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Report of the
**Auditor General
of Canada**
to the House of Commons

MAY

Chapter 7
Detention and Removal of Individuals—
Canada Border Services Agency



Office of the Auditor General of Canada

The May 2008 Report of the Auditor General of Canada comprises A Message from the Auditor General of Canada, Main Points—Chapters 1 to 8, and eight chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

7

Detention and Removal of Individuals
Canada Border Services Agency

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

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Detention and Removal of Individuals

Canada Border Services Agency

Main Points

What we examined

Under the *Immigration and Refugee Protection Act*, as amended in 2003, officers of the Canada Border Services Agency (CBSA) are authorized to arrest and detain permanent residents and foreign nationals at ports of entry and within Canada who have, or who may have, breached the Act. People can be detained if they pose a danger to the public, their identity is in question, or there is reason to believe that they will not appear for immigration proceedings. The Agency is also authorized to remove people found to be inadmissible to Canada. In 2006–07, it removed about 12,600 individuals, including about 1,900 criminals who posed a high risk to Canada.

Responsibility for detentions and removals was transferred from Citizenship and Immigration Canada to the CBSA when the Agency was created in December 2003.

We examined whether the CBSA and Citizenship and Immigration Canada (CIC) have clearly articulated their respective accountabilities for administering the *Immigration and Refugee Protection Act* and for reporting on the detention and removal of individuals. In addition, we looked at whether CBSA manages the detention of individuals consistently, in compliance with its policies and standards, and with due regard to economy. We also looked at whether it removes individuals from Canada based on the risks they present and at whether it does so cost-effectively.

We undertook this audit following a request by the Public Accounts Committee to report back on whether the management of detentions and removals has improved under the CBSA since 2003, when we audited those activities as part of CIC's control and enforcement program.

Why it's important

By detaining and removing those who would enter Canada illegally or who pose a threat to Canadians, the Canada Border Services Agency contributes to the safety and security of Canadians. In its detention and removal of those who are inadmissible, it also plays a key role in maintaining the integrity of Canada's immigration and refugee programs and ensuring fairness for those who come to this country lawfully.

What we found

- Since our last audit, the Agency has made a number of improvements in its management of detentions and removals. It better estimates the number of outstanding cases and it set up processes to help it focus its efforts on removing the higher-risk individuals. While the Agency has improved its identification of risks and tracking of individuals ready for removal, there remains a growing number of individuals who might be in Canada illegally—whose whereabouts are unknown—thereby jeopardizing the integrity of Canada’s immigration program. The resources available for detentions and removals remain relatively unchanged since our last audit.
- The Agency’s policies and standards for detaining individuals are broad and allow substantial latitude for decision making. We noted that the Agency’s decisions to detain or release individuals from detention are not monitored adequately to determine whether individuals receive consistent and fair treatment. The Agency has established standards for the treatment of individuals while in detention, but does not ensure that these standards are met. Further, it does not analyze the extent to which individuals released on bond or on other terms comply with the conditions of their release.
- The Agency does not carry out certain aspects of detentions and removals with due regard to cost. Where it uses provincial detention facilities, it does not have signed agreements in place with most of the provinces to establish the cost and conditions of detention. The Agency has little information on removal costs at a national level. Few controls are in place to ensure that the decision to escort individuals being removed to their destination country is based on risk, and that these costs are properly monitored.
- Detentions and removals require good coordination between the Agency and Citizenship and Immigration Canada to fulfill their respective responsibilities. A memorandum of understanding (MOU) between the Canada Border Services Agency and Citizenship and Immigration Canada clearly articulates their respective accountabilities in detentions and removals. Each organization is currently reviewing its experience with the MOU to determine whether improvements are needed to support the delivery of the program.

The Agency and the Department have responded. The Canada Border Services Agency agrees with all of our recommendations. Citizenship and Immigration Canada agrees with the one recommendation addressed to it at paragraph 7.20. Their detailed responses follow the recommendations throughout the chapter.

Introduction

7.1 Each year, thousands of individuals legally enter Canada in accordance with our immigration policy objectives, which support family reunification, economic development, and humanitarian considerations. At the same time, thousands of individuals gain access to Canada who do not meet these objectives, and who may pose a threat to the safety and security of those in Canada. The Canada Border Services Agency plays an important role in ensuring the integrity of Canada's immigration and refugee programs and the safety and security of Canadians. Under the *Immigration and Refugee Protection Act*, the Agency has the authority to detain foreign nationals and permanent residents whom it believes pose a risk or danger to the public, and to remove individuals found inadmissible to Canada.

7.2 In December 2003, the federal government created the Canada Border Services Agency, which reports to the Minister of Public Safety, to integrate the front-line border management and enforcement activities that three organizations formerly performed:

- customs services, previously part of the then Canada Customs and Revenue Agency (CCRA);
- immigration services at ports of entry and most of the Intelligence and Enforcement programs of Citizenship and Immigration Canada (CIC); and
- the Import Inspection at Ports of Entry program of the Canadian Food Inspection Agency.

7.3 The Agency and Citizenship and Immigration Canada share responsibility for carrying out the provisions of the *Immigration and Refugee Protection Act*. While Citizenship and Immigration Canada is primarily responsible for immigration policy, issuing visas, and pre-removal risk assessment, the Canada Border Services Agency is primarily responsible for the enforcement provisions of this Act.

