

ELEVENTH ANNUAL REPORT

**Canada's Program on CRIMES
Against Humanity and
War Crimes**

2007-2008



Canada Border Services Agency
Citizenship and Immigration Canada
Department of Justice
Royal Canadian Mounted Police



Government
of Canada

Gouvernement
du Canada

Canada

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INTRODUCTION

This is the eleventh annual report on Canada's Crimes Against Humanity and War Crimes Program, hereafter referred to as the War Crimes Program. It summarizes the War Crimes Program's activities from April 1, 2007, to March 31, 2008. The primary goal of the War Crimes Program is to deny safe haven in Canada to war criminals or those suspected of being directly involved or complicit in the commission of war crimes, crimes against humanity or genocide.

In the February 2005 budget, funding for the War Crimes Program was renewed at the 1998 level of \$15.6 million per year, until the 2009–2010 fiscal year. The War Crimes Program partners consist of the Canada Border Services Agency (CBSA), Citizenship and Immigration Canada (CIC), the Department of Justice (DOJ) and the Royal Canadian Mounted Police (RCMP). The CBSA is responsible for the enforcement of the *Immigration and Refugee Protection Act* (IRPA), including denial of access to and exclusion from refugee protection and deportation; CIC is responsible for the selection of immigrants and temporary residents abroad. CIC also conducts upfront screening for inadmissibility including war crimes, abroad as well as for in-Canada applications. CIC and DOJ are responsible for citizenship revocations. Extradition to foreign states and surrender to international tribunals under the *Extradition Act* are led by the DOJ. DOJ and the Public Prosecution Service of Canada (PPSC) cooperate in PPSC led criminal proceedings based on investigations conducted by the RCMP under the *Crimes Against Humanity and War Crimes Act*.

The partners are strategically led by the War Crimes Program Steering Committee, hereafter referred to as the Steering Committee, composed of senior managers from each of the partner departments/agencies. The Steering Committee ensures that the War Crimes

Program's activities are aligned with its objectives, both within each department and overall government policy. A Program Coordination and Operations Committee (PCOC) was created to assist the Steering Committee with interdepartmental coordination. The PCOC is responsible for complying with international obligations, assessing all war crimes allegations, developing operational policy and carrying out integrated planning and accountability functions.

In order to manage their resources, War Crimes Program partners committed to the production of a Results-based Management and Accountability Framework (RMAF) and an evaluation to support program management and development. The RMAF was completed in 2006. It listed expected results for the program over the five-year funding period and established a strategy for monitoring and evaluation. In 2008, the partners undertook a program evaluation to assess the continued relevance, success and cost-effectiveness of the War Crimes Program. Evaluation results will be available in the report covering the period from 2008-2009 for Canada's Crimes Against Humanity and War Crimes Program.

Canada's global efforts to hold perpetrators of human rights abuses accountable for their crimes through cooperation with other countries and international tribunals have made Canada a leader on the international stage. The Canadian War Crimes Program's collaborative approach and capacity to apply a range of legislative remedies has become a model for other countries.

For more information on the War Crimes Program, previous annual reports and program evaluations, please visit <http://www.justice.gc.ca>.

CANADA'S WAR CRIMES PROGRAM—A MODEL OF COLLABORATION

In the mid-1980s, the DOJ and the RCMP created specialized war crimes sections to investigate allegations related to war crimes and crimes against humanity from the Second World War. Subsequently, CIC established a war crimes unit of its own in the mid-1990s. In 1998, the War Crimes Program was created as an interdepartmental initiative between CIC, the DOJ and the RCMP, with the CBSA becoming a partner in the program upon its inception in December 2003. This collaboration marked a significant development in Canada's battle against impunity and, coupled with the implementation of stronger legislation (the *Crimes Against Humanity and War Crimes Act* and the *Immigration and Refugee Protection Act*), has advanced Canada as a global leader in the effort to hold war criminals accountable for their crimes.

The intent of the War Crimes Program is to provide a range of complementary remedies to ensure that Canada is not a safe haven for perpetrators of human and international rights violations. Remedies are restricted by available funding. Criminal investigations and prosecution, widely seen as essential to international justice, are the most expensive options and only pursued in a fraction of the cases. Therefore partners diligently seek the more cost-effective remedies such as early detection and denial of entry into Canada. However, this does not resolve the issue of potential war criminals already residing in the country.

