of DCO is available on CIC's Web site.<sup>71</sup>

Despite widespread agreement that fast resolution of refugee claims is desirable, the new timelines were not as consistently supported by witnesses. Certain witnesses before the House of Commons Standing Committee on Citizenship and Immigration at the time thought the proposed timeline for a refugee hearing was adequate. However, witnesses who were also lawyers said that the timelines did not allow claimants the necessary time to find counsel, obtain supporting documents, and prepare their claim.<sup>72</sup> They predicted an increase in claimants representing themselves, material of poor quality being put before the IRB and consequent adjournments, and deserving refugees being denied and deported because they failed to present their case properly.

Table 1 shows the number of removal cases and timeliness of removals from 2005–2009.

**Table 1: Removal Cases and Timeliness of Removals**

Year	Cases	Average number elapsed days
2005	11,272	722
2006	12,596	799
2007	12,480	809
2008	12,779	730
2009	14,760	695

Source: CBSA, Detentions and Removals Programs – Evaluation Study, November 2010.

**Recommendation 10**

**The Committee recommends that the Canada Border Services Agency remove failed refugee claimants more quickly.**

**Recommendation 11**

**The Committee recommends that the Canada Border Services Agency allocate more resources for removals.**

71 Citizenship and Immigration Canada, *Designated countries of origin*, <http://www.cic.gc.ca/english/refugees/reform-safe.asp>, Effective December 15, 2012.

72 Peter Showler, Removing the Devils in the Details: Comments on Bill C-11.

### C. Issuance of Temporary Resident Visas

The purpose and rationale behind the requirement for a temporary resident visa is to provide the opportunity to ensure foreign nationals meet the admissibility requirements before they arrive in Canada. Exceptionally, nationals from specific countries do not need to apply abroad for a temporary resident visa to come to Canada; these countries are listed in the *Immigration and Refugee Protection Regulations* at section 190. This list can be modified through regulations. In September 2012, nationals from St. Lucia, St. Vincent, Namibia, Botswana and Swaziland were removed from the visa-exempt list. Minister Kenney in a news release stated: “These changes are necessary to protect the integrity of Canada’s fair and generous immigration system by helping us to reduce an unacceptably high number of immigration violations.”<sup>73</sup> The regulatory impact analysis statement that accompanied the publication of the amendment in the *Canada Gazette* indicates that unreliable travel documents and a high incidence of asylum claims made in Canada motivated this particular action.<sup>74</sup> Given the concerns raised during this study, the Committee undertakes to conduct an in depth study of the issuance of temporary resident visas.

### D. Information sharing

An official from the Office of the Auditor General of Canada indicated that the 2011 audit of the issuance of visas showed that timely and reliable information is not always available to visa officers when they must make an admissibility determination on an application: there may be little information available from security partners.<sup>75</sup> An official from the CBSA explained to the Committee that after CIC makes a referral, the CBSA compiles information from open-source and classified information, as well as information from the RCMP or CSIS.<sup>76</sup> He also stated that the CBSA was taking steps to address the Auditor General’s recommendations in regards to accessing all relevant information quickly, by developing databases within CBSA with open-source information and analysis.

The Committee heard that Canada currently participates in a five-country conference which includes the United States, the United Kingdom, Australia and New Zealand for which protocols have been established to share tombstone data that is stored on a server hosted by Australia.<sup>77</sup> Information beyond the biographical data that may be necessary for decision-making is shared on a case-by-case basis in compliance with the *Privacy Act*.

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73 Citizenship and Immigration Canada, [News Release — Canada imposes visa on St. Lucia, St. Vincent, Namibia, Botswana and Swaziland](#), September 11, 2012.

74 *Canada Gazette*, Part II, SOR/2012-171.

75 Ms. Wendy Loschiuk, Assistant Auditor General, Office of the Auditor General of Canada, Committee *Evidence*, Meeting No. 22, February 16, 2012, 1635.(Loschiuk)

76 Mr. Geoffrey Leckey, Director General, Intelligence and Targeting Operations, Canada Border Services Agency, Committee *Evidence*, Meeting No. 65, December 3, 2012, 1600. (Leckey, December 3)

77 Mr. Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Citizenship and Immigration Canada, Committee *Evidence*, Meeting No. 21, February 14, 2012, 1610.

Canada, through the RCMP, is also a member of Interpol.<sup>78</sup> an international network that allows information sharing among police forces. An official from CIC assured the Committee that the fingerprints collected from the applicants for temporary resident visas would be sent to the RCMP to be checked against its own database that holds the fingerprints of individuals convicted in Canada, refugee claimants and previously deported persons, and would not be sent to Interpol.<sup>79</sup> She also stated that standard information sharing agreements have clauses that restrict third party access and ensure refugees' lives are not endangered. The RCMP also hosts the Canadian Police Information Centre (CPIC).<sup>80</sup> an official from the CBSA stated that this allows sharing of information "to identify individuals during the course of police and regular business law enforcement."<sup>81</sup>

One witness, who spoke about the information that supports the decision-making process by a CIC visa officer, suggested that the CBSA, the RCMP and CSIS are hampered by silos — in particular institutional and cultural barriers.<sup>82</sup> Dialogue and information-sharing were the solutions proposed to address the situation. Another spoke more broadly, indicating that it was necessary to include all levels of law enforcement.<sup>83</sup>

Outside the scope of CIC's mandate, several witnesses mentioned that intelligence gathering abroad by Canadian agents would enhance the security decisions made later when screening an application.<sup>84</sup> One mentioned that there is a risk in relying on information provided by allies, as they have their own interests, which may or may not be Canada's interests.<sup>85</sup> A witness identified the need for better intelligence sharing of reliable information.<sup>86</sup> Another suggested that human intelligence can include community engagement here in Canada, which would help authorities gain a better understanding of foreign regions and the context from which individuals apply to come to Canada.<sup>87</sup>

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78 Royal Canadian Mounted Police Web site, [Interpol Ottawa — Law Enforcement's Gateway To the World](#), January 3, 2012.

79 Ms. Monique Frison, Director, Identity Management and Information Sharing, Citizenship and Immigration Canada, Committee *Evidence*, Meeting No. 45, May 10, 2012, 1730. (Frison, May 10)

80 The Canadian Police Information Centre, [www.cpic-cipc.ca](http://www.cpic-cipc.ca), last visited January 2, 2013.

81 Mr. Peter Hill, Director General, Enforcement and Intelligence Programs, Canada Border Services Agency, Committee *Evidence*, Meeting No. 65, December 3, 2012, 1710.(Hill, December 3)

82 Platsis, October 3, 1705.

83 Amble, 1535, 1555.

84 Mr. Joseph Humire, Senior Fellow and Director of the Center for a Secure Free Society, International Freedom Educational Foundation, Committee *Evidence*, Meeting No. 23, February 28, 2012, 1710, (Humire); Perchal, March 15, 1710.

85 Humire, 1715; Platsis, October 3, 1720.

86 Mr. Lorne Waldman, Partner, Lorne Waldman and Associates, as an individual, Committee *Evidence*, Meeting No. 50, September 26, 2012, 1715. (Waldman, September 26)

87 Platsis, October 3, 1700.

#### **Recommendation 12**

**The Committee recommends that Foreign Affairs and International Trade Canada share information with officers of Citizenship and Immigration Canada to assist them in the screening of applicants in regards to inadmissibility.**

#### **Recommendation 13**

**The Committee recommends that Public Safety Canada ensure that the Canada Border Services Agency, the Royal Canadian Mounted Police and the Canadian Security Intelligence Service share information in an efficient manner.**

#### **Recommendation 14**

**The Committee recommends that Citizenship and Immigration Canada and the Canada Border Services Agency develop a capacity to collect intelligence outside of Canada.**

#### **Recommendation 15**

**The Committee recommends that the Government of Canada establish a framework to determine how Canada can better share intelligence with its allies and how Canada can better expand the intelligence it shares.**

#### **Recommendation 16**

**The Committee recommends that the Government of Canada implement information sharing agreements with as many countries as possible.**

#### **Recommendation 17**

**The Committee recommends that the Government of Canada implement information sharing agreements between the Canada Border Services Agency, Citizenship and Immigration Canada and the Canadian Revenue Agency.**

### **E. War Crimes**

Section 35 of IRPA provides that persons who have committed war crimes and persons who have been part of a designated government (either by Canada or by an international organization) that has committed war crimes are not welcome to enter or stay

in Canada.<sup>88</sup>This clause supports the Government of Canada's policy to deny safe haven to suspected war criminals and to contribute to the domestic and international fight against impunity.<sup>89</sup>

Established in 1998, the Crimes against Humanity and War Crimes Program is a collaborative effort between the CBSA, CIC, Justice Canada (DOJ), and the RCMP. This program aims to identify and prevent admission to Canada of persons involved in war crimes. It also has the objective of examining all allegations of war crime suspects in Canada and, when appropriate, to investigate and prosecute them.

An evaluation done by the DOJ in 2008 confirmed the cost effectiveness of using immigration procedures, such as denying a visa or revocation of citizenship, to keep alleged war criminals from living in Canada.<sup>90</sup>

According to one witness, there are war criminals presently in Canada.<sup>91</sup> Several witnesses stressed the importance of prosecuting these criminals, either in their country of origin, in Canada, or at the International Criminal Court.<sup>92</sup> One witness indicated that Canada had been the first country to establish an act to prosecute war criminals (*2000 Crimes Against Humanity and War Crimes Act*) and that other European countries had used the War Crimes Program as a model for the creation of their own investigative and prosecution units.<sup>93</sup> One witness made it clear that she was not recommending that all alleged war criminals be brought to trial, but a handful of prosecutions would send a clear message that violating human rights or genocide would not be tolerated.<sup>94</sup> One witness stated that evidence and resources had to be assessed with officials of the country of origin to decide where the prosecution should occur.<sup>95</sup>

A couple of witnesses addressed the CBSA's "wanted list" for people inadmissible on account of being accused of, or complicit in, war crimes or crimes against humanity, which had been expanded to include people inadmissible on security grounds, for serious criminality or for organized criminality.<sup>96</sup> One witness stated that the "wanted list" was "ill

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88 Section 33 of IRPA sets out the burden of proof: "reasonable grounds to believe" that the facts that support the inadmissibility have occurred, are occurring or may occur.

89 Canada Border Services Agency, [12th Report Canada's Program on Crimes Against Humanity and War Crimes 2008-2011](#).

90 Justice Canada, [Crimes Against Humanity and War Crimes Program – Summative Evaluation](#), Final Report, October 2008, p. 46–48.

91 Ms. Jayne Stoyles, Executive Director, Canadian Centre for International Justice, Committee *Evidence*, Meeting No. 48, June 12, 2012, 1540. (Stoyles); according to this witness, there are approximately 2,000 war criminals in Canada.