7.4 Our last audit of this area in 2003 found that a growing number of people remained in Canada despite the government having issued a removal order against them. We estimated that this number had grown by about 36,000 people over the previous six years, although we noted that this calculation was imprecise as Canada does not record information on individuals leaving the country. As we could not

estimate a total number, this was the best available measure of a growing problem. We also noted other issues, including

- the lack of clear roles and accountabilities between the then Canada Customs and Revenue Agency and Citizenship and Immigration Canada,
- the lack of consistency in decisions for detention, and
- the inadequacy of the system to identify and recover costs from airlines for removals.

Ongoing challenges to the timely removal of persons

Examples of legal means of remaining in Canada

- Refugee claimants, pending the outcome of their claim
- Temporary Resident Permit holders
- Permanent residents
- Recipients of a stay of removal

7.5 Many steps in the removal of people found inadmissible to Canada are not within the Agency's control. As previously stated, the Agency shares the administration of the Act with Citizenship and Immigration Canada (CIC). Inadmissible individuals may be identified by both the Agency and CIC. As well, the Immigration and Refugee Board of Canada determines the admissibility of an individual in more complex cases. The Board is an independent administrative tribunal that reports to Parliament through the Minister of Citizenship and Immigration. Many legal safeguards are in place to ensure that individuals are not detained or removed without cause or due process. These safeguards take effect as soon as a person arrives in Canada and receives the protection of the *Charter of Rights and Freedoms*. After a person is detained for 48 hours, the Immigration and Refugee Board reviews the detention decision to determine if the person should be released or remain in detention. If the Board determines that the detention should be continued, it reviews the decision 7 days later and every 30 days thereafter. Unfavourable decisions are subject to judicial review before the Federal Court of Canada.

7.6 The process of determining admissibility may also take place over a long period, with the removal occurring months or years after an individual's entry into Canada. Individuals are removed from Canada once the Agency has determined that all legal claims have been exhausted. The Agency needs to ensure that the laws and policies of Canada are upheld, balancing the need to prevent individuals entering Canada illegally or without permission with the need to recognize an individual's rights to due process.

7.7 The objective of Agency officials is to remove inadmissible individuals from Canada as quickly as possible, in a safe, effective, and respectful manner, while mindful of their legal rights. In some

cases, removal can be done the same day an individual arrives at a port of entry, if he or she has waived or exhausted any legal right to remain in Canada.

7.8 The Agency has found that the longer it takes to process a removal order, the greater the cost and effort to remove the individual. Exhibit 7.1 depicts a simplified version of the detentions and removals process. During the removal process, the individual may apply for a **Pre-removal Risk Assessment**, or to become a permanent resident. If this risk assessment is negative or if the application for permanent residency is declined, the Agency may still have difficulty obtaining travel documents such as passports or the authority to remove the individual to his or her destination country. The combination of these factors can add years to the removal process.

Pre-removal Risk Assessment—A process conducted by Citizenship and Immigration Canada to determine whether a person subject to a removal order will face persecution, torture, risk to life, or risk of cruel and unusual punishment if removed from Canada. If the applicant is found to be at risk, they may be authorized to remain in Canada indefinitely. This process is available to most individuals subject to a removal order and to refugees as defined in the *Immigration and Refugee Protection Act*. If the risk assessment is negative, the individual may apply for a review of the decision to the Federal Court of Canada.