WAR CRIMES PROGRAM ACTIVITIES FROM APRIL 1, 2007, TO MARCH 31, 2008

Canada uses a holistic approach in its domestic and international fight against impunity of persons involved in war crimes, crimes against humanity or genocide. The

Program has a broad arsenal of nine legislative remedies at its disposal, including the ability to prevent war criminals from entering Canada through the Denial of Visas Overseas and Denials at Port of Entry; and methods to deal with war criminals already in Canada, using Exclusion; Admissibility Hearings; Removals; Revocation of Citizenship; Extradition; Surrender to International Criminal Tribunals; and Criminal Investigations and Prosecution. These are described in detail below.

REMEDIES TO PREVENT ENTRY OF WAR CRIMINALS INTO CANADA

Denial of Visas Overseas and Denials at Port of Entry

The two most cost-effective measures are to detect and subsequently prevent persons suspected of involvement in atrocities from entry into Canada by denying their visas overseas or by denying access at the port of entry. Denial of visas overseas and denials at a port of entry are legislated in the *Immigration and Refugee Protection Act* (IRPA). Under the IRPA, CIC visa officers are responsible for ensuring that applicants for permanent and temporary resident status are not in violation of human or international rights. CIC visa officers at Canadian missions abroad are the first line of defence in preventing war criminals from reaching Canada. Visa officers must screen and make decisions on a high volume of applications for permanent and temporary residence while providing timely processing and quality service.

The CBSA's War Crimes Section in Ottawa provides training, screening aids, intelligence, research and analytical support to help visa officers identify persons who may have been involved in the commission of war crimes, crimes against humanity or genocide. Depending on the type of application, those that raise such concerns are referred to either the CBSA's War Crimes Section, or the National Security Coordination Section, who then

provides the visa office with an assessment and recommendation for admissibility. The CBSA may also post lookouts in CIC's and the CBSA's computer systems to help prevent the individual from entering Canada. In cases involving judicial review, visa officers rely on the DOJ for legal advice and litigation support.

The CBSA also provides 24-hour telephone support to visa offices and field offices in Canada, which often have questions when dealing with the arrival of persons from countries with war crimes concerns or who are subjects of computer lookouts. This telephone support is also available to other law enforcement agencies in Canada.

During the 2007–2008 fiscal year, a total of 326 persons were prevented from coming to Canada because of possible involvement in war crimes or crimes against humanity, down from the previous year at 361. This includes those refused specifically for involvement or complicity in war crimes or crimes against humanity, those who withdrew their applications when asked for more information and those who were suspected of war crimes or crimes against humanity but in the end were refused for other reasons.

In the 2007–2008 fiscal year, visa officials abroad investigated a total of 2,244 cases for possible war crimes or crimes against humanity, up from the previous year's number of 2,029. During the reporting period, the number of refused temporary resident visa applications increased slightly from 290 in 2006–2007 to 292 this past fiscal year. Visa officers refused 11 of these applications without referral to the CBSA compared with 41 cases in the 2006–2007 fiscal year.

The number of permanent resident visa cases investigated for possible war crimes also increased to 191 from 146 in 2006–2007. Thirty-four permanent resident applicants were refused visas or were withdrawn after

screening for war crimes, for a refusal rate of 17.8 per cent. The CBSA's war crimes analysts review permanent resident cases referred by visa offices and by offices in Canada. During the 2007–2008 fiscal year, the War Crimes Section received a total of 237 permanent resident cases and provided assessments on 333 referrals from visa offices abroad and 3 referrals in Canada. In the 2006–2007 fiscal year, the CBSA's war crimes analysts provided assessments on 146 referrals by visa officers and 3 referrals in Canada. This increase in assessments by the CBSA War Crimes Section is due to the implementation of an inventory management team, the establishment of standardized case processing times for refugees with CIC and the hiring of additional analysts. This increase has also contributed to an overall drop in the inventory of cases for the CBSA War Crimes Section. In 307 of these referrals, the War Crimes Section provided a favourable recommendation, concluding that there was no involvement in war crimes or crimes against humanity. It should be noted that the CBSA's assessment in overseas cases is not the same as the final decision, which is always made by CIC visa officers.

Not reflected in the numbers is the time spent by the CBSA on the pre-screening of delegates coming to Canada on official visits or to attend international conferences and events in Canada, usually at the request of other government departments and agencies.