92 Ibid., 1545; Ms. Nathalie Des Rosiers, General Counsel, Canadian Civil Liberties Association, Committee *Evidence*, Meeting No. 50, 1625 (Des Rosiers, September 26); Waldman, September 26, 1645; Lutz Oette, Counsel, REDRESS, Committee *Evidence*, Meeting No. 53, October 15, 2012, 1540. (Oette)

93 Oette, 1540, 1545.

94 Stoyles, 1600.

95 Ibid., 1545.

96 Ibid., 1610, 1625; Waldman, September 26, 1635, 1645.

conceived” with respect to war crimes and counterproductive because in at least one instance, the negative publicity involving the individual had made return to his country of origin unsafe and an immigration officer found that he could no longer be deported.<sup>97</sup> One witness stated the inadmissibility on grounds of human rights violations such as war crimes was too broad and applied arbitrarily.<sup>98</sup> Another witness commented that he had never seen the existing provision for war crimes fail to address the situation of a convicted war criminal, though he had seen people “wrongly picked up in the net”.<sup>99</sup>

## **Recommendation 18**

**The Committee recommends that the Government of Canada sufficiently resource the Crimes against Humanity and War Crimes Program.**

### **F. Bill C-43 — The Faster Removal of Foreign Criminals Act**

Bill C-43 was referred to the Committee on October 16, 2012 and was studied during nine meetings. On November 29, 2012, the Committee’s report was presented to the House of Commons. Bill C-43 is the result of an interdepartmental review of the inadmissibility provisions in IRPA.<sup>100</sup> In matters directly related to the Committee’s study, the bill limits the review mechanisms for certain foreign nationals and permanent residents who are inadmissible on such grounds as serious criminality and introduces factors that must be taken into consideration for ministerial relief for those inadmissible on security grounds, violation of human rights or organized criminality. It also amends the Act to provide the authority to the Minister of Citizenship and Immigration to deny temporary resident status to foreign nationals based on public policy considerations.

The Committee had already heard about inadmissibility during this study. In general terms, the inadmissibility provisions were described by one witness as comprehensive and fairly useful.<sup>101</sup> An official from the Office of the Auditor General stated that one of their key findings in the November 2011 report was that visa officers using indicators to identify possible inadmissibility did not have access to updated tools to help them in their determinations.<sup>102</sup> A number of witnesses stated that the volume of applications does not allow for visa officers to screen as thoroughly as they should<sup>103</sup> and that more applicants

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97 Waldman, September 26, 1635.

98 Mr. Andrew Brouwer, Barrister and Solicitor, as an individual, Committee *Evidence*, Meeting No. 25, March 6, 2012, 1635. (Brouwer, March 6)

99 Edelman, October 1, 1620.

100 Citizenship and Immigration Canada, [Backgrounder—Introducing the Faster Removal of Foreign Criminals Act](#), June 20, 2012.

101 Greenholtz, 1650.

102 Loschiuk, 1635, 1650.

103 Collacott, February 28, 1535; Greenholtz, 1645; Bisset, March 6, 1645.

should be interviewed.<sup>104</sup> One witness stated that visa officers spent too much time justifying their refusals.<sup>105</sup> An official from the Office of the Auditor General also told the Committee that quality assurance practices for the admissibility determination process need to be strengthened: when the majority of the determinations lead to allowing individuals into Canada, it is just as important to review those decisions in order to make sure the system is working.<sup>106</sup> Two witnesses suggested that CIC should be particularly careful in screening individuals coming from specific countries.<sup>107</sup>

With regard to inadmissibility on security grounds (IRPA, section 34), witnesses raised concerns that the current provision is overly broad and not consistently applied. In terms of how inadmissibility on security grounds is assessed, two witnesses identified specific problems, including the lack of temporality, lack of danger assessment, and disconnect with security threats to Canada.<sup>108</sup> These witnesses said, the broad security provision captures the “wrong” people and has devastating consequences for peoples’ lives. One witness explained the new approach taken by Homeland Security in the United States, which established tiers of security threats, allowing individuals who have participated in low-threat organizations (Tier 3) admissibility to the U.S. unless a particular individual has a violent background.<sup>109</sup> He said that this approach was not only more just to the individuals in question, but a better use of government resources. Two witnesses pointed to the discretion involved in deciding to refer section 34 cases for an admissibility hearing and the considerable variation in decisions made by immigration and border officers.<sup>110</sup>

One witness spoke about ministerial relief: section 34(2) of IRPA specifies that the Minister of Public Safety may decide to allow a person found inadmissible under section 34 to remain permanently in Canada.<sup>111</sup>

Bill C-43 proposes a number of changes to IRPA. A person inadmissible on grounds of security, war crimes or organized crime would not be allowed to present an application under humanitarian and compassionate considerations. Ministerial relief for persons inadmissible on grounds of security, war crimes or organized crime is formulated in a single section of the IRPA, where specific factors related to national security must be taken into consideration.<sup>112</sup> Appeal rights to the Immigration Appeal Division for persons with serious criminality will be limited to those with a sentence in Canada of less than six

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104 Collacott, February 28, 1535; Greenholtz, 1700; Bisset, March 6, 1710, 1715.

105 Collacott, February 28, 1555.

106 Loschiuk, 1635.

107 Collacott, February 28, 1600; Bisset, March 6, 1650.

108 Brouwer, March 6, 1635, 1640; Angus Grant, as an individual, Committee *Evidence*, Meeting No. 53, October 15, 2012, 1650, 1655. (Grant, October 15)

109 Grant, October 15, 1710.

110 Edelmann, October 1, 1600; Grant, October 15, 1655.

111 Grant, October 15, 1655.

112 It codifies the Court of Appeal’s decision in *Agraira*, 2011 FCA 103.

months. Appeal rights will also be denied to persons, convicted or not, for acts committed outside Canada, if these acts were committed in Canada would be punishable by a maximum of 10 years of imprisonment. The penalty for being found inadmissible on the grounds of misrepresentation was increased to a five-year ban. Finally, the Minister of Citizenship and Immigration Canada will have the discretion to refuse temporary resident status for up to 36 months on the basis of public policy considerations.<sup>113</sup>

With respect to appeal rights, one witness spoke about her experience of representing persons found criminally inadmissible and how they would often receive a conditional stay of removal at the Immigration Appeal Board; she stated her clients tended to re-offend and breach their conditions.<sup>114</sup> However, another witness stated a conditional stay of removal is an effective enforcement and rehabilitation tool.<sup>115</sup> One witness expressed support for the streamlined process of removal, indicating to the Committee that, in Canada, an offender who receives a custodial sentence of six month has committed a serious offence.<sup>116</sup> As a frontline police officer, this witness stated that to receive a six month sentence, the person usually has committed numerous offences beforehand.<sup>117</sup> However, another witness stated that conditional sentences, usually accompanied by house arrest, were counted in the same manner in immigration law and that Bill C-43 should be explicit about its consequences applying only to custodial sentences.<sup>118</sup>

### **Recommendation 19**

**The Committee recommends that Citizenship and Immigration Canada develop a list of priority countries for security screening.**

### **Recommendation 20**

**The Committee recommends that Citizenship and Immigration Canada, the Canada Border Services Agency and the Canadian Security intelligence Service create a tiers system, which would allow the Government of Canada to establish broad waivers for classes of individuals inadmissible on security grounds who pose no threat to Canada.**

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113 Citizenship and Immigration Canada, [News Release—Minister Kenney Proposes Guidelines on Barring Harmful People from Canada](#), October 24, 2012.

114 Ms. Julie Taub, Immigration and Refugee Lawyer, as an individual, Committee *Evidence* Meeting No. 55, October 29, 2012, 1540.

115 Mr. Michael Greene, Member, National Immigration Law Section, Canadian Bar Association, Committee *Evidence* Meeting No. 58, November 7, 2012, 1540. (Greene, November 7)

116 Mr. Tom Stamatakis, President, Canadian Police Association, Committee *Evidence*, Meeting No. 56, October 31, 2012, 1605, 1610. (Stamatakis, October 31)

117 *Ibid.*, 1605, 1625.

118 Greene, November 7, 1545.

## Recommendation 21

**The Committee recommends that Citizenship and Immigration Canada and the Canada Border Services Agency ensure that their officers involved in section 34 decisions receive specific training.**

### G. The Global Case Management System

Officials from CIC have indicated throughout the study the importance of the Global Case Management System (GCMS) completely deployed in 2012 across Canada and CIC's missions abroad. The Committee heard it is a centralized, integrated model that allows for a better use of resources.<sup>119</sup> With its robust search engine that brings up similarities in names which assists officers to identify individuals with multiple names or transliterated names into English,<sup>120</sup> the GCMS has been described as instrumental in investigations into residency fraud, in one case identifying an address that was repeated in citizenship applications.<sup>121</sup> The GCMS is one of the databases to be used during the screening process of the eTA, as explained above.<sup>122</sup> The Committee has been told that the GCMS has become the system of record for individuals whose applications have been processed within this new network.<sup>123</sup>

## DETENTION

In addition to its emphasis as part of this study, detention was addressed throughout the study of Bill C-31, prompting the Committee to travel to Vancouver, Montréal and Toronto to see the conditions in the immigration holding centres (IHC) and in one provincial correctional facility (Rivière-des-Prairies). The Committee also heard about detention review from representatives of the Immigration and Refugee Board of Canada (IRB) in Toronto.

### 1. Background

#### A. Detention in IRPA and its regulations

There are now three detention schemes in IRPA to address the following possibilities: (1) the identity of the foreign national is not established upon arrival, the individual constitute a danger to the public, the foreign national poses a flight risk and may not appear for an immigration process (such as deportation), (2) the person is under a

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119 Ms. Sharon Chomyn, Director General, International Region, Citizenship and Immigration Canada, *Committee Evidence*, Meeting No. 26, March 8, 2012, 1535.

120 Mr. Sidney Frank, Immigration Program Manager, New Delhi, India, Citizenship and Immigration Canada, *Committee Evidence*, Meeting No. 26, March 8, 2012, 1620.

121 Deschênes, February 14, 1530.

122 Wellbourne, November 19, 1120.

123 Mr. Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration Canada, *Committee Evidence*, Meeting No. 32, April 30, 2012, 1015. (Linklater, April 30)

security certificate or (3) the person is a designated foreign national.<sup>124</sup> For most cases, after 48 hours of detention by the CBSA, the Immigration Division of the IRB must review the reasons for detention and assess if any alternative can be found, such as a bondsperson and release with terms and conditions.<sup>125</sup> If the IRB determines that detention should continue, the decision must be reviewed after 7 days and then every 30 days. For persons detained under security certificates, the detention review is performed by a Federal Court judge, within 48 hours and then every 6 months. For designated foreign nationals, the first detention review by the IRB occurs after 14 days and every 6 months afterwards and not earlier. The Minister, on his own initiative, has the authority to release a designated foreign national if the reasons for the detention no longer exist.<sup>126</sup>

Even after a removal order has been issued, the person may be in detention for some time. Delays that will keep a person in Canada can include, for example, that the individual has asked for a pre-removal risk assessment (PRRA), or does not have a valid travel document.