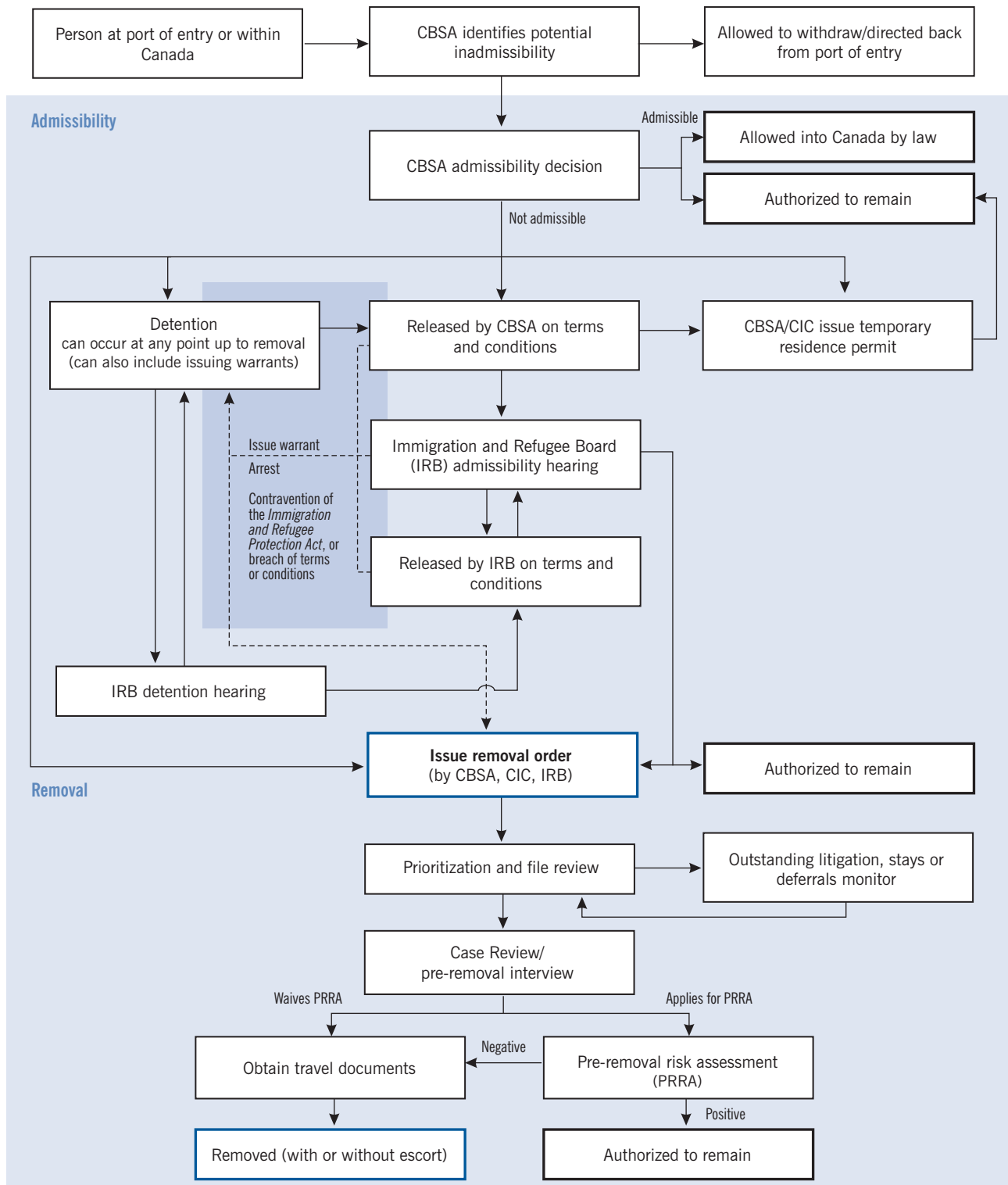
Focus of the audit

7.9 We undertook this audit following a request by the Public Accounts Committee to report back on whether the management of detentions and removals has improved under the Agency since 2003, when we audited those activities as part of Citizenship and Immigration Canada's control and enforcement program. The government committed to making improvements and submitted an action plan to the Public Accounts Committee in April 2004. This chapter examines the detention and removal of individuals, the tracking of individuals who are the subject of outstanding removal orders, and the costs associated with these activities.

7.10 We examined whether the Agency and Citizenship and Immigration Canada have clearly articulated their respective responsibilities for administering the *Immigration and Refugee Protection Act* and for reporting on the detention and removal of individuals. In addition, we looked at whether the Agency manages the detention of individuals consistently, in compliance with its policies and standards, and with due regard to economy. We also looked at whether it removes individuals from Canada cost-effectively and based on the risks they present.

7.11 More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Exhibit 7.1 The complexity of the detentions and removals process can present challenges



Note: This exhibit presents a simplified version of the detentions and removals process, primarily from the perspective of the Canada Border Services Agency. It is not intended to portray every eventuality.

Observations and Recommendations

Coordinating the shared mandate

7.12 At the time of our last audit in 2003, the management of detentions and removals was undergoing considerable change. Many processes were being revised to reflect the new *Immigration and Refugee Protection Act* that came into force in 2002. Soon after the introduction of the Act and our 2003 audit, the Canada Border Services Agency was created in December 2003. At that time, Citizenship and Immigration Canada's inland enforcement and intelligence staff were transferred to the Agency, followed by immigration services at ports of entry in October 2004. Coinciding with these changes was the implementation of international agreements on the migration of people to North America and coordination with the United States to enhance border security.

7.13 We expected that the Agency and Citizenship and Immigration Canada (CIC or the Department) would develop and implement a memorandum of understanding to guide their shared responsibilities for administering the Act that clearly describes their respective border management roles and responsibilities, to reflect operating environments and practices, and to set performance standards and measures.

7.14 In March 2006, the Agency and the Department signed a memorandum of understanding that clearly outlines their respective responsibilities under the Act. The agreement addresses the information that needs to be shared between the organizations. At the time of this audit, both organizations were reviewing the agreement and its administration. Overall, they felt that excellent progress was being made in establishing an effective working relationship. However, challenges remain in establishing clear lines of communication for specific programs, improving information sharing, and aligning priorities. The Agency and Department intend to take corrective action and to meet regularly to monitor the delivery of their respective responsibilities under the Act.

Reasons for issuing permits are not documented consistently

7.15 One area of shared responsibility is the issuance of Temporary Resident Permits. Both the Agency and the Department have authority to issue these permits to allow the temporary entry of people who are inadmissible to Canada under the *Immigration and Refugee Protection Act* for technical, medical, or criminal history reasons. Border services officers may issue these permits at ports of entry to inadmissible individuals when there are compelling reasons, and this

must be weighed against the risk posed to Canadians. The Agency issued 9,489 permits in 2006, representing about 70 percent of the 13,412 permits issued that year.

Temporary Resident Permits

Under the *Immigration and Refugee Protection Act*, individuals who are considered to be inadmissible may enter Canada on a temporary basis if there are circumstances that warrant the individual's entry, such as economic benefit to Canada or sufficient humanitarian and compassionate grounds. Each permit costs \$200 and can be issued for periods ranging from one day to three years.

Citizenship and Immigration Canada (CIC) is responsible for the overall policy and oversight of Temporary Resident Permits, but both CIC and the Canada Border Services Agency can issue permits. CIC may issue permits to individuals who are inadmissible for reasons of national security, human rights violations, and organized crime. The Agency has the delegated authority to issue permits at its ports of entry to individuals who are inadmissible for technical, medical, or criminal history reasons. These permits must be approved by senior officers. In considering the issuance of a permit, officers must weigh the individual's need to enter Canada against the risk that the individual poses to Canada or Canadians. Officers are required to document the reasons for their decision in the file.

Serious criminality—A distinction given to an individual who has been convicted of an offence that would be punishable by a maximum term of imprisonment of at least 10 years under Canadian law.