REMEDIES FOR WAR CRIMINALS IN CANADA

The War Crimes Program may proceed with any of the seven remaining remedies to deal with war criminals who have entered Canada: Exclusion of refugee status in the context of a refugee claim; Admissibility Hearings; Removal; Revocation of Citizenship; Extradition; Surrender to International Tribunals; and Criminal Investigations and Prosecution.

Exclusion

Persons making claims for refugee protection in Canada may have backgrounds that suggest involvement in war crimes, crimes against humanity or genocide. CBSA field officers investigate such cases, at times with guidance from the CBSA War Crimes Section in Ottawa or specialized regional offices. The CBSA may intervene at the refugee hearing before the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) of Canada to seek the individual's exclusion from the definition of a Convention refugee. The DOJ is consulted regularly for legal advice in the most complex cases.

In 2007–2008, CBSA officials investigated 612 refugee claimant cases and filed 80 interventions at refugee hearings in cases involving war crime allegations. RPD decisions on CBSA interventions included 26 exclusions from refugee protection on the grounds of war crimes or crimes against humanity, 34 refusals for reasons other than exclusion for war crimes, and 29 decisions to grant refugee protection. In another 21 cases, the claimant was considered to have withdrawn or abandoned the claim for protection.

These decisions include interventions filed in previous years, since refugee hearings in complex cases, such as those involving war crimes, do not necessarily open and conclude in the same year.

Admissibility Hearings

When allegations of war crimes or crimes against humanity are made against persons in Canada, the CBSA refers these cases to admissibility hearings before the IRB Immigration Division. If the persons are refugee claimants, the refugee claim is suspended pending the decision. During the 2007–2008 fiscal year, 2 admissibility hearings were opened for non-refugee claimants and 16 for refugee claimants. Combined, this number was 5 fewer than the admissibility hearings opened in the 2006–2007 fiscal year. Of the admissibility hearings opened, four refugee claimants and one non-refugee claimant were found inadmissible for war crimes or crimes against humanity and were ordered to be deported; one refugee claimant was found not to be inadmissible based on war crimes or crimes against humanity. The remaining cases are pending decision.

Complex cases require more time and resources, and investigations may take more than one year to complete. The inventory of cases still under investigation as of March 31, 2008, increased during the 2007–2008 fiscal year to 701 refugee claimant cases, from 691 a year earlier. Similarly, the number of non-refugee claimant cases under investigation increased from 23 to 31. However, as can be seen in Appendix 3, the investigations inventory has fluctuated from year to year.

Removal

Persons who are excluded from refugee status, who had their citizenship revoked, or who otherwise are found inadmissible for war crimes or crimes against humanity can be deported. Deportation occurs after they have exhausted all legal avenues and CIC officials have conducted a pre-removal risk assessment for non-refugees. During the 2007–2008 fiscal year, the CBSA removed 23 persons found to have been involved in war crimes or crimes against humanity.

At the end of March 2008, the CBSA had an inventory of 103 enforceable removal orders. In addition, another 74 removal orders could not actually be carried out because of impediments such as a stay issued by a court or a lack of travel documents, while another 35 were awaiting pre-removal risk assessments.

A warrant for arrest is issued when a person does not report for removal or other immigration proceedings, such as an admissibility hearing. In 2007–2008, 15 new warrants were issued. The warrant is considered executed when the person is arrested or when the person's departure from Canada is confirmed. During this reporting period, 8 warrants were executed. Of the warrants executed, 3 were new warrants issued and executed during the same year and 5 had been issued in previous years.

Of the 8 warrants executed, 5 resulted in confirmed departures: the persons were removed or the CBSA had confirmation that the persons were living in another country. As for the remaining warrants, one has a pending removal arrangement after being released on terms and conditions with a cash bond, one was released on terms and conditions with a cash and performance bond pending the resumption of an admissibility hearing and one was released on a performance bond with conditions pending assurances from the country where the person will be removed to in order to initiate the pre-removal risk assessment process.

The fiscal year ended with an inventory of 170 outstanding warrants. Of these cases, 64 percent of the individuals were excluded from refugee protection or found inadmissible because of involvement or complicity in war crimes or crimes against humanity, while 36 percent were suspected of such involvement but did not appear for their hearings.