During this study, one witness stated that the regular detention review scheme is good and works well.<sup>127</sup> This witness also indicated that there is not much data collected about people in detention and suggested that dealing with mass arrivals of refugee claimants and detained persons who were “unremovable” from Canada poses challenges for this policy area. Two witnesses said that the number of children detained is under reported, especially if the children themselves are Canadian citizens: the children are considered guests of the detainees.<sup>128</sup> Other witnesses spoke against the detention of children, arguing that it violates the Convention on the Rights of the Child, has harmful effects, and impairs their integration into Canadian society.<sup>129</sup>

## **B. Facilities and current costs**

Currently the CBSA operates three detention centres for low-risk detainees: one in the basement of the Vancouver airport (24 beds for stays of less than 72 hours), one near Montréal (150 beds), and one in the Greater Toronto Area (195 beds). All other detainees, either high-risk or where there are no IHC, will be held in provincial jails when they must be detained for more than a day, as per various agreements. Table 2 shows the number of detainees in the last five years and their average time in detention.

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124 IRPA, ss. 55 and 82 (security certificates are for permanent residents where there are reasonable grounds to believe the person is a danger to national security); *Immigration and Refugee Protection Regulations* (IRPR), sections 244-248.

125 IRPA, section 57.

126 *Ibid.*, section 58.1(2).

127 Dauvergne, March 1, 1535.

128 Brouwer, March 6, 1705; Dauvergne, March 1, 1530.

129 Waldman, September 26, 1640; Des Rosiers, September 26, 1705, 1710.

**Table 2: Number of individuals detained**

Year	Number of detentions*	Number Released/Removed	Average detention	Refugee claimants	Detained in a CBSA facility (IHC)	Detained in a non-CBSA (IHC) facility
2010 –2011	8,838	6587/2819	25 days	47%	65%	35%
2009 – 2010	9,449	5624/3345	24 days	44%	66%	34%
2008 – 2009	14,362	10,212/3696	17 days	44%	72%	28%
2007 – 2008	13,987	10,123/3266	17 days	44%	74%	26%
2006 – 2007	12,714	8649/3573	17 days	43%	73%	27%

\* includes detainees remaining in detention past end of fiscal year.

Source: CBSA, Inland Enforcement, Post Border. Numbers taken from the National Case Management System, August 18, 2012, provided to the Committee.

### **(i) Placement Evaluation**

The detaining officer conducts an initial risk assessment to determine the appropriate place of detention, with particular attention to the risk of violence. The person's demeanour is critical in conducting this risk assessment, taking into account factors such as their level of cooperation, combative behaviour, evidence of drug or alcohol use, reports from airline staff concerning in-flight behaviour, etc. High-risk detainees include those with violent behaviour, criminal backgrounds, and those wanted by foreign governments.

### **(ii) Facilities**

A brief description of the IHCs will be followed by a comparative table that demonstrates the variations in the operations of the centres. The two main sources for this information are the *CBSA Detention and Removals Evaluation* from November 2010 and the information provided on site during the tours in August and September 2012.

The B.C. IHC,<sup>130</sup> located in the basement of Vancouver International Airport, is 400 square metres and was established in October 2001. It initially housed only airport cases, but now includes detainees discovered in-land as well. The centre is intended for short-term detention only, for a period up to 72 hours. The facility was sparse and institutional, but met detainees' basic needs and provided limited diversions through television and books. The facility was as described in the *CBSA Detention and Removals Evaluation*: men and women are housed separately. Children stay with their mothers,

130 Canada Border Services Agency (CBSA) personnel Ms. Roslyn MacVicar (Regional Director General), Ms. Yvette-Monique Gray (Director, Enforcement and Intelligence Division), and Mr. Colby Brose (Manager, Regional Programs – Managing Detentions) provided an overview on detention in the B.C. region, conducted the facility tour, and responded to members' questions.

while unaccompanied minors are housed separately. The rooms have limited washroom facilities, with each common area having complete washroom/shower and television access. In addition, the B.C. IHC has a family unit. Two rooms, equipped with two beds each and limited washroom facilities, are available for overflow or can be used to temporarily house detainees who require transfer to a more secure area.

The Laval IHC<sup>131</sup> near Montréal was originally built for Correctional Services Canada in 1950, and low-risk immigration detainees started to be held there in 1996 when Citizenship and Immigration Canada took over the facilities. Rooms are normally furnished with metallic bunk beds, except in the wing for women with children.

The Toronto IHC<sup>132</sup> started its operation in its current location in 2003. It was a hotel, the Heritage Inn, that has been retrofitted recently. The admission and discharge areas were seen: detainees are driven into the facility and are processed in a large room. At admissions, new live-scan machines take electronic fingerprints and photographs of the individual. The TIHC has separate wings for men, women and women with children. Men constitute 70% of the population. The first floor is the family wing. The wing with women and children has a new play room that was made possible due to donations. These rooms were not retrofitted yet, with two double beds and hotel-like furniture. In the new rooms of the second and third floors, there are three single beds per room. On the second floor, there is a multi-purpose room, used as a library, for religious gatherings and for family visits. Each wing has laundry facilities.

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131 CBSA personnel Mr. Benoît Chiquette (Regional Director General), Ms. Lorraine Frigon (Regional Director, Enforcement and Intelligence Division), Ms. Louise Starnino (Supervisor, Enforcement and Intelligence Division) and Mr. Stéphane Malépart (Regional Communications Manager) met with the Committee members at the Laval IHC.

132 CBSA personnel Mr. Goran Vragovic (Regional Director General), Mr. Mark Leonard (A/Director, Enforcement and Intelligence Operations Division) and Mr. Sajjad Bhatti (Manager, Toronto IHC met the delegation of Committee members at the Greater Toronto Enforcement Centre. The owner of the property which houses the TIHC, Mr. Steven Pietrobon, made himself available for questions at the end of the tour.

**Table 3: Detention operations in each IHC**

	B.C. IHC	Laval IHC	Toronto IHC
Security contracts	Genesis Security	GARDA	G4S
Meals	Meals are catered from the airport restaurants.	The cafeteria is segregated, although married men may join their wives at mealtime. Meals are prepared within the institution through the rehabilitation program run by Correctional Services of Canada. A refrigerator was available in the wing provided for women with children.	Breakfast is at 7:00 a.m., lunch between 12:00 p.m. and 1:00 p.m. and dinner is served at 5:30 p.m. Each wing has a self-contained kitchen area where the food is brought and served buffet style.
Health Services provided by	the airport paramedics.	a part-time doctor (four hours a week) and a nurse for four hours a day. Detainees may also be transported to facilities outside the Laval IHC.	a part-time doctor (four hours a week) and a nurse available all week.
Outdoors	No access to the outdoors.	Separate facilities are provided for women, women with children, and men.	Women and men are segregated and allowed to access the concrete yard one hour in the morning and one hour in the evening.
IRB Hearings	The detainees must be transported downtown for their hearings.	The detainees must be transported downtown for their hearings at a cost of \$1.3 million in the year 2011.	There are 13 hearing rooms altogether, and the new rooms allow for videoconferencing with detainees in the provincial facilities. Some rooms are within the secure zone of the TIHC, but some are not as individuals may need only to come to an admissibility hearing. <sup>133</sup> Decisions are usually rendered orally. In the last year, there were 8,000 detention reviews and 1,500 admissibility hearings in the Greater Toronto Area. This represents ⅓ of detention and admissibility hearings nation-wide.

133 Mr. Kevin White, (Director General of the Strategic Communication and Partnership Branch of the IRB), and IRB representatives from the Central Region Mr. Neil Willard (Director, Immigration Division), Mr. Tim Morin (General Counsel and Manager of Legal Services), and Ms. Anna Pape (Communications Advisor) met the members of the Committee.

Calls	Local phone calls are unlimited, while long-distance calls require a calling card (provided if necessary).  The phone numbers for assistance are posted in the common rooms, including legal aid B.C. and the Red Cross.	Local phone calls are unlimited, while long-distance calls require a calling card (provided by non-governmental organizations). The phone numbers for assistance are posted in the common rooms, including legal aid and the Red Cross.	Local phone calls are unlimited, while long-distance calls require a calling card (provided by non-governmental organizations). The phone numbers for assistance are posted in the common rooms, including legal aid and the Red Cross.
Visitors	Only counsel is permitted to visit, between the hours of 7 a.m. and 11 p.m.	Visiting hours are in the afternoon or evenings.	Visiting hours are over by 3:15 p.m. except for professional visits that must end by 10 p.m.
Interpreters	The centre takes advantage of its location in an airport to draw on interpreters from CBSA's Port of Entry staff.		
Education		French and Mathematics are taught to children between the ages of 6 and 16 detained for a period of more than seven days.	The curriculum for children of school age is ad hoc.
Non-governmental organizations	The Red Cross and the UNHCR have agreements to monitor the facility.	The Red Cross, the UNHCR and Action Réfugiés Montréal are regular visitors.	A specific office is shared by the Red Cross, the Salvation Army and the Refugee Law Office who provides legal aid: the office is open from 9:30 to 5:30.

Source: Information provided during the Committee's travel and compiled by the analysts.

The provincial correctional facility the Committee visited was Rivière-des-Prairies near Montréal.<sup>134</sup> It is primarily a remand centre for men (no minors) where individuals are awaiting trial, although convicted prisoners are also held at the facility, in separate quarters. Immigration detainees are not placed with convicted criminals and are therefore not considered by the staff to be co-mingling with convicted criminals. Convicted prisoners serving their sentence in this prison who may have an immigration file are not considered immigration detainees.

The establishment can hold up to 600 men and is built along two corridors: a general corridor that can hold up to 320 individuals in various sectors of 40 people, and a secure corridor that mostly holds those incarcerated for known links to organized crime. At the end of this corridor there is a maximum security area. The general and secure corridors share access to the health wing, which can hold up to 32 individuals. There are

134 Mr. François Landreville (Director of the establishment), Ms. Caroline Dubois (Assistant Advisor to the Director), Mr. Stéphane Smith (Deputy Director) and Ms. Elaine Raza (Senior Director of Programs and Security, Correctional Services Branch, Ministère de la Sécurité publique Québec) met and escorted the delegation of Committee members.

pay phones available in each common area. Access to the outdoors is a minimum of an hour a day, and can be unlimited, depending in which sector the individual is placed.

There are three general practitioner doctors that cover the establishment's needs on a rotational basis and a dentist is available half a day per week for emergencies only. Psychiatric care is overseen by doctors coming from the neighbouring psychiatric institution, Institut Pinel.