7.16 CIC policy requires officers (of CIC and CBSA) to clearly document their reasons for issuing a Temporary Resident Permit. We examined a random sample of 64 files from a total of 639 permits issued by CBSA in 2006 to individuals who were inadmissible for past **serious criminality**. We found that the reason for issuing permits was clearly documented in 43 (68 percent) of the files. In most of the cases where we did not find a reason clearly documented, we did find some information in the file, but it was not linked to the decision to issue the permit. In our 2003 audit, we found that 51 percent of serious criminality and national security files sampled were properly documented.

7.17 We also examined the four cases in which the Agency issued a permit at a port of entry for inadmissibility relating to national security concerns. These permits must be approved by Citizenship and Immigration Canada. We reviewed the rationale provided in the file and found that it was clearly provided in two of the four cases. One of the cases had been incorrectly classified and was not related to national security. In the other case, the rationale was poorly documented.

7.18 In April 2004, the Agency committed to conducting random quality assurance checks to ensure that files relating to Temporary Resident Permits for individuals with serious criminality contain not only the correct information for the reason of inadmissibility, but also

documentation of the justification for issuing the permit. At the time of the audit, the Agency was in the process of developing a Process Monitoring Framework for issuing permits, but had not yet implemented its monitoring framework or random quality assurance checks. CIC and the Agency agree that both organizations must ensure the quality of Temporary Resident Permit decisions under the *Immigration and Refugee Protection Act*, but have not yet done so.

7.19 Once a permit is issued, the Agency does not monitor whether the individual complies with its terms and conditions, such as departure before the permit expires. Canada does not monitor the exit of travellers from the country, and therefore the Agency does not know whether individuals have left the country as required in their temporary permit. Compliance with the terms of the permit is reviewed on a case-by-case basis only if another event occurs to bring the individual to the attention of the Agency or law enforcement officers.

7.20 Recommendation. The Canada Border Services Agency and Citizenship and Immigration Canada should each develop and implement processes to ensure the quality of the Temporary Resident Permit program jointly delivered under the *Immigration and Refugee Protection Act*.

The Agency and Department's response. The Agency and Department agree. There is considerable policy and procedural direction in place for the Temporary Resident Permits (TRP) program. While recognizing funding limitations, we will pursue activities to improve the processes for monitoring the quality of program delivery. However, the TRP program would benefit from the development and implementation of a national quality assurance and monitoring program to improve consistency in the issuance process.

Managing detentions and removals

The Agency's information on detentions is incomplete

7.21 At ports of entry and within Canada, Agency officers may detain individuals if they believe the individual has contravened the *Immigration and Refugee Protection Act*, and if they

- believe the individual will not appear for immigration proceedings, such as an examination or an admissibility hearing, or for removal from Canada;
- believe the individual poses a risk to the public; or
- are not satisfied of the foreign national's identity.

7.22 Depending on the risk the individual poses and the facilities available in the area, individuals may be detained in either Agency holding centres, or provincial or municipal facilities. In the 2006–07 fiscal year, 72 percent of detainees were held in Agency holding centres and 28 percent were detained in provincial or other facilities (Exhibit 7.2). The average length of stay was considerably longer in provincial facilities as these individuals pose a higher risk. Throughout the period of detention or release on terms and conditions, the Agency is responsible for monitoring the individual.

Exhibit 7.2 Number of people detained since 2004

In Agency holding facilities		
Fiscal year	Number of detainees	Total detention days
2004–05	7,553	84,200
2005–06	8,305	84,027
2006–07	9,261	80,610
In municipal or provincial facilities		
2004–05	3,214	153,293
2005–06	3,364	145,853
2006–07	3,563	144,105

Source: Canada Border Services Agency

7.23 The Agency could not provide precise counts on the number of individuals detained and the length of their detentions because of delays in data entry and systems that limit accurate reporting. As a result, the detention summary above is a best estimate. While each detention facility had this information, the Agency agrees that its ability to consolidate information at a national level could be improved through better data integrity and system enhancements. The Agency needs to ensure that it captures all the data necessary to allow proper analysis and management of the detention program.

Detention decisions are inconsistent

7.24 We expected that the Agency would detain people according to its policies and standards, and that detention decisions would be made in a consistent and fair manner. In our last audit, we found that the number of beds available in its holding centres could determine whether or not an individual would be detained. In our current audit,

we found that the detention policies provide substantial latitude in decision making. In its Action Plan presented to the Public Accounts Committee following its report on our 2003 audit, the government committed to developing a detention reporting framework that would monitor and report at a national level on the application of the detention policy. While the Agency has developed new reporting procedures for the detention program, these reports do not allow it to monitor the application of the detention policy. We found that the Agency does not collect suitable information to determine whether consistent and fair decisions regarding the detention and release of individuals is made regardless of their location.

7.25 In its assessment of individuals it wishes to detain, the Agency uses a risk-based approach to detain only those people it cannot identify, those who pose the greatest risk to public safety, or those who are flight risks. The decision to detain is based on the law, policies, and guidelines as applied by officers at the border and within Canada. We found that detention decisions were not made consistently. One region with limited holding space was more likely to release individuals on terms and conditions, while another region with more available beds held individuals for similar reasons until review by the Immigration and Refugee Board. If the number of people to be detained exceeds the available capacity, the Agency may exceed the capacity temporarily or may transfer some detainees to provincial facilities.

Immigration Holding Facilities

The Canada Border Services Agency has three immigration holding facilities (Toronto—120 beds, Montreal (Laval)—150 beds, and Vancouver (Richmond)—27 beds). The Agency also houses detainees who pose a more serious risk or where space is not available in municipal facilities or provincial institutions. Throughout the period of detention, or release on terms and conditions, the Agency is responsible for monitoring the individual.