Revocation of Citizenship

CIC, DOJ and the RCMP work closely together in citizenship revocation cases and have several legal remedies at their disposal including criminal prosecution under the *Crimes Against Humanity and War Crimes Act* and civil proceedings under the IRPA or the *Citizenship Act*. CIC has 18 active modern-day war crimes cases to review for possible revocation of citizenship and one of the cases, Mr. Branko Rogan, is presently before the Federal Court.

The DOJ continues to handle allegations of crimes against humanity, war crimes and genocide related to the Second World War. During the fiscal year 2007–2008, 17 Second World War files were under active investigation, 145 initial allegations related to the Second World War were being examined and 74 files have been concluded because the individuals never entered Canada, have left Canada, have since passed away or because there was lack of evidence to justify pursuing legal action.

The Minister of Citizenship and Immigration commenced proceedings to revoke Mr. Michael Seifert's citizenship in Federal Court on November 13, 2001. The hearing concluded on September 15, 2006, with the judge reserving his decision. On November 13, 2007, the Federal Court concluded that Mr. Seifert obtained entry to Canada and Canadian citizenship through misrepresentation and by knowingly concealing his place of birth, his association with the security police and his activities as a camp guard. On May 24, 2007, the Government of Canada announced that the Governor in Council had revoked Mr. Helmut Oberlander's citizenship. Mr. Oberlander has commenced a judicial review application of this decision before the Federal Court. The Government of Canada also announced the revocation of citizenship

of Mr. Jacob Fast on the same day.¹ Due to the passage of time, the age and availability of witnesses and the challenges of gathering evidence, criminal prosecution is no longer a viable remedy for Second World War cases.

Extradition and Surrender to International Criminal Tribunals

In 1999, the *Extradition Act* was amended to allow Canada to enter into agreements with other countries for extradition on a case-by-case basis and to allow for surrender of Canadians to international tribunals. Requests for extradition or surrender are not made public unless the Attorney General of Canada gives the authority to proceed.

Italy requested the extradition of Michael Seifert, who was convicted in *absentia* by an Italian Military Tribunal in November 2000 for war crimes related to the Second World War. Mr. Seifert was surrendered to Italy in February 2008. Citizenship revocation proceedings against Mr. Seifert are ongoing.

Criminal Investigations and Prosecution

DOJ and the Public Prosecution Service of Canada (PPSC) cooperate in PPSC led war crimes prosecutions, based on major investigations conducted by the RCMP War Crimes Section under the *Crimes Against Humanity and War Crimes Act*.

International missions: During the 2007–2008 fiscal year, 11 international missions were conducted by the RCMP War Crimes Section to investigate suspected war criminals residing in Canada. The investigators traveled to Rwanda, Serbia, Croatia, Germany, the Netherlands, Bosnia, Honduras and the United States to further their

investigations. The RCMP War Crimes Section has increased efficiency by implementing innovative case management technology and investigative techniques.

The Munyaneza trial: The pursuit of justice for victims of the Rwandan genocide continues as the historic trial of Desiré Munyaneza, which is led by PPSC with the assistance of the War Crimes Sections of the DOJ and the RCMP, progresses through the Quebec superior court.

Mr. Munyaneza was the first person charged under the *Crimes Against Humanity and War Crimes Act* in October 2005. In March 2007, his trial began in Montreal and the Crown concluded its case in September 2007. In January 2008, Mr. Munyaneza's defence began a rogatory commission in France with plans to travel to Rwanda and Tanzania.

¹ Mr. Fast passed away on June 11, 2007.

INTERNATIONAL COOPERATION AND OUTREACH

The War Crimes Program plays a leading role in international efforts to bring war criminals to justice. Strong relationships with international tribunals and other countries permit the sharing of research, logistics and investigative support.

The War Crimes Program partners provide assistance and information to the international criminal tribunals for Rwanda (ICTR) and the former Yugoslavia (ICTY), the Special Court for Sierra Leone (SCSL) and the International Criminal Court (ICC). All the partners are represented at the Interdepartmental Working Group for the international tribunals, which examines the tribunals' requests for assistance from Canada. The International Assistance Group of the DOJ reviews requests related to war crimes or crimes against humanity for mutual legal assistance from foreign governments, international tribunals and the ICC.

The RCMP War Crimes Section has a close reciprocal relationship with the international criminal tribunals, sharing information and resources. During the reporting period, ICTR justice officials visited Canada and the ICTY assisted RCMP investigators working in the former Yugoslavia.