There was an attempt in the past to keep all immigration detainees together. Since immigration detainees such as those with links to organized crime or street gangs were mixed in with those that would normally be in the general sector, it created a difficult environment for the latter. It was felt that specific needs and behaviours could not be addressed properly and this approach was abandoned.

IRB hearings have been held in the prison for the last seven years. This arrangement minimizes the risk of escape during transportation and ensures the security of all concerned as cameras follow the proceedings and guards are outside the room.

### **(iii) Costs**

The subject of cost came up at every meeting but only partial information was obtained.

The staff at the B.C. IHC undertook to provide an average cost for detention at their facility but this information was not available at the time of this report. As stipulated by the Memorandum of Understanding (MOU) the compensation CBSA is to provide to the B.C. government for each detainee it holds is \$195 per day.

The average cost of detention at the Laval IHC was high, estimated around \$400 per detainee per day, as the operational budget was determined to be \$8 million a year and the population fluctuating throughout the year. The Laval IHC has an unsigned MOU with the provincial Rivière-des-Prairies correctional institution that has been holding detainees for CBSA for at least the last 10 years. The CBSA is charged \$184 a day per individual (this is under revision).

At the Toronto IHC, the cost charged to CBSA is \$185 per detainee per day for the use of the facility, meals and cleaning, as per the five-year service contract. When detainees need to be placed in other facilities, they are usually placed in the Don Jail or Toronto West for which costs have not been provided.

#### **(iv) Detainee Liaison Officer**

A relatively new aspect of CBSA's partnership with B.C. Corrections is the detainee liaison officer position, established three months prior to the Committee's visit in August 2012. The liaison officer goes to the provincial facilities housing detainees as well as to the IHC to check in with the detainees. The officer plays a path-finding role, helps to identify gaps and any special needs, and identifies any inconsistencies between institutions. Detainees are given the liaison officer's telephone number so that they can be in direct contact. Thus far the initiative has received very positive feedback from B.C. Corrections, the Red Cross and CBSA staff. They explained that one reason for implementing the program was out of concern that the needs of refugee claimants could get lost as reforms are implemented tightening the timelines for refugee determination.

#### **Recommendation 22**

**The Committee recommends that the Canada Border Services Agency use the term Immigration Holding Centre rather than detention centre, to better reflect the nature of these centres.**

#### **Recommendation 23**

**The Committee recommends that the Canada Border Services Agency review their Immigration Holding Centre service standards and establish a best practices model or operational procedures that could be used for all Immigration Holding Centres.**

#### **Recommendation 24**

**The Committee recommends that, where financially and logistically possible, Immigration and Refugee Board offices and the three official Immigration Holding Centres be at the same locations.**

### **2. Potential Next Steps**

The CBSA's found in its 2010 evaluation of the detention program that alternatives to detention such as the Toronto Bail Program should be used more often.<sup>135</sup> During the Committee's travels to the various IHCs, substantial differences in operating costs and in structural arrangements became apparent. An official from the CBSA assured the Committee that a national policy on detention in the immigration context existed, that it conformed to international protocols and was applied in a consistent manner across the country.<sup>136</sup>

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135 CBSA, *Detentions and Removals Programs — Evaluation Study*, November 2010.

136 Mr. Peter Hill, Director General, Post Border programs, Canada Border Services Agency, *Committee Evidence*, Meeting No. 21, February 14, 2012, 1725.

## A. Alternatives to detention

Several witnesses suggested that alternatives to detention should be used more often. The only such program currently working under a formal agreement with the CBSA is the Toronto Bail Program, a community-based supervision program for foreign nationals. One witness explained there was a need for formal agreements between the CBSA and the various organizations and refugee shelters that take in vulnerable populations on referrals from the Toronto IHC.<sup>137</sup> Another suggested that programs similar to the Toronto Bail Program should be available across the country.<sup>138</sup> He also informed the committee that electronic monitoring is another viable alternative to detention in that it allows for tracking, is not too expensive, and — in his experience working with clients — is preferred to detention.<sup>139</sup> One witness told the Committee that Australia has developed a cost-effective alternative to detention for vulnerable populations, building into their programs conditions that address security concerns.<sup>140</sup>

### Recommendation 25

**The Committee recommends that the Canada Border Services Agency review the use of additional methods of alternatives to detention.**

## B. Consistency in the detention program

The information provided to the Committee regarding the national detention standards that must be upheld in the IHCs include: a daily minimum of one hour open air exercise, free local telephone calls, access to a qualified religious representative upon request, and special meals provided for medical, dental or religious reasons.

CBSA personnel on site in British Columbia explained that, while there are differences between the three IHCs, the same standards or operating principles apply. These include safe and secure detainees, upholding the legal rights of detainees, and ensuring that all detainees are treated with respect. They acknowledged that no-one likes being deprived of their liberty and explained that they try to make the experience as respectful and dignified as possible. To help ensure that the standards are met uniformly across the country, CBSA employs various strategies, including program integrity visits from headquarters (including visits to provincial facilities holding immigrant detainees), a detentions working group at the management level, and monitoring by non-government organizations, such as the UNHCR and the Red Cross. Red Cross reports are considered at the Director General level in headquarters but are also addressed informally and

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137 Ms. Loly Rico, Vice-President, Canadian Council for Refugees, Committee *Evidence*, Meeting No. 48, June 12, 2012, 1550. (Rico)

138 Waldman, September 26, 1655.

139 Ibid.

140 Ms. Debbie Douglas, Executive Director, Ontario Council of Agencies Serving Immigrants (OCASI), Committee *Evidence*, Meeting No. 53, October 15, 2012, 1645.

formally by the regional office, when the issues raised are specific to one facility. Finally, there is a standard training program of 16 weeks for Border Services Officers (working at Ports of Entry) and additional training required for enforcement officers, who have different delegated authorities under IRPA.

## **MOVING FORWARD**

Many initiatives and programs were raised before the Committee during the last year. The reports from the Auditor General of Canada have provided many recommendations to CIC and the CBSA with the goal of strengthening the immigration system. Although departments plan responses to these recommendations, including implementation schedules, the Committee wishes to be kept informed of the progress that is made.

Although Bill C-43 was drafted in response to a review of admissibility criteria, it did not include the health provisions (IRPA, section 38). However, a couple of witnesses echoed the Office of the Auditor General finding that the criteria with respect to the medical screening are in need of review.<sup>141</sup> One witness also advised the committee that, using current procedures, medical results could be tampered with.<sup>142</sup> Finally, one witness stated that the new Interim Federal Health Program would likely create public safety issues.<sup>143</sup>

### **Recommendation 26**

**The Committee recommends that Citizenship and Immigration Canada establish a network of approved labs to provide independent analysis of medical tests.**

### **Recommendation 27**

**The Committee recommends that Citizenship and Immigration Canada review the objectives of screening for danger to public health.**

On the whole, witnesses shared a number of observations and made recommendations concerning general, or cross-cutting themes. Two witnesses suggested that, given the significant (and expanding) enforcement powers of the CBSA, the current accountability mechanism of the internal complaints process is inadequate.<sup>144</sup> They recommended instead that the CBSA be subject to independent oversight, similar to the RCMP and the CSIS. These witnesses suggested that such an accountability

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141 Dr. Natasha Crowcroft, Director of Surveillance and Epidemiology, Public Health Ontario, and Dr. Eileen de Villa, Associate Medical Officer of Health, Peel Public Health, Region of Peel, Committee *Evidence*, Meeting No. 28, March 15, 2012, 1535; Greenholtz, 1650.

142 Dr. Gulzar Cheema, as an individual, Committee *Evidence*, Meeting No. 26, March 8, 2012, 1630.

143 Dr. Mark Tyndall, Professor and Head Division of Infectious Diseases, University of Ottawa, Ottawa Hospital, Committee *Evidence*, Meeting No. 52, October 3, 2012, 1550.

144 Des Rosiers, September 26, 1625; Waldman, September 26, 1635.

mechanism would both improve enforcement activities and provide an important avenue of redress.



# **LIST OF RECOMMENDATIONS**

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## **Recommendation 1**

**The Committee recommends that the Canada Border Services Agency implement an exit control system for visitors. .... 8**

## **Recommendation 2**

**The Committee recommends that Citizenship and Immigration Canada require individuals to report to a local Citizenship and Immigration Canada office at the end of the validity of their visa if they have not either left Canada or applied for an extension..... 8**

## **Recommendation 3**

**The Committee recommends that Citizenship and Immigration Canada develop policy and procedures with respect to the collection of biometrics prior to the collection of the data and that the policy clarify that the data collection must be for a limited purpose, and must be clearly understood by the individual providing data. .... 10**

## **Recommendation 4**

**The Committee recommends that Citizenship and Immigration Canada should collect biometric data from all non-Canadians. .... 10**

## **Recommendation 5**

**The Committee recommends that the Canada Border Services Agency verify all biometrics (photographs and fingerprints) at point of entry for all non-residents' entry into Canada. .... 10**

## **Recommendation 6**

**The Committee recommends that Citizenship and Immigration Canada cross reference the collected biometrics against shared databases. .... 11**

## **Recommendation 7**

**The Committee recommends that Citizenship and Immigration Canada, the Canada Border Services Agency and the Royal Canadian Mounted Police, who will share the responsibility for the collection, use and storage of the biometric information, develop and implement stringent security protections for the databases, to withstand potential cyber-attacks. .... 11**

**Recommendation 8**

**The Committee recommends that the Government of Canada encourage independent research on the use of biometrics..... 11**

**Recommendation 9**

**The Committee recommends increased cultural awareness training for officers of Citizenship and Immigration Canada and officers of the Canada Border Services Agency for the purpose of identification..... 11**

**Recommendation 10**

**The Committee recommends that the Canada Border Services Agency remove failed refugee claimants more quickly..... 13**

**Recommendation 11**

**The Committee recommends that the Canada Border Services Agency allocate more resources for removals..... 13**

**Recommendation 12**

**The Committee recommends that Foreign Affairs and International Trade Canada share information with officers of Citizenship and Immigration Canada to assist them in the screening of applicants in regards to inadmissibility. .... 16**

**Recommendation 13**

**The Committee recommends that Public Safety Canada ensure that the Canada Border Services Agency, the Royal Canadian Mounted Police and the Canadian Security Intelligence Service share information in an efficient manner. .... 16**

**Recommendation 14**

**The Committee recommends that Citizenship and Immigration Canada and the Canada Border Services Agency develop a capacity to collect intelligence outside of Canada..... 16**

**Recommendation 15**

**The Committee recommends that the Government of Canada establish a framework to determine how Canada can better share intelligence with its allies and how Canada can better expand the intelligence it shares..... 16**

**Recommendation 16**

**The Committee recommends that the Government of Canada implement information sharing agreements with as many countries as possible..... 16**