The Agency houses individuals detained under national security certificates in a dedicated detention facility near Kingston, Ontario. At the time of the audit, one person was detained at the facility, while another five were being monitored under alternative forms of detention (for example, a proximity monitoring ankle bracelet).

7.26 The Agency takes into account the cost of detaining individuals when there is little likelihood of a timely removal, and considers alternatives to detention on a risk basis. It has increasingly used alternatives to detention, such as releasing individuals with a requirement to appear and/or to post a bond (a sum of money or collateral deposited with the Crown) as a performance guarantee. We examined cash bonds provided as an alternative to detention.

We found that 368 of the 2,038 cash bonds posted in the 2004–05 fiscal year were forfeited as these individuals did not comply with the terms and conditions of their release. The Agency has since located 178 of these individuals, of which 146 have since been successfully removed. It does not know the whereabouts of the remaining 190 individuals who forfeited their cash bonds, and has issued immigration warrants for their arrest. The Agency has identified 18 of the 190 individuals as having a history of criminality.

7.27 While requiring a financial guarantee helps ensure that individuals comply with requirements, we found that the Agency does not analyze the extent to which individuals comply with the terms and conditions of their release. Nor has the Agency set standards or guidelines to determine whether the level of non-compliance results in undue risk to the public. While infrequent, there have been cases where individuals who have been released on condition committed violent crimes.

Standards for detention facilities are not monitored

7.28 The Agency has established standards for the conditions at its facilities and for the treatment of individuals detained. These standards, developed in conjunction with the Canadian Council for Refugees and the United Nations High Commissioner for Refugees, address food, cleanliness, and the level of security provided by private security companies at its facilities. In November 2006, the Agency signed an updated agreement with the Canadian Red Cross to monitor conditions at its facilities. While the Canadian Red Cross has provided some oral reports to Agency officials on the conditions at its facilities, the Agency has not monitored the extent to which the facilities meet its standards at a national level. The Agency agrees that the program would benefit from the implementation of a national quality assurance program. We note that detainees who are held in municipal and provincial facilities are not separated from other inmates and must abide by the same rules and conditions.

7.29 The Agency does not have established processes to follow when the number of detainees exceeds the number of beds at its facilities. We noted that the Toronto holding centre has on occasion increased its regular capacity of 120 to 180 people by using sleeping bags and blankets on the floor. In another region, holding cells for individuals awaiting hearings, which are designed for 3 people, had been used to hold 10, without enough space for some to sit. The Agency needs to review the current and expected capacity at its immigration holding facilities.

The Agency is not managing detention costs effectively

7.30 The cost of detention and the number of individuals detained are significant: the annual cost was \$36.3 million for the 12,824 individuals detained in the 2006–07 fiscal year (Exhibit 7.3). However, none of this information is readily available to the public. We found no information in the Agency’s reports to Parliament or on its website on the costs or number of individuals detained.

Exhibit 7.3 The federal government spends an average of \$35 million a year to detain individuals (excluding the facility near Kingston)

CBSA facilities	Immigration holding facilities	Contractual costs (guard services)	All other costs	Total CBSA detention facility costs
2005–06	Toronto	\$4,078,235	\$4,178,868	\$8,257,103
	Montreal	4,232,568	3,052,140	7,284,708
	Vancouver	663,275	191,247	854,522
Total				16,396,333
2006–07	Toronto	4,247,369	3,923,410	8,170,779
	Montreal	4,198,356	2,898,973	7,097,329
	Vancouver	682,369	161,408	843,777
Total				16,111,885

Provincial facilities	Total CBSA payments for provincial facilities
2005–06	\$18,838,766
2006–07	20,188,444

Source: Canada Border Services Agency

7.31 The cost to detain an individual in one of the Agency’s holding centres (excluding the facility near Kingston) was about \$122 per day in the 2006–07 fiscal year. The cost of housing detainees in jails and provincial facilities varies, ranging from \$120 to \$238 per person per day.

7.32 While the Agency houses detainees in each province and territory, it has agreements in place with only two provinces. The Agency does not have agreements with the other provinces and does not routinely renegotiate the terms of existing agreements to ensure that the provinces meet the Agency’s desired service levels in a cost-effective manner. Further, the Agency performs little oversight of the detention costs. It simply compares each region’s overall

enforcement budget to expenditures. Officials told us that they believe that the rates the provinces charge are based on the cost to house provincial inmates and that they are reasonable compared with the cost to house federal inmates. However, unlike criminal inmates, immigration detainees do not participate in rehabilitation programs. Further, as previously noted, the Agency does not have good data on the number of people detained and length of detention at the national level. This information is essential to manage detention costs.

Tracking and prioritizing removals has improved, but more work is needed

7.33 The integrity of Canada’s immigration and refugee program depends on the effective implementation of its policy to remove individuals determined inadmissible to Canada, and on the voluntary compliance of individuals in the program. In our last audit, we noted a growing gap between the number of people ordered removed from Canada and the number of confirmed removals, and that this gap had grown by about 36,000 individuals over six years. The precise number of people remaining in Canada illegally is impossible to determine due in part to the lack of exit controls.