The CBSA War Crimes Section maintains a close working relationship with American, Australian and British war crimes units under the *Four Country Conference (FCC) Memorandum of Understanding (MOU) with Respect to Investigations Relating to Genocide, War Crimes and Crimes Against Humanity*, signed in April 2007 by the governments of Australia, Canada, the United Kingdom and the United States. In November 2007, the CBSA War Crimes Section hosted a meeting at the Canadian High Commission in the United Kingdom with FCC partners to discuss information sharing issues.

CBSA researchers provide support and intelligence not only internally, but also to national and international partners and international criminal tribunals. During the 2007–2008 fiscal year, CBSA researchers at national headquarters responded to 3,239 requests for information (RFIs) on cases of alleged war crimes or crimes against humanity, an increase of 134 percent from 1,386 RFIs in 2006–2007. RFIs handled by the researchers increased due to the availability of mechanisms to reflect properly the security and background research that CBSA researchers conduct on a day-to-day basis. For example, CBSA researchers implemented a spreadsheet to track and record all RFIs; seven RFIs would be counted if a war crimes analyst requested seven name checks within one RFI document. Researchers also completed 25 research products, including screening aids, quick guides and chronologies, up 66 percent from the previous fiscal year.

The CBSA also produced 32 editions of the *Modern War Crimes News Bulletin*, a weekly global media summary newsletter on issues related to war crimes and crimes against humanity, which is distributed widely within Canada and to partners overseas, including other countries and international criminal tribunals.

CIC visa officers abroad are responsible for reporting and liaison on global migration, country situations and emerging trends. They have developed ongoing relationships with host countries, other diplomatic missions, international organizations and criminal tribunals. This is particularly true of those in Geneva, Brussels and Washington, where international meetings are held regularly to discuss issues related to migration and human rights violations.

International conferences not only promote the exchange of information, but also improve the overall level of cooperation between countries. The RCMP (in-

investigators) and the DOJ (counsel and analysts) attended an ICC conference in December 2007 in the Hague focusing on war crimes investigation tools and methods. The RCMP also provides assistance to foreign law enforcement agencies that travel to Canada to conduct investigations. DOJ counsel and RCMP officers also attended several high-level international meetings with war crimes units around the world, such as the Global Future Forum on Genocide held in Washington in October 2007.

In June 2007, the RCMP, with the assistance of the DOJ and Interpol, hosted the Third International Expert Meeting on Genocide, War Crimes and Crimes Against Humanity in Canada. This was the first time the meeting has been held outside of the Interpol General Secretariat in Lyon, France. Canada was selected because of its strong international reputation in the area of war crimes investigations. The keynote address given by Senator Roméo Dallaire was well received from the audience of more than 110 delegates. The delegates included 25 member countries, representing law enforcement, judicial authorities, international criminal tribunals and various non-governmental bodies. One of the joint conclusions resulting from the meetings was that member countries with a specialization in investigations and prosecution of these crimes should assist other countries in developing them as needed.

DOJ has contributed to the development of international criminal law by engaging in numerous outreach activities such as attending and speaking at conferences, publishing articles in law journals and giving guest lectures and seminars at universities both in Canada and abroad.

The benefits of international outreach initiatives and the contribution they make toward the global fight against impunity are significant, and the War Crimes Program

partners are of the opinion that they get a good return for their investment in them.

CONCLUSION

Canada's War Crimes Program has evolved since its inception. Its collaborative inter-departmental approach, international cooperation and outreach initiatives have earned acclaim in the global community. The RMAF and results of the War Crimes Program evaluation will assist the partners in maximizing available resources and selecting the most appropriate remedy to deter or prevent war criminals and persons suspected of crimes against humanity or genocide from seeking impunity in Canada, and to deal with those who have already entered.

To a certain extent, each of the remedies at the disposal of officials complements the effectiveness of the others, and together this broad arsenal strengthens the War Crimes Program. The War Crimes Program continues to focus on cost-effective measures, particularly early detection of war criminals abroad and the prevention of their entry into Canada. However, when war criminals have found their way into Canada, the more costly criminal investigations and prosecutions are available to provide accountability and deter perpetrators of human and international rights violations from making Canada a safe haven for themselves.

APPENDIX 1: CASE SAMPLES 2007-2008

Note: Names are given only in cases that have been in the public arena already.