**Recommendation 17**

**The Committee recommends that the Government of Canada implement information sharing agreements between the Canada Border Services Agency, Citizenship and Immigration Canada and the Canadian Revenue Agency. .... 16**

**Recommendation 18**

**The Committee recommends that the Government of Canada sufficiently resource the Crimes against Humanity and War Crimes Program..... 18**

**Recommendation 19**

**The Committee recommends that Citizenship and Immigration Canada develop a list of priority countries for security screening. .... 20**

**Recommendation 20**

**The Committee recommends that Citizenship and Immigration Canada, the Canada Border Services Agency and the Canadian Security intelligence Service create a tiers system, which would allow the Government of Canada to establish broad waivers for classes of individuals inadmissible on security grounds who pose no threat to Canada..... 20**

**Recommendation 21**

**The Committee recommends that Citizenship and Immigration Canada and the Canada Border Services Agency ensure that their officers involved in section 34 decisions receive specific training. .... 21**

**Recommendation 22**

**The Committee recommends that the Canada Border Services Agency use the term Immigration Holding Centre rather than detention centre, to better reflect the nature of these centres..... 28**

**Recommendation 23**

**The Committee recommends that the Canada Border Services Agency review their Immigration Holding Centre service standards and establish a best practices model or operational procedures that could be used for all Immigration Holding Centres. .... 28**

**Recommendation 24**

**The Committee recommends that, where financially and logistically possible, Immigration and Refugee Board offices and the three official Immigration Holding Centres be at the same locations..... 28**

**Recommendation 25**

**The Committee recommends that the Canada Border Services Agency review the use of additional methods of alternatives to detention..... 29**

**Recommendation 26**

**The Committee recommends that Citizenship and Immigration Canada establish a network of approved labs to provide independent analysis of medical tests. .... 30**

**Recommendation 27**

**The Committee recommends that Citizenship and Immigration Canada review the objectives of screening for danger to public health..... 30**

# APPENDIX A LIST OF WITNESSES

<b>Study "Standing on Guard for Thee: Ensuring that Canada's Immigration System is Secure" 41<sup>st</sup> Parliament – First Session</b>	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<p><b>Canada Border Services Agency</b></p> <p>Peter Hill, Director General, Post-Border Programs</p> <p>Pierre Sabourin, Vice-President, Operations Branch</p> <p><b>Department of Citizenship and Immigration</b></p> <p>Claudette Deschênes, Assistant Deputy Minister, Operations</p> <p>Les Linklater, Assistant Deputy Minister, Strategic and Program Policy</p>	2012/02/14	21
<p><b>Canada Border Services Agency</b></p> <p>Geoffrey Leckey, Director General, Intelligence and Targeting Operations</p> <p><b>Canadian Security Intelligence Service</b></p> <p>Tom Venner, Executive Director General, Security Screening Branch</p> <p><b>Office of the Auditor General of Canada</b></p> <p>Wendy Loschiuk, Assistant Auditor General</p> <p>Gordon Stock, Principal</p> <p>Suzanne Therrien, Principal</p> <p><b>Office of the Privacy Commissioner of Canada</b></p> <p>Andrew Patrick, Information Technology Research Analyst</p> <p>Lindsay Scotton, Manager, Privacy Impact Assessment Reviews, Audit and Review Branch</p> <p>Jennifer Stoddart, Privacy Commissioner</p> <p><b>Royal Canadian Mounted Police</b></p> <p>Shirley Cuillierier, Director, Immigration and Passports</p> <p>Todd G. Shean, Assistant Commissioner, Federal and International Operations</p>	2012/02/16	22

<b>Study "Standing on Guard for Thee: Ensuring that Canada's Immigration System is Secure" 41<sup>st</sup> Parliament – First Session</b>	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Centre for Immigration Policy Reform</b> Martin Collacott, Spokeperson	2012/02/28	23
<b>International Freedom Educational Foundation</b> Joseph Humire, Senior Fellow and Director, Center for a Secure Free Society		
<b>As individuals</b> Catherine Dauvergne, Professor, Canada Research Chair in Migration Law, University of British Columbia, Faculty of Law Joe Greenholtz John Petryshyn, Lawyer Rajesh Randev, Immigration Consultant	2012/03/01	24
<b>As individuals</b> John Amble James Bissett Andrew Brouwer, Barrister and Solicitor Renuka Rajaratnam	2012/03/06	25
<b>As an individual</b> Gulzar Cheema <b>Department of Citizenship and Immigration</b> Sharon Chomyn, Director General, International Region Sidney Frank, Immigration Program Manager, New Delhi, India	2012/03/08	26
<b>Quebec Immigration Lawyers Association (AQAADI)</b> Dan Bohbot, President		
<b>Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre</b> Walter Perchal, Program Director George Platsis, Program Director	2012/03/15	28
<b>Public Health Ontario</b> Dr. Natasha Crowcroft, Director, Surveillance and epidemiology		

<b>Study "Standing on Guard for Thee: Ensuring that Canada's Immigration System is Secure" 41<sup>st</sup> Parliament – First Session</b>	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Region of Peel</b> Dr. Eileen de Villa, Associate Medical Officer of Health, Peel Public Health	2012/03/15	28
<b>World Sikh Organization of Canada</b> Balpreet Singh, Legal Counsel		
<b>Department of Citizenship and Immigration</b> Claudette Deschênes, Assistant Deputy Minister, Operations Hon. Jason Kenney, P.C., M.P., Minister of Citizenship, Immigration and Multiculturalism	2012/03/27	29
<b>Federal Government of Germany</b> Roland Brumberg, Counselor of Unit Immigration Law, Ministry of the Interior Christian Klos, Head of Unit Immigration Law, Ministry of the Interior Corinna Richard, Deputy Head of Unit Immigration Law, Ministry of the Interior	2012/04/03	30
<b>Canadian Centre for International Justice</b> Jayne Stoyles, Executive Director	2012/06/12	48
<b>Canadian Council for Refugees</b> Loly Rico, Vice-President		
<b>Canadian Security Intelligence Service</b> Richard B. Fadden, Director Tom Venner, Executive Director General, Security Screening Branch <b>Defence Research and Development Canada</b> Pierre Meunier, Portfolio Manager, Surveillance, Intelligence and Interdiction, Centre for Security Science	2012/06/19	49
<b>NextgenID Canada Inc.</b> Ilan Arnon, Vice-President, Technology Solutions Robert L. Bell, Senior Vice-President , Corporate and Business Development		
<b>As an individual</b> Lorne Waldman, Partner, Lorne Waldman and Associates	2012/09/26	50

<b>Study "Standing on Guard for Thee: Ensuring that Canada's Immigration System is Secure" 41<sup>st</sup> Parliament – First Session</b>	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Canadian Civil Liberties Association</b>	2012/09/26	50
Nathalie Des Rosiers, General Counsel		
<b>As individuals</b>	2012/10/01	51
Peter Edelmann, Lawyer		
Salim Mansur, Professor of Political Science, University of Western Ontario		
Mark B. Salter, Professor, School of Political Studies, University of Ottawa		
<b>As individuals</b>	2012/10/03	52
RADM Donald Loren, Senior Distinguished Faculty, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre		
Benjamin Muller, Professor of Political Science, King's University College at Western University		
George Platsis, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre		
Dr. Mark Tyndall, Professor and Head Division of Infectious Diseases, University of Ottawa, Ottawa Hospital		
<b>As an individual</b>	2012/10/15	53
Angus Grant		
<b>Action Réfugiés Montréal</b>		
Jenny Jeanes, Program Coordinator		
<b>Ontario Council of Agencies Serving Immigrants (OCASI)</b>		
Amy Casipullai, Senior Policy and Communications Coordinator		
Debbie Douglas, Executive Director		
<b>REDRESS</b>		
Lutz Oette, Counsel		
<b>Canada Border Services Agency</b>	2012/12/03	65
Peter Hill, Director General, Enforcement and Intelligence programs		
Geoffrey Leckey, Director General, Intelligence and Targeting Operations		

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**Study "Standing on Guard for Thee:  
Ensuring that Canada's  
Immigration System is Secure"  
41<sup>st</sup> Parliament – First Session**

**Date**

**Meeting**

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**Organizations and Individuals**

**Department of Citizenship and Immigration**

2012/12/03

65

Dawn Edlund, Associate Assistant Deputy Minister,  
Operations

Les Linklater, Assistant Deputy Minister,  
Strategic and Program Policy



## APPENDIX B LIST OF WITNESSES

<b>Study on Bill C-31 41<sup>st</sup> Parliament – First Session</b>	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Department of Citizenship and Immigration</b>	2012/04/26	31
Dawn Edlund, Associate Assistant Deputy Minister, Operations		
Jennifer Irish, Director, Asylum Policy and Programs		
Hon. Jason Kenney, P.C., M.P., Minister of Citizenship, Immigration and Multiculturalism		
Les Linklater, Assistant Deputy Minister, Strategic and Program Policy		
<b>Department of Justice</b>		
Daniel Therrien, Assistant Deputy Attorney General		
<b>Public Safety Canada</b>		
Michael MacDonald, Director General, National Security Operations Directorate		
<b>As an individual</b>	2012/04/30	32
Barbara Jackman, Immigration Lawyer		
<b>Canada Border Services Agency</b>		
Marie Estabrooks, Manager, Biometrics Policy, Program and Projects, Emerging Border Programs		
Peter Hill, Director General, Post-Border Programs		
<b>David Asper Centre for Constitutional Rights</b>		
Audrey Macklin, Representative, Professor, Faculty of Law and School for Public Policy and Governance, University of Toronto		
Sean Rehaag, Representative, Assistant Professor, Osgoode Hall Law School, York University		
<b>Department of Citizenship and Immigration</b>		
Marie Bourry, Executive Director and Senior General Counsel, Legal Services		
Alain Desruisseaux, Director General, Admissibility Branch		

<b>Study on Bill C-31</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<p><b>Department of Citizenship and Immigration</b></p> <p>Jennifer Irish, Director, Asylum Policy and Programs</p> <p>Les Linklater, Assistant Deputy Minister, Strategic and Program Policy</p> <p><b>Public Safety Canada</b></p> <p>Michael MacDonald, Director General, National Security Operations Directorate</p> <p><b>Royal Canadian Mounted Police</b></p> <p>Joe Oliver, Director General, Border Integrity</p> <p>Charles Walker, Director General, Canadian Criminal Real Time Identification Services</p>	2012/04/30	32
<p><b>As an individual</b></p> <p>Julie Taub, Immigration and Refugee Lawyer</p> <p><b>Canadian Civil Liberties Association</b></p> <p>Nathalie Des Rosiers, General Counsel</p> <p>Noa Mendelsohn Aviv, Director, Equality Program</p> <p><b>Centre for Immigration Policy Reform</b></p> <p>Martin Collacott, Spokesperson</p> <p><b>Human Rights Research and Education Centre, University of Ottawa</b></p> <p>Peter Showler, Director, Refugee Forum</p> <p><b>Ministry of the Attorney General of Ontario</b></p> <p>Toni Skarica, Crown Attorney</p> <p><b>Ontario Council of Agencies Serving Immigrants (OCASI)</b></p> <p>Debbie Douglas, Executive Director</p> <p>Francisco Rico-Martinez, Regional Director, Toronto</p>	2012/04/30	33
<p><b>As an individual</b></p> <p>Richard Kurland, Policy Analyst and Attorney</p> <p><b>Barreau du Québec</b></p> <p>Carla Chamass, Lawyer, Legislation and Research Section</p> <p>Mitchell Goldberg, Lawyer, Member of the Committee on Immigration and Citizenship</p>	2012/05/01	34