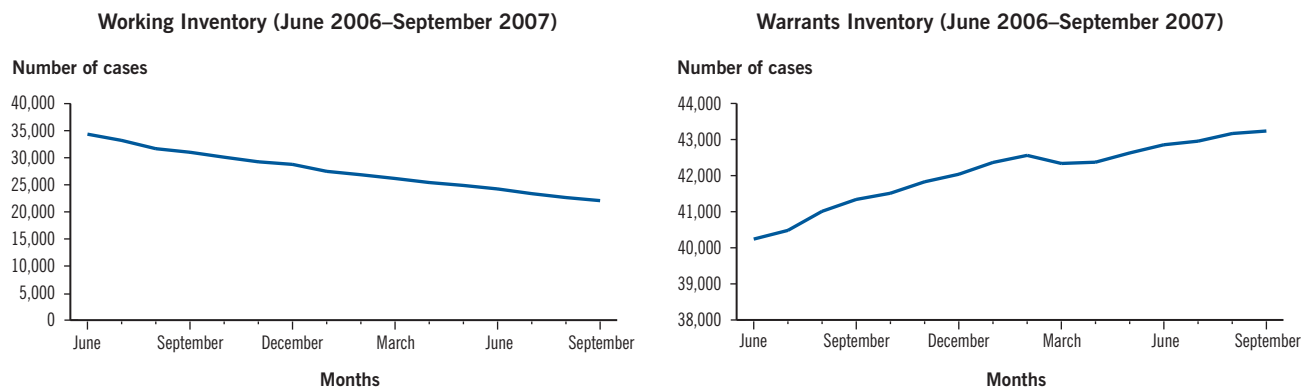
7.34 In June 2006, the Agency improved the reporting capabilities of its case management system and can now readily determine the number of individuals with removal orders that could be processed in its working inventory, as well as individuals with outstanding **immigration warrants**. As of September 2007, the Agency determined that there were about 63,000 individuals with either **enforceable removal orders** or outstanding immigration warrants for removal (Exhibit 7.4). The Agency’s **working inventory** contains 22,000 individuals with enforceable removal orders, whose whereabouts are known to

Immigration warrant—A warrant for arrest and detention made under the *Immigration and Refugee Protection Act*.

Enforceable removal order—A removal order that comes into force because the individual has or seeks no further legal claim to remain in Canada.

Working inventory—The number of enforceable removal orders for which the location of the individual is known and the case is able to be processed.

Exhibit 7.4 While the number of removal cases in the working inventory has decreased, the number of outstanding immigration warrants has increased



Source: Canada Border Services Agency

the Agency. The remaining 41,000 cases are individuals with immigration warrants for removal, whose whereabouts are unknown to the Agency. As part of its case management practices, when the Agency is no longer able to contact or locate the individual with an enforceable removal order, it may issue an immigration warrant for arrest and remove the case from its working inventory.

7.35 Since our last audit, the Agency has increased the number of inadmissible individuals it removes from Canada, from about 8,700 in 2002–03, to about 12,600 in 2006–07 (Exhibit 7.5). The number of removals has averaged at 11,200 per year over the past five years, which corresponds to a relatively constant level of funding for the removals program over the same period. It should be noted that not all of the 22,000 cases in the working inventory are ready for removal, because the Agency is unable to obtain travel documents from certain countries, or due to airline and airport restrictions. The Agency was not able to provide a national breakdown of individuals who were or were not ready for removal within its working inventory. The Agency needs to track the status of cases at a national level according to its priority areas—which are to remove dangerous individuals and criminals first.

7.36 Through its Warrant Response Centre, the Agency adds information on immigration arrest warrant cases into its immigration enforcement database, which can then be viewed by law enforcement officers across the country using the Canadian Police Information Centre (CPIC) system. Agency officials told us that they do not perform specific investigations of the vast majority of these cases, since this could mean devoting resources in an attempt to find individuals who have already left the country. The Agency does not track the

Exhibit 7.5 The number of removals has increased over the past five years

Removals		
Years	Total	Percent of criminals
2002–03	8,683	17
2003–04	11,069	14
2004–05	12,006	15
2005–06	11,362	16
2006–07	12,636	15

Source: Canada Border Services Agency

national number of individuals with immigration warrants for removal who were still under its investigation. Instead, if a police officer determines that an apprehended individual is subject to an outstanding immigration warrant, he or she brings this individual to the attention of the Agency for appropriate action.

7.37 The Agency has recently improved its controls over entering warrants into enforcement databases. In October 2007, the Warrant Response Centre acquired software to assess the accuracy of immigration warrants entered into CPIC. As a result, it found several thousand errors relating to information details in immigration warrants issued. At the time of the audit, the Centre was in the process of developing a plan for correcting all the errors identified.

7.38 In response to our 2003 audit, the Agency undertook a review of immigration warrants during the 2005–06 fiscal year. While we support the practice of regularly reviewing immigration warrants, we note that different criteria were used by different regional offices to decide which warrants were to be removed, based on the age of the individual and number of years without additional recorded criminality. This may have resulted in individuals who pose similar risks receiving different treatment as immigration warrants were cancelled for some individuals, while others with similar circumstances were not.

The expected replacement for the National Case Management System has not materialized

7.39 In our 2003 audit, we mentioned that officers had to enter data into both the Field Operations Support System (FOSS) and the National Case Management System (NCMS), both of which were administered by Citizenship and Immigration Canada. Although double entry is inefficient, no further action has been taken to resolve this issue. The Agency has instituted a data quality management process to minimize data quality errors in NCMS. It has also moved ahead in setting common standards for entering case information to improve data accuracy.

7.40 In its 2004 Action Plan, the government committed to improve its capacity to track removals cases while awaiting the implementation of a new case management system. NCMS was to have been replaced by the Global Case Management System (GCMS) in 2005. Approved as a Major Crown Project in 2001 led by Citizenship and Immigration Canada, the GCMS was designed to integrate 14 legacy systems, including NCMS and FOSS, which the Agency uses to manage the detentions and removals program. In April 2007, CIC and CBSA

agreed to reduce the scope of GCMS to no longer include replacement of NCMS and FOSS. It was decided to retain NCMS to manage the detentions and removals program. As a result, the Agency's ability to track individuals in the detention and removal process remains limited, and the recommendations in our 2003 audit relating to case tracking and NCMS still need to be addressed.