MODERN WAR CRIME CASES

Criminal prosecution

Munyaneza, Desiré: On October 19, 2005, Mr. Munyaneza, a Rwandan national, was arrested in Montreal for alleged activities relating to the Rwandan genocide in the region of Butare in Rwanda in 1994. Mr. Munyaneza was charged with two counts of genocide, two counts of crimes against humanity and three counts of war crimes pursuant to the *Crimes Against Humanity and War Crimes Act*.

Following a rogatory commission, which was held in Kigali, Rwanda, in January and February 2007, the trial before the Superior Court of Montreal began on March 26, 2007. On October 10, 2007, the court completed hearing the testimony of Crown witnesses, Crown experts and RCMP investigators. On January 7, 2008, the court started to hear defence witnesses. From January 15 to January 22, 2008, a rogatory commission was held in Paris, France, to hear the testimony of some defence witnesses who, for a variety of reasons, could not travel to Canada. Other rogatory commissions were scheduled in Rwanda and Tanzania.

Actions taken under the Immigration and Refugee Protection Act (IRPA)

A citizen of Burundi applied for a temporary resident visa for the purpose of tourism. During the civil war in Burundi (1993–2005), which claimed the lives of up to 300,000 people, the subject had commanded a battalion in the army. In the areas where his battalion had been located, reputable human rights reports had

documented large-scale massacres of civilians. After receiving this information from the CBSA, the visa officer decided the applicant was inadmissible to Canada because of complicity in crimes against humanity pursuant to paragraph 35(1)(a) of the IRPA.

A citizen of Colombia made a refugee claim in Canada. He joined the Colombian army in 1984 and during his career had been assigned to various battalions, several of which operated in areas where crimes against humanity, including massacres perpetrated at the hands of the military, occurred on a widespread and systematic basis. He claimed he had minimal knowledge of the activities and crimes perpetrated by the army; further, he claimed that as a major, he took a course designed to train officers to create a good relationship with the civilian population. His lack of knowledge was deemed not credible and by virtue of his position, he was found to be complicit in the crimes against humanity committed by the Colombian army. Therefore, he was excluded from refugee protection pursuant to Article 1F(a) of the *United Nations Convention relating to the Status of Refugees*. He was removed from Canada in November 2007.

A citizen from the Republic of Guinea arrived in Canada in October 2005 with a diplomatic passport from Guinea. He had occupied senior positions. Including governor of Massanta and ambassador and diplomatic advisor to the prime minister under Sekou Touré's regime and then-President Lansana Conté's regime. A temporary resident visa was delivered from a Canadian office abroad so that he could visit his daughter. When he arrived in Canada he claimed refugee status with his wife, who is the daughter of former president Sekou Touré. His refugee protection claim was heard and rejected by the tribunal of the Refugee Protection Division, which, after an intervention from the Quebec Security and War Crimes Unit, concluded the claimant was excluded under Article 1F(a) of the *United Nations Convention*

relating to the Status of Refugees because there were serious reasons to believe the claimant was complicit in the crimes against humanity committed by the government of Sekou Touré.

A citizen of the Democratic Republic of Congo requested refugee protection in Canada in December 2002. Following her refugee hearing in May 2007, the claimant was excluded from refugee protection by the Immigration and Refugee Board. The tribunal concluded the claimant was a voluntary member of a brutal and limited-purpose organization. Accordingly, there were serious reasons to believe the claimant was complicit in the commission of crimes against humanity through her role in the organization. Therefore, she was excluded under Articles 1F(a) and 1F(c) of the *United Nations Convention relating to the Status of Refugees*.

Citizenship revocation proceedings

Rogan, Branko: This was the first citizenship revocation case involving a modern war crime. In July 2007, a notice of intention to revoke citizenship was served to Mr. Rogan pursuant to Section 18 of the Citizenship Act. On February 29, 2008, the Minister of Citizenship and Immigration completed Mr. Rogan's examinations for discovery.

SECOND WORLD WAR CASES

The DOJ is continuing the carriage of crimes against humanity, war crimes and genocide files related to the Second World War.

In Second World War cases, the Government of Canada has several legal remedies at its disposal: criminal prosecution under the Crimes Against Humanity and War Crimes Act or civil proceedings under the IRPA or the Citizenship Act. However, given the passage of

time, the age and availability of witnesses, as well as the challenges of gathering evidence, most of these cases proceed by way of civil proceedings.