<b>Study on Bill C-31</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Barreau du Québec</b>	2012/05/01	34
Nicolas Plourde, President of the Bar		
<b>Canadian Bar Association</b>		
Peter Edelmann, Member, National Immigration Law Section		
Tamra L. Thomson, Director, Legislation and Law Reform		
<b>Canadian Centre for Victims of Torture</b>		
Ezat Mossallanejad, Policy Analyst and Researcher		
<b>Canadian Taxpayers Federation</b>		
Derek Fildebrandt, National Research Director		
<b>As individuals</b>	2012/05/01	35
David Matas, Lawyer		
Andrew Wlodyka, Barrister and Solicitor		
<b>Department of Labour of New Zealand</b>		
Stephen Dunstan, General Manager, Settlement and Attraction Division, Immigration Group		
Christine Hyndman, Manager, Immigration Policy, Policy and Research Group		
Fraser Richards, Acting Director, Legal Business, Legal Group		
<b>Human Rights Watch</b>		
Bill Frelick, Director, Refugee Program		
<b>Human Rights Watch Canada</b>		
Jennifer Eggsgard, Member		
<b>Women's College Hospital</b>		
Dr. Meb Rashid, Medical Doctor, Crossroads Clinic		
<b>As an individual</b>	2012/05/02	36
Herbert G. Grubel, Senior Fellow, Fraser Institute		
<b>Division of Social and Cultural Psychiatry, McGill University</b>		
Janet Cleveland, Psychologist and Researcher, Transcultural Research and Intervention Team		
Cécile Rousseau, Professor of psychiatry and researcher, Transcultural Research and Intervention Team		

<b>Study on Bill C-31</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Quebec Immigration Lawyers Association (AQAADI)</b>	2012/05/02	36
Dan Bohbot, President		
Patil Tutunjian, Member		
<b>Table de concertation des organismes au service des personnes réfugiées et immigrantes</b>		
Rivka Augenfeld, Spokesperson		
Richard Goldman, Spokesperson		
<b>As individuals</b>	2012/05/02	37
Andrew Brouwer, Barrister and Solicitor		
Mary Crock, Professor of Public Law, Faculty of Law, University of Sydney		
Carole Dahan, Barrister and Solicitor		
Daniel Ghezelbash, Doctoral Student, Faculty of Law, University of Sydney		
James Milner, Assistant Professor, Department of Political Science, Carleton University		
<b>Chantal Desloges Professional Corporation</b>		
Chantal Desloges, Senior Lawyer		
<b>Embassy of the Republic of Hungary</b>		
Imre Helyes, First Counsellor, Head of Consular Section		
<b>As individuals</b>	2012/05/03	38
James Bissett		
Delphine Nakache, Assistant Professor, Faculty of Social Sciences, School of International Development and Global Studies, University of Ottawa		
<b>Canadian Association of Refugee Lawyers</b>		
Donald Galloway, Co-Chair, Legal Research Committee		
Lesley Stalker, Member-at-large		
<b>Canadian Council for Refugees</b>		
Loly Rico, Vice-President		
Chantal Tie, Working Group Chair, Inland Protection		
<b>Centre de santé et de services sociaux de la Montagne</b>		
Marian Shermarke, Clinical Advisor		
Marc Sougavinski, Director General		

<b>Study on Bill C-31</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>As individuals</b>	2012/05/03	39
John Amble		
Michael Deakin-Macey, Past President, Board of Directors, Victoria Immigrant and Refugee Centre Society		
<b>Action Réfugiés Montréal</b>		
Jenny Jeanes, Program Coordinator		
Glynis Williams, Executive Director		
<b>Canadian Paediatric Society</b>		
Marie Adèle Davis, Executive Director		
Richard Stanwick, President Elect		
<b>Rainbow Refugee Committee</b>		
Sharalyn Jordan, Member of the Board		
Christine Morrissey, Founder and Member of the Board		
<b>Roma Community Centre</b>		
Gina Csanyi-Robah, Executive Director		
Maureen Silcoff, Representative		
<b>As individuals</b>	2012/05/07	40
Sharryn Aiken, Associate Professor, Faculty of Law, Queen's University		
Catherine Dauvergne, Professor, Canada Research Chair in Migration Law, University of British Columbia, Faculty of Law		
<b>Amnesty International</b>		
Alex Neve, Secretary General, Amnesty International Canada		
Béatrice Vaugrante, Executive Director, Amnesty International Canada Francophone		
<b>B. Refuge, McGill University</b>		
Kelsey Angeley, Student		
Karina Fortier, Student		
<b>Delegation of the European Union to Canada</b>		
His Excellency Bernhard Matthias Brinkmann, Ambassador		
Terri-Ann Priel, Advisor on Political and Public Affairs		
Jose-Antonio Torres Lacas, First Counsellor		

**Study on Bill C-31**  
**41<sup>st</sup> Parliament – First Session**

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>European Commission</b></p> <p>Elfa Balina, Policy Officer, Directorate General Home Affairs, Large Scale IT-Systems and Biometrics Unit</p> <p>Joanna Beczala, International Relations Officer, Directorate General Home Affairs, International Affairs Unit</p> <p>Laurent Bonansea, Policy Officer, Directorate General Home Affairs, Large Scale IT-Systems and Biometrics Unit</p> <p>Pawel Busiakiewicz, International Relations Officer, Directorate General Home Affairs, International Affairs Unit</p> <p>Angela Martini, Policy Officer, Directorate General, Home Affairs, Border Management and Return Policy Unit</p> <p>Ioana Patrascu, Legal Officer, Directorate General, Home Affairs, Asylum Unit</p> <p>Gregor Pelzl, Policy Officer, Directorate General Home Affairs, Large Scale IT-Systems and Biometrics Unit</p> <p>Salvatore Petronella, Policy Officer, Directorate General Home Affairs, Immigration and Integration Unit</p> <p>Gabriela Szmidt, Policy Officer, Directorate General Home Affairs, Asylum Unit</p>	2012/05/07	40
<p><b>Federal Government of Germany</b></p> <p>Roland Brumberg, Counselor of Unit Immigration Law, Ministry of the Interior</p> <p>Christoph Ehrentraut, Counsellor, of European Harmonization Unit, Ministry of the Interior</p> <p>Anja Klabundt, Counsellor, of European Harmonization Unit, Ministry of the Interior</p>		
<p><b>As an individual</b></p> <p>Lorne Waldman, Partner, Lorne Waldman and Associates</p>	2012/05/07	41
<p><b>Anglican Church of Canada</b></p> <p>Rev Lorette Gauthier Glasgow, Special Advisor, Government Relations, Diocese of Ottawa</p> <p>Rev. Canon William Prentice, Director, Community Ministry, Diocese of Ottawa</p>		

<b>Study on Bill C-31</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<p><b>Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre</b></p> <p>RADM Donald Loren, Faculty Walter Perchal, Program Director</p>	2012/05/07	41
<p><b>Office of the United Nations High Commissioner for Refugees</b></p> <p>Michael Casasola, Resettlement Officer Furio De Angelis, Representative in Canada</p>		
<p><b>Privy Council Office</b></p> <p>Ward P.D. Elcock, Special Advisor on Human Smuggling and Illegal Migration</p>		
<p><b>Department of Citizenship and Immigration</b></p> <p>Monique Frison, Director, Identity Management and Information Sharing</p> <p>Jennifer Irish, Director, Asylum Policy and Programs</p> <p>Warren Woods, Manager, Asylum Policy and Programs</p>	2012/05/09	42
<p><b>Public Safety Canada</b></p> <p>Allan Kagedan, Director, National Security Operations</p>		
<p><b>Canada Border Services Agency</b></p> <p>Nicole Lefebvre, Acting Director, Inland Enforcement, Programs Branch</p>	2012/05/09	43
<p><b>Department of Citizenship and Immigration</b></p> <p>Catherine Gagnon, Counsel, Legal Services</p> <p>Jennifer Irish, Director, Asylum Policy and Programs</p> <p>Warren Woods, Manager, Asylum Policy and Programs</p>		
<p><b>Public Safety Canada</b></p> <p>Allan Kagedan, Director, National Security Operations</p>		
<p><b>Canada Border Services Agency</b></p> <p>Nicole Lefebvre, Acting Director, Inland Enforcement, Programs Branch</p>	2012/05/10	44

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**Study on Bill C-31**  
**41<sup>st</sup> Parliament – First Session**

	<b>Date</b>	<b>Meeting</b>
<hr/> <b>Organizations and Individuals</b> <hr/>		
<b>Department of Citizenship and Immigration</b>	2012/05/10	44
Jennifer Irish, Director, Asylum Policy and Programs		
Matthew Oommen, Senior Counsel, Legal Services		
Warren Woods, Manager, Asylum Policy and Programs		
<b>Department of Justice</b>		
Scott Nesbitt, Counsel, Canada Border Services Agency		
<b>Public Safety Canada</b>		
Allan Kagedan, Director, National Security Operations		
<b>Department of Citizenship and Immigration</b>	2012/05/10	45
Monique Frison, Director, Identity Management and Information Sharing		
Jennifer Irish, Director, Asylum Policy and Programs		
Michelle Mann, Senior Counsel, Legal Services		
Matthew Oommen, Senior Counsel, Legal Services		
Warren Woods, Manager, Asylum Policy and Programs		
<b>Department of Justice</b>		
Scott Nesbitt, Counsel, Canada Border Services Agency		
Matthew Taylor, Counsel, Criminal Law Policy Section		
<b>Public Safety Canada</b>		
Allan Kagedan, Director, National Security Operations		