7.41 In anticipation of GCMS, needed changes to NCMS were put on hold. We found that, because of the delays in the implementation of GCMS, regional offices have developed their own processes to identify the highest-priority cases for review. We found that the three major regional offices were able to determine whether or not criminal cases were being assigned priority. However, senior officials told us that their ability to track and prioritize removal cases remains limited, and system improvements are required to ensure consistency in case management and timely removal of priority cases at the national level. The Agency has recently begun to review and prioritize overdue systems changes for its existing National Case Management System.

7.42 The Agency received Public Security and Anti-Terrorism (PSAT) funding in the 2005–06 and 2006–07 fiscal years to focus on removing failed refugee claimants. Under the program, the Greater Toronto Region, which already had a dedicated unit in place, has removed about 8,200 failed refugee claimants and continues to operate the unit. The Quebec Region also received funding in 2006–07 and removed about 1,500 failed refugee claimants. It no longer operates this program.

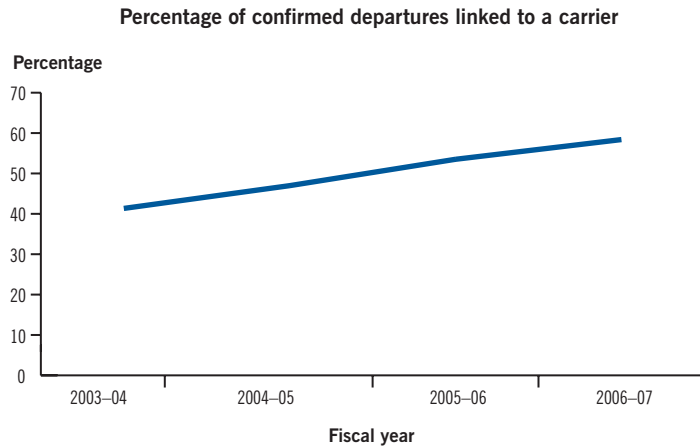
The Agency has improved its ability to make airlines responsible for removal costs

7.43 In its 2004 Action Plan, the government committed to improve the recovery of removal costs from airlines. In cases where an airline has carried an individual to Canada without proper documentation, it is the airline's responsibility to return the individual if required. The airline may also be charged an administrative fee to cover a portion of the Agency's costs to process the inadmissible individual. The full amount of the fee is \$3,200, which can be reduced by 25 to 100 percent if the carrier has a signed agreement with the Agency and demonstrates that it is complying with its terms.

7.44 At the time of our audit, the Agency had signed memoranda of understanding with 61 airline carriers. We found that the Agency has improved its linking of foreign nationals to their arrival airline carrier and charging the removal costs to the air carriers (Exhibit 7.6). The Agency requires that the carriers pay the associated costs for the removal of individuals where appropriate, even if it is several years

after the flight into Canada. For the 2006–07 fiscal year, the Agency collected \$452,000 in removal costs from airline carriers. However, the Agency has not determined the extent to which it has fully recovered the costs that it has assigned to the airlines.

Exhibit 7.6 The Agency has improved its linking of foreign nationals to their arrival airline



Source: Canada Border Services Agency

The need for escorts is determined on a case-by-case basis

7.45 For those individuals who are assessed as presenting a risk of violence or flight, officers are assigned to accompany them on their removal to their destination country. Not all individuals with a criminal history are escorted because their risk of violence or flight was determined to be low. However, some airlines require escorts for removals regardless of the risk assessment performed. Escorting an individual can cost thousands of dollars, depending on the destination and security requirements. We found that the Agency does not track the cost of removals with an escort on an individual basis, but calculated the total cost of 1,705 removals with an escort for the 2006–07 fiscal year as \$8.4 million. We believe that it is important for the Agency to track the cost of removals with an escort on an individual basis in order to ensure that it is performing this activity in a cost-effective manner. We found that risk assessments are performed to guide the decision and method of escort, but the decision is ultimately left to the supervisor and is based on his or her judgment. We found that the Agency does not have a program in place to ensure that risk assessment policies for escorted removals were applied in a consistent and cost-effective manner across all regions.

Summary recommendations and Agency responses

7.46 Recommendation. The Canada Border Services Agency should develop suitable policies and procedures for detentions and removals to ensure that risks, situations, and individuals are treated in a consistent manner.

The Agency's response. The Agency agrees. While significant policy and procedure direction is in place for the detentions and removals program at the national level, monitoring of the application of this work can be improved. We agree that the application and interpretation of these policies and procedures at the local level can give rise to issues of national program consistency and we agree to examine how this consistency can be improved within existing resource allocations.

7.47 Recommendation. The Canada Border Services Agency should improve its data and level of analysis to allow it to better manage detentions and removals.

The Agency's response. The Agency agrees. The Agency recognizes that although information exists in its systems, data integrity and systems limitations have prevented us from maximizing the use of this information to further support and improve the detentions and removals program. More effective information management would allow the Agency to improve business decisions, including those related to costs and risks. The Agency will endeavour to better utilize existing system capabilities and, with further funding, will undertake subsequent analytical efforts.

Conclusion

7.48 The Canada Border Services Agency and Citizenship and Immigration Canada have articulated their respective accountabilities for detentions and removals through a memorandum of understanding. They are in the process of reviewing their respective experiences with the agreement to determine whether improvements are required to support the delivery of the program. However, we found that the Agency and the Department have not agreed on who is responsible for ensuring the consistency and quality of information supporting decisions to issue temporary residency permits.