Citizenship revocation proceedings

Seifert, Michael: Mr. Michael Seifert is a Canadian citizen who was born an ethnic German in Ukraine. During the Second World War, he collaborated with the German occupation authorities and served as an auxiliary to the *Sicherheitsdienst* (referred to as SD or security police) and as a camp guard in Ukraine and in Italy. He landed in Canada in 1951, but never disclosed his prior occupation to the immigration authorities. Had he done so, he would have never been admissible for entry into Canada. He later obtained Canadian citizenship on June 28, 1966.

The Minister of Citizenship and Immigration commenced proceedings to revoke Mr. Seifert's citizenship in Federal Court on November 13, 2001. The hearing concluded on September 15, 2006, with the judge reserving his decision. On November 13, 2007, the Federal Court concluded that Mr. Seifert obtained entry to Canada and Canadian citizenship through misrepresentation and by knowingly concealing his place of birth, his association with the security police and his activities as a camp guard.

In November 2000, an Italian military tribunal found Mr. Seifert guilty, in absentia, of various crimes committed while he was a guard at a German police transit camp in northern Italy. At Italy's request, the Canadian government also commenced extradition proceedings against Mr. Seifert. On December 28, 2005, the Minister of Justice ordered Mr. Seifert's surrender to Italy. Mr. Seifert's appeal to the BC Court of Appeal was dismissed on August 3, 2007, and he was refused leave to appeal this decision at the Supreme Court of Canada on January

17, 2008. On February 15, 2008, Mr. Seifert was surrendered to the Italian authorities pursuant to a minister's surrender order and he is currently in detention in Italy.

Skomatzuk, Jura: Mr. Jura Skomatzuk was born in what is now present day Ukraine. He arrived in Canada in 1952 and obtained Canadian citizenship in 1957. The Minister alleged that Mr. Skomatzuk never disclosed his collaboration with the Nazis as an SS guard at forced labour and concentration camps. On August 17, 2006, following a trial combined with that of Josef Furman, the Federal Court ruled that Mr. Skomatzuk had obtained his Canadian citizenship through fraud or material misrepresentation. The court found that he had hidden his wartime activities from Canadian officials when he landed in Canada in 1952 and that he had served as a guard in the German concentration camp system after training at the SS Trawniki Training Camp in 1943. Based on the Federal Court decision, the Minister of Citizenship and Immigration may consider whether to recommend revocation of Mr. Skomatzuk's citizenship to the Governor in Council. If Mr. Skomatzuk's citizenship is revoked, deportation proceedings may be considered. Mr. Skomatzuk's hearing at the Federal Court was held at the same time as Joseof Furman because of the similarity of evidence for both individuals.

Furman, Josef: Mr. Josef Furman arrived in Canada (from Germany) in 1949 and became a Canadian citizen in 1957. According to the Minister, Mr. Furman never divulged his collaboration with the Nazis, specifically as a guard at an SS camp and various activities at both a concentration camp and the Warsaw ghetto. On August 17, 2006, following a trial combined with that of Jura Skomatzuk, the Federal Court ruled that Mr. Furman had obtained his Canadian citizenship through fraud or material misrepresentation. The court found that he had hidden his wartime activities from Canadian officials when he landed in Canada in July 1949 and

that, during the Second World War, he had served in the German concentration camp system after training at the SS Trawniki Training Camp in 1943. Based on the Federal Court decision, the Minister of Citizenship and Immigration may consider whether to recommend revocation of Mr. Furman's citizenship to the Governor in Council. If Mr. Furman's citizenship is revoked, deportation proceedings may be considered.

Katriuk, Vladimir: Mr. Vladimir Katriuk became a Canadian citizen in 1958. The Minister alleged that his failure to disclose his various guard activities in Eastern Europe during the Second World War were grounds for citizenship revocation. In January 1999, the Federal Court found that Mr. Katriuk had obtained Canadian citizenship through deception, in that he had concealed his active membership in the *Schutzmannschaft* Battalion 118 and his participation in its activities in Belarus, including anti-partisan operations. The Federal Court of Appeal and the Supreme Court of Canada dismissed Mr. Katriuk's attempts to appeal the Federal Court's findings. Based on the Federal Court decision, the Minister of Citizenship and Immigration may consider whether to recommend revocation of Mr. Katriuk's citizenship to the Governor in Council. If Mr. Katriuk's citizenship is revoked, deportation proceedings may be considered.²