## APPENDIX C LIST OF WITNESSES

<b>Study on Bill C-43 41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>Canada Border Services Agency</b>	2012/10/24	54
Peter Hill, Director General, Post-Border Programs		
<b>Department of Citizenship and Immigration</b>		
Marie Bourry, Executive Director and Senior General Counsel, Legal Services		
Hon. Jason Kenney, P.C., M.P., Minister of Citizenship, Immigration and Multiculturalism		
Les Linklater, Assistant Deputy Minister, Strategic and Program Policy		
Neil Yeates, Deputy Minister		
<b>Department of Public Safety and Emergency Preparedness</b>		
Emmanuelle Deault-Bonin, Acting Senior Director, National Security Policy Directorate		
<b>As an individual</b>	2012/10/29	55
Julie Taub, Immigration and Refugee Lawyer		
<b>Canadian Council for Refugees</b>		
Andrew Brouwer, Representative		
<b>Schizophrenia Society of Ontario</b>		
Irina Sytcheva, Manager, Policy and Community Relations		
<b>As an individual</b>	2012/10/31	56
James Bissett, Board of Directors, Centre for Immigration Policy Reform		
<b>Amnesty International</b>		
Alex Neve, Secretary General, Amnesty International Canada		
Anna Shea, Articling Student		
<b>Canadian Police Association</b>		
Tom Stamatakis, President		
<b>Victims of Violence</b>		
Sharon Rosenfeldt, President		

<b>Study on Bill C-43</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>As individuals</b>	2012/11/05	57
Barbara Jackman, Immigration Lawyer		
David Matas, Lawyer, International Human Rights		
Robin Seligman, Immigration Lawyer		
<b>Canadian Association of Refugee Lawyers</b>		
Angus Grant, Lawyer		
Lorne Waldman, President		
<b>Centre for Immigration Policy Reform</b>		
Martin Collacott, Spokesperson		
<b>As an individual</b>	2012/11/07	58
Reynaldo Reis Visarra Jr. Pagtakhan, Immigration Lawyer		
<b>Canadian Bar Association</b>		
Kerri Froc, Staff Lawyer, Law Reform and Equality		
Michael A. Greene, Member, National Immigration Law Section		
<b>Table de concertation des organismes au service des personnes réfugiées et immigrantes</b>		
Rivka Augenfeld, Representative		
Richard Goldman, Refugee Protection Coordinator		
<b>As individuals</b>	2012/11/19	60
RADM Donald Loren, Senior Distinguished Faculty, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre		
Walter Perchal, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre		
George Platsis, Program Director, Centre of Excellence in Security, Resilience, and Intelligence, Schulich Executive Education Centre		
Jacques Shore, Partner, Gowlings		
<b>Ontario Council of Agencies Serving Immigrants (OCASI)</b>		
Amy Casipullai, Senior Policy and Public Education Coordinator		
Francisco Rico-Martinez, Regional Director, Toronto		

<b>Study on Bill C-43</b>		
<b>41<sup>st</sup> Parliament – First Session</b>		
	<b>Date</b>	<b>Meeting</b>
<b>Organizations and Individuals</b>		
<b>As an individual</b>	2012/11/21	62
Richard Kurland, Policy Analyst and Lawyer		
<b>Canadian Somali Congress</b>		
Ahmed Hussien, National President		
<b>Canada Border Services Agency</b>	2012/11/26	63
Carl Desmarais, Acting Director, Policy Division, Enforcement and Intelligence Programs Directorate		
<b>Department of Citizenship and Immigration</b>		
Karen Clarke, Deputy Director, Migration Control and Horizontal Policy		
Jillan Sadek, Director, Case Review		
<b>Department of Public Safety and Emergency Preparedness</b>		
Emmanuelle Deault-Bonin, Manager, National Security Policy Directorate		
<b>Canada Border Services Agency</b>	2012/11/28	64
Carl Desmarais, Acting Director, Policy Division, Enforcement and Intelligence Programs Directorate		
<b>Department of Citizenship and Immigration</b>		
Karen Clarke, Deputy Director, Migration Control and Horizontal Policy		
Jillan Sadek, Director, Case Review		
<b>Department of Public Safety and Emergency Preparedness</b>		
Emmanuelle Deault-Bonin, Manager, National Security Policy Directorate		



## APPENDIX D LIST OF WITNESSES

Study on the subject matter of clauses 308 to 314 (Immigration and Refugee Protection Act) of Bill C-45 41 <sup>st</sup> Parliament – First Session	Date	Meeting
Organizations and Individuals		
<p><b>As an individual</b></p> <p>James Bissett, Board of Directors, Centre for Immigration Policy Reform</p> <p><b>Centre for Immigration Policy Reform</b></p> <p>Martin Collacott, Spokesperson</p> <p><b>Department of Citizenship and Immigration</b></p> <p>Marie Bourry, Executive Director and Senior General Counsel, Legal Services</p> <p>Les Linklater, Assistant Deputy Minister, Strategic and Program Policy</p> <p>Maia Welbourne, Director, Document and Visa Policy, Admissibility Branch</p> <p><b>NextgenID Canada Inc.</b></p> <p>Robert L. Bell, Senior Vice-President, Corporate and Business Development</p>	2012/11/19	59
<p><b>As individuals</b></p> <p>Emily Gilbert, Associate Professor, Director, Canadian Studies Program, University of Toronto</p> <p>Richard Kurland, Policy Analyst and Lawyer</p> <p><b>Center for a Secure Free Society</b></p> <p>J.D. Gordon, Senior Communications Advisor</p> <p><b>Department of Citizenship and Immigration</b></p> <p>Alain Desruisseaux, Director General, Admissibility Branch</p> <p>Matthew Oommen, Senior Counsel, Legal Services</p> <p>Maia Welbourne, Director, Document and Visa Policy, Admissibility Branch</p>	2012/11/20	61



## **APPENDIX E LIST OF BRIEFS**

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**Study "Standing on Guard for Thee: Ensuring that Canada's  
Immigration System is Secure"  
41<sup>st</sup> Parliament – First Session**

**Organizations and Individuals**

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**Action Réfugiés Montréal**

**Brouwer, Andrew**

**Centre for Immigration Policy Reform**

**Greenholtz, Joe**

**International Freedom Educational Foundation**

**Quebec Immigration Lawyers Association (AQAADI)**



# APPENDIX F LIST OF BRIEFS

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## Study on Bill C-31 41<sup>st</sup> Parliament – First Session

### Organizations and Individuals

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Action Réfugiés Montréal

Amnesty International

Anglican Church of Canada

Barbra Schlifer Commemorative Clinic

Barreau du Québec

Canadian Association of Refugee Lawyers

Canadian Bar Association

Canadian Civil Liberties Association

Canadian Council for Refugees

Centre de santé et de services sociaux de la Montagne

Chantal Desloges Professional Corporation

Dauvergne, Catherine

Division of Social and Cultural Psychiatry, McGill University

Goel, Ritika

Human Rights Watch

Metropolitan Action Committee on Violence Against Women and Children

Metropolitan Community Church of Toronto

Milner, James

Mukhopadhyay, Baijayanta

Office of the United Nations High Commissioner for Refugees

Ontario Council of Agencies Serving Immigrants (OCASI)

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**Study on Bill C-31  
41<sup>st</sup> Parliament – First Session**

**Organizations and Individuals**

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**Rainbow Refugee Committee**

**Refugee Forum**

**Refugee Lawyers' Association of Ontario**

**Roma Community Centre**

**Romero House**

**Table de concertation des organismes au service des personnes réfugiées et immigrantes**

**UNICEF Canada**

**Waldman, Lorne**

**Wales, Joshua**

**Wiedmeyer, Mei-ling**

**Women's Legal Education and Action Fund**

# **APPENDIX G LIST OF BRIEFS**

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## **Study on Bill C-43 41<sup>st</sup> Parliament – First Session**

### **Organizations and Individuals**

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**Amnesty International**

**Canadian Bar Association**

**Canadian Civil Liberties Association**

**Canadian Council for Refugees**

**Matas, David**

**Table de concertation des organismes au service des personnes réfugiées et  
immigrantes**



## **APPENDIX H LIST OF BRIEFS**

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**Study on the subject matter of clauses 308 to 314  
(Immigration and Refugee Protection Act)  
of Bill C-45  
41<sup>st</sup> Parliament – First Session  
Organizations and Individuals**

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**Office of the Privacy Commissioner of Canada**



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings ([Meetings Nos. 21, 22, 23, 24, 25, 25, 26, 28, 29, 30, 48 49, 50, 51, 52, 53, 65, 66, 67, 68, 69, 70 and 71](#)) is tabled.

Respectfully submitted,

David Tilson

Chair



# **ENSURING THAT CANADA'S IMMIGRATION SYSTEM IS SECURE**

## ***SUPPLEMENTARY REPORT BY THE NDP OFFICIAL OPPOSITION***

*Jinny Sims, MP for Newton – North Delta*

*Sadia Groguhé, MP for Saint-Lambert*

*Rathika Sitsabaiesan, MP for Scarborough—Rouge River*

*Mylène Freeman, MP for Argenteuil—Papineau—Mirabel*

For almost a year, the Standing Committee on Citizenship and Immigration (CIMM) studied issues around the security of Canada's immigration system. While witnesses presented relatively balanced views on the subject, regrettably the final report does not reflect this. For example, largely ignored by the report is witness testimony (and recommendations) that referenced a lack of resources and coordination at the Canadian Border Security Agency (CBSA) and Citizenship and Immigration Canada (CIC); testimony regarding alternatives to prison detention; criticisms of the government's legislative approach; and improvements that could be made to Canada's Temporary Resident Visa system.

### **Conservative cuts and mismanagement threaten Canadians safety**

Many witnesses told the committee that the priority of the government should be addressing the lack of training, resources and integration of information and monitoring technologies within the responsible public service agencies. Unfortunately, exactly the opposite is happening under the Conservative government.

The May 2008 report of the Auditor General pointed to many problems with Canada's detention and removal process – including incomplete information, inconsistent decisions, lack of monitoring and failure to manage costs effectively. Years later, a number of witnesses told the committee that these problems still exist.

The 2012 Budget Plan announced cuts of \$143 million to the Canadian Border Services Agency (CBSA). The government claims these cuts will not have an impact on our frontline services – but that is simply wishful thinking. We know that 325 jobs on the frontline of border crossings across the country will be cut and the intelligence branch of the CBSA has been hard hit - losing 100 positions and 19 sniffer dog units due to the budget reductions.

Canadians want us to stop criminals and terrorists before they arrive in the country – however these cuts will mean that Canadian officials will have to try to do the best they can with less. This is no way to keep Canadians safe from foreign criminals who will now have an easier time getting across our borders.

## **Misguided Conservative legislation on security and immigration**

Failure to properly resource and integrate services vital to keeping Canadians safe led the government to instead focus on a highly punitive legislative approach to immigration and security. Conservatives introduced two pieces of legislation to reform the *Immigration and Refugee Protection Act (IRPA)* before this committee had been able to complete this study and offer recommendations.

As a result, these Bills – C-31 and C-43 – were ill-considered and will do more to punish victims of human trafficking, reduce due-process and concentrate power in the hands of the Minister than they will to keep Canadians safe. The NDP Official Opposition proposed a balanced approach based on evidence and consultation with stakeholders, but unfortunately sensible amendments to both bills were rejected by the Conservative majority.