7.49 We found that the Agency's policies and guidelines for detention provide substantial latitude in decision making. The Agency does not collect suitable information to determine whether these policies are

consistently applied, so that individuals, regardless of their location, receive consistent and fair decisions regarding their detention or release. As a result, we found that the Agency, at a national level, does not consistently manage the detention of individuals in compliance with its policies and standards. While the Agency uses alternatives to detention, such as the imposition of reporting requirements or security deposits, it does not monitor the level of compliance, which may result in undue risk to the public.

7.50 The Agency does not carry out certain aspects of detentions and removals with due regard to cost. The capacity of the Agency to detain individuals in its holding centres varies by location. Where the Agency uses provincial detention facilities, it has negotiated agreements with only two provinces. As a result, the Agency does not control the cost and level of service for detainees in these facilities. The Agency has limited information on the cost of removals at the national level, which prevents it from properly monitoring the delivery of the program. We also found that the Agency does not ensure that decisions to escort removals are made consistently and in a cost-effective manner.

7.51 Since our last audit, the Agency has made a number of improvements in its management of detentions and removals. It better estimates the number of outstanding cases and it focuses its efforts on removing the higher-risk individuals. The Agency has improved its identification of risks and tracking of individuals ready for removal. However, due in part to a lack of exit controls, there is a growing number of individuals whose whereabouts is unknown and who might remain in Canada illegally, thereby jeopardizing the integrity of the program.

About the Audit

Objectives

This chapter examines the management of detentions and removals by the Canada Border Services Agency, and the actions it has taken since our 2003 audit of Citizenship and Immigration Canada's control and enforcement program. Our specific audit objectives were the following:

- To determine whether there is a clear articulation of accountability between Citizenship and Immigration Canada and the Canada Border Services Agency to support consistent administration of the *Immigration and Refugee Protection Act*, and the adequacy of performance reporting for the detention and removal of individuals.
- To determine whether the Agency consistently manages the detention of individuals in compliance with its policies and standards, and with due regard to economy
- To determine whether the Agency manages the removal of individuals on the basis of risk and in a cost-effective manner.

Scope and approach

We examined the detentions and removals program of the Canada Border Services Agency and, to the extent necessary, related functions of Citizenship and Immigration Canada. Some of our audit work involved selecting and testing a random sample of files to determine whether the Agency had complied with immigration policies for issuing Temporary Resident Permits to individuals with a history of serious criminality. The sample that we used provides a confidence interval of plus or minus 10 percent (with 90 percent confidence). Our 2003 audit examined a similar sample of permits issued to individuals with a history of serious criminality or of concern to national security. The samples may not provide comparable results because of their slightly different populations.

We did not examine primary and secondary immigration examinations conducted at ports of entry, as these were addressed in our October 2007 audit of the Agency's border operations. As well, we did not examine the role of Migration Integrity Officers posted overseas as it is outside the scope of this current audit.

Criteria

The audit was based on the following criteria:

- Departmental (CBSA and CIC) roles and responsibilities under the *Immigration and Refugee Protection Act* are clearly articulated and support consistent program delivery.
- The Agency monitors program activities to ensure consistency of decisions.
- The Agency reports on program activities in a fair and reasonable manner.
- The Agency detains individuals in compliance with its policies and standards, and in a consistent manner.
- The Agency ensures its allocation of resources for detentions are based on risk and are cost-effective.

- The Agency has appropriate information and feedback systems to monitor program performance and assess the quality and consistency of decisions relating to removals.
- The Agency tracks and manages the cost of removals in a cost-effective manner.
- The Agency recovers removal costs in compliance with relevant legislation.

Audit work completed

Audit work for this chapter was substantially completed on 31 December 2007.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 7. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Coordinating the shared mandate	
<p>7.20 The Canada Border Services Agency and Citizenship and Immigration Canada should each develop and implement processes to ensure the quality of the Temporary Resident Permit program jointly delivered under the <i>Immigration and Refugee Protection Act</i>. (7.12–7.19)</p>	<p>The Agency and Department agree. There is considerable policy and procedural direction in place for the Temporary Resident Permits (TRP) program. While recognizing funding limitations, we will pursue activities to improve the processes for monitoring the quality of program delivery. However, the TRP program would benefit from the development and implementation of a national quality assurance and monitoring program to improve consistency in the issuance process.</p>
Managing detentions and removals	
<p>7.46 The Canada Border Services Agency should develop suitable policies and procedures for detentions and removals to ensure that risks, situations, and individuals are treated in a consistent manner. (7.21–7.45)</p>	<p>The Agency agrees. While significant policy and procedure direction is in place for the detentions and removals program at the national level, monitoring of the application of this work can be improved. We agree that the application and interpretation of these policies and procedures at the local level can give rise to issues of national program consistency and we agree to examine how this consistency can be improved within existing resource allocations.</p>
<p>7.47 The Canada Border Services Agency should improve its data and level of analysis to allow it to better manage detentions and removals. (7.21–7.45)</p>	<p>The Agency agrees. The Agency recognizes that although information exists in its systems, data integrity and systems limitations have prevented us from maximizing the use of this information to further support and improve the detentions and removals program. More effective information management would allow the Agency to improve business decisions, including those related to costs and risks. The Agency will endeavour to better utilize existing system capabilities and, with further funding, will undertake subsequent analytical efforts.</p>

Report of the Auditor General of Canada to the House of Commons—May 2008

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