### *C-31: “The Punishing Refugees Act”*

Despite numerous expert witnesses telling our committee that Bill C-31 violates Canada’s international obligations, concentrates too much power in the hands of the Minister and will end up costing the provinces more in detention costs, Conservatives forged ahead with this mean-spirited legislation. The law will end up punishing legitimate refugees and the victims of human traffickers, without making Canadians any safer.

Witnesses argued that Canada already has very tough penalties for human smuggling and that measures proposed in Bill C-31 will only drive up the costs that human smugglers can charge and encourage them to use more dangerous routes into Canada, therefore putting lives at risk. Others suggest that while the organizers stand to profit the most from human smuggling operations, they likely never come to Canada and may not be deterred by tougher measures for those who arrive as “irregular arrivals” as defined in C-31. The Committee heard that paying people for passage to a safe country is a last resort for many trying to escape persecution and that imposing penalties on the basis of mode of arrival is inconsistent with international law.

Witnesses also pointed to a myriad of other problems with C-31 - including the designation of “safe” countries and reduced timelines for appeals at the Refugee Appeal Division. They predicted an increase in claimants representing themselves, material of poor quality being put before the IRB and consequent adjournments, and deserving refugees being denied and deported because they failed to present their case properly.

### *C-43: Increased arbitrary power for the Minister, less due process for permanent residents*

Conservatives ignored expert testimony that pointed to a lack of resources and coordination at CIC and CBSA as the key reason that violent foreign criminals – in extreme cases – are able to stay in Canada despite deportation orders. Instead, they introduced Bill C-43 that focused on increasing arbitrary power

in the hands of the Minister of Immigration and curbing due-process rights for permanent Canadian residents – many of whom have been here for years or even decades.

Alex Neve of Amnesty International Canada voiced one of the main concerns of those opposing the bill: “The restrictions on and removal of humanitarian relief, ministerial relief, and appeal rights,” should be withdrawn as they are means of ensuring human rights are protected. Witnesses described how these new provisions would adversely impact youth, minorities, those suffering from mental illness.

Most witnesses agreed that non-citizens who commit serious crimes in Canada should be dealt with quickly, but many were concerned that Bill C-43 would concentrate more arbitrary power in the hands of the Minister without check and balances. Opposition Members of the committee introduced a number of reasonable amendments to curb some of the legislation’s most problematic measures, but all were rejected by the government Members.

### **Alternatives to detention and jail for foreign nationals**

While the report mentions alternatives to detention – and even recommends CBSA make greater use of them – much of the witness testimony in this area is missing.

During the study of Bill C-31, one witness mentioned that the European Union had moved away from child detention and had family-friendly alternatives, where reporting mechanisms provided sufficient control. Another witness stated that Sweden had developed supervised accommodations run by social workers which were also family friendly. An official from the United Nations High Commissioner for Refugees (UNHCR) stated that an Australian parliamentary committee studied immigration detention and as a result of its March 2012 report, there was a move toward community detention and residential housing for children and families.

Witnesses recommended that CBSA develop similar programs to the Toronto Bail Program – a community-based supervision program for foreign nations – across the country. They urged CBSA to develop and implement a national, formal alternative to detention program.

### **A fairer, more secure system for issuing Temporary Resident Visas**

The vast majority of newcomers and visitors to Canada are law-abiding people who want to build a better life for themselves and their families – even the Minister of Immigration admitted to as much during committee testimony. The Conservative government should spend more effort making sure they are treated fairly, have the resources they need and can be reunited with their families.

Canada’s system of Temporary Resident Visas, in many cases, allows families to be reunited for short periods of time and during major life events – such as weddings, births and funerals. Witness testimony

that has been excluded from this report, indicates out that the system is badly broken and needs reforms to be fixed.

During the course of the study, some witnesses voiced concerns regarding the issuance of temporary visitor visas. One witness stated that rejection rates for visitor visas are too high at certain visa posts. Several witnesses testified that an applicant has a right to know detailed reasons for the refusal of a visa. One witness stated that the fact that a foreign national is not given the opportunity to refute the basis of the refusal violates procedural fairness. Further, he stated that the little time given for assessing the application may be efficient but not effective, in particular when the application presents security concerns.

Witnesses also recommended that CIC establish an appeal process for negative temporary resident visa decisions – something the NDP Official Opposition has proposed in a Private Member's Bill.

### **Conclusion: Evidence-based approach to securing Canadians**

Protecting Canadians from security threats of all kinds is one of the primary responsibilities of the federal government. The expert testimony we heard during this study consistently showed that the best way to do this is to properly resource the appropriate public safety agencies.

In addition to cutting funding for border security, the Conservatives have also slashed hundreds of millions in funding to both the RCMP and Correctional Services Canada and have offered no funds to help with front-line policing needs. In fact, the government has refused to renew the Police Officer Recruitment Fund (PORF) which runs out in 2013. Any police that were hired as part of the program will no longer be funded and municipalities and provinces will have to make up the shortfall.

To achieve an immigration system is both fair and secure, the Conservative government should abandon its ill-considered legislative approach and instead make sure Canada's border guards, immigration officials and police officers have the resources they need to keep us safe.

## **Liberal Opinion to the Standing Committee on Citizenship and Immigration's Report on Security**

The security of Canada's immigration system and the safety of Canadians are of paramount importance to the Liberal Party of Canada. While immigration has always been integral to Canada's growth, our party believes that in order to ameliorate Canada's immigration policies, it is necessary to ensure that the security of our country's immigration system remains robust and responsive to a wide-range of security threats. While we support some of the recommendations put forth, due to several areas that are inadequately addressed which are detailed below, we cannot support the report in its entirety.

### **Biometrics/Risk Assessment**

Our party supports recommendations put forth within the report which outline the need for a comprehensive, evidence-based approach to implementing and using biometrics. Moving forward, the use of biometrics to improve security with regards to immigration is certainly an endeavor that our party supports. However, it is essential that in utilizing biometrics or other programs which collect information, that we are clear on the purposes and uses of the data. The government must be explicit on this front; from witness testimony regarding the implementation of the Electronic Travel Authorization Program (ETA) as outlined in Bill C-45, concerns were made regarding the lack of information with respect to the program itself—specifically, how data collected would be used.<sup>1</sup> These issues were not clearly addressed by Citizenship and Immigration Canada (CIC) officials who testified before the committee. Furthermore, when questioned, CIC officials were unable to provide costing figures for the ETA program<sup>2</sup> or for appeal mechanisms<sup>3</sup> should an applicant be denied entry. The inability of the Department to provide costing information on the ETA program is troubling and hinders the ability of committee members to adequately evaluate the program.

Additionally, the implementation of the ETA program was based off of the *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness* declaration between Canada and the United States of America. While the implementation of ETA may be necessary to fulfill our country's obligations to the declaration, to ensure effectiveness, it is essential that fulsome evaluations of the program be developed. Therefore, we recommend that a comprehensive study by CIC be undertaken to evaluate the full cost of the program, the effects the ETA will have on the tourism industry as well as further alternatives to ensure proper cost-recovery for the program such as adherence to the User Fees Act before the program is fully implemented.

Additionally, while the use of biometrics has the potential to strengthen our immigration system, we heard from several witnesses who spoke of the need to maintain the use of personnel for risk

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<sup>1</sup> Ms. Emily Gilbert, Associate Professor, Director, Canadian Studies Program, University of Toronto, As an Individual, Committee *Evidence*, Meeting No. 61, November 20, 2012, 0940.

<sup>2</sup> Ms. Maia Welbourne, Director, Document and Visa Policy, Admissibility Branch, Department of Citizenship and Immigration, Committee *Evidence*, Meeting no. 59, November 19, 2012, 1025.

<sup>3</sup> Mr Les Linklater, Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration Canada, Committee *Evidence*, Meeting no. 59, November 19, 2012, 1025.

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assessment rather than relying primarily on automated programs.<sup>4</sup> Thus, we recommend that there is an increase in the number of personnel for risk assessment.

### **Visas**

Our party believes that the report did not provide adequate recommendations to deal with the issue of rejected temporary visas. As such, our party recommends that CIC evaluate the current temporary visa process to identify possible areas of improvement.

### **Detention**

It was clear from Committee visits to immigration detention centres in Vancouver, Montreal and Toronto that whilst CBSA officials followed standardized protocol, the facilities themselves were not comparable. The Vancouver facility for instance, is unique in that detainees can only be held for a maximum of 72 hours. Following that period, they are then automatically transferred to provincial jails. Therefore, we recommend that not only should alternatives to detention be developed, but that priority is made to ensure that alternatives are reviewed for detainees in Vancouver who do not pose a flight risk or a risk to the public before transfers are made to provincial jails.

### **Public Health**

Concerning Canada's immigration system, more must be done with regards to maintaining public health. It was clear from the Auditor General's 2011 Fall Report that changes need to be made with respect to health screening for public safety purposes. As such, we are pleased with the recommendation in the report which calls for a review of the objectives of screening for danger to public health. However, witness testimony suggested that the changes made to the Interim Federal Health Program (IFHP) would be detrimental to public health and security. In particular, a witness spoke of the dangers that asymptomatic diseases such as tuberculosis would have on Canada's population at large when refugees are not afforded routine healthcare services.<sup>5</sup> Furthermore, the government indicated that no consultations had taken place with regards to the decision to make changes to the IFHP.<sup>6</sup> Therefore, our party recommends that the changes made to the IFHP be reversed and that CIC review the program and establish a consultation process before initiating changes to the program.

Lastly, with regards to the medical examination, due to the changing nature of diseases and health conditions, it was remarked that having an exam valid for one year was not adequate with regards to safeguarding Canada's public health concerns.<sup>7</sup> Furthermore, due to increasing

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<sup>4</sup> Dr. Mark Salter, Professor, School of Political Studies, University of Ottawa, *Committee Evidence*, Meeting No. 51, October 1, 2012, 1550; Dr. Benjamin Muller, Professor of Political Science, King's University, *Committee Evidence*, Meeting No. 52, October 3, 2012, 1600.

<sup>5</sup> Dr. Mark Tyndall, Professor and Head Division of Infectious Diseases, University of Ottawa, Ottawa Hospital, *Committee Evidence*, Meeting No. 52, October 3, 2012, 1550.

<sup>6</sup> Hansard, HC Deb 6 November, vol 177, 1015.

<sup>7</sup> Dr. Natasha Crowcroft, Director of Surveillance and Epidemiology, Public Health Ontario, and Dr. Eileen de Villa, Associate Medical officer of Health, Peel Public Health, Region of Peel, *Committee Evidence*, Meeting No. 28, March 15, 2012, 1605.

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processing times in various immigration classes, medicals frequently expire before the processing of an application is complete. Therefore, our party recommends that medical examinations be required closer to the time of travel.