Oberlander, Helmut: Mr. Helmut Oberlander did not declare his Second World War involvement with Nazi forces (first as an interpreter and later as an infantry member) when he was granted permanent residency in 1954. This same information disclosed for permanent residency was the basis in being granted Canadian citizenship in 1960. In February 2000, the Federal Court found that Mr. Oberlander had obtained Canadian citizenship through deception, in that he had concealed his membership in *Einsatzkommando 10a*, a unit that systematically carried out mass executions of civilians, particularly Jews, in the occupied Soviet Union. The Governor in

Council revoked Mr. Oberlander's Canadian citizenship in July 2001. In May 2004, the Federal Court of Appeal quashed the revocation of Mr. Oberlander's citizenship because the report of the Minister of Citizenship and Immigration, on which the Governor in Council had based its decision, had failed to address the issue of whether Mr. Oberlander's case fell within the Canadian government's revocation policy for Second World War cases and had not balanced his personal interests against the public interest. On May 24, 2007, the Government of Canada announced that the Governor in Council had revoked Mr. Oberlander's citizenship. Mr. Oberlander commenced a judicial review application of this decision before the Federal Court.

Odynsky, Wasyl: Mr. Wasyl Odynsky received permanent resident status in 1949. Based upon information he divulged in 1949, he subsequently obtained Canadian citizenship in 1952. According to the Minister, in 1949 he failed to disclose his involvement during the Second World War as an SS guard. In March 2001, the Federal Court found that Mr. Odynsky had obtained Canadian citizenship through deception, in that he had concealed his service as a guard at the SS forced labour camps of Trawniki and Poniatowa. Based on the decision, the Minister of Citizenship and Immigration may consider recommending the Governor in Council revoke Mr. Odynsky's Canadian citizenship. If his citizenship is revoked, deportation proceedings may be considered.²

Fast, Jacob: Mr. Jacob Fast obtained Canadian citizenship in 1954. The Minister alleged that his failure to divulge his involvement as a collaborator with occupying German forces (namely as part of the auxiliary police)

and his German citizenship warranted citizenship revocation. On October 3, 2003, the Federal Court ruled that Mr. Fast had obtained his Canadian citizenship by deceit, in that he had failed to reveal his German citizenship when applying to come to Canada in 1947. The court also found that Mr. Fast had collaborated with the German Security Police responsible for enforcing the racial policies of the German Reich, but on the balance of probabilities had not been asked this question directly and therefore, had not lied nor concealed his wartime activities. The Minister of Citizenship and Immigration recommended to the Governor in Council that Mr. Fast's citizenship be revoked. The Government of Canada announced the revocation on May 24, 2007.³

² Following consideration of the Minister of Citizenship and Immigration's recommendation, the Governor in Council decided not to revoke Mr. Katriuk or Mr. Odynsky's citizenship. A special interest group has commenced a judicial review application of these decisions before the Federal Court.

³ Mr. Fast passed away on June 11, 2007.

APPENDIX 2: WAR CRIMES INVENTORY: DOJ/RCMP

DOJ/RCMP modern war crimes file inventory

Number of files as of March 31, 2007	62
Number of files added 2007–2008	2
Number of files closed	9
Number of files as of March 31, 2008	55

2007-2008 Summary of cases related to the Second World War

Category	Total
Allegations	145
Active files	17
Litigation	5
Inactive files	127
Closed files	1,548
Total	1,842

DEFINITIONS

Allegation: Factual information provided to a program partner regarding the possible involvement of an individual in the commission of a war crime, crime against humanity or genocide. This involvement can be direct or indirect.

Active files: Files being reviewed by historians, police, and/or counsel or investigated by police.

Litigation: Cases brought before a civil or criminal court or an administrative tribunal for appropriate action.

Inactive files: Files including, but not limited to, those where suspects cannot be located in Canada, the evidence is insufficient, or the allegation appears unfounded. These files are reviewed with a view to closing them where appropriate.

Closed files: Files that were inactive and for which no further leads are available or no further action is appropriate.

APPENDIX 3: SUMMARY OF THE WAR CRIMES PROGRAM: CIC AND CBSA

Results	Entries prevented	Exclusions	Removals	Intervention in RPD hearings	Cases reviewed abroad	Cases reviewed in Canada	Modern war crimes cases concluded
1997–1998	34	165	80	24	85	392	477
1998–1999	307	25	27	58	352	1,268	1,620
1999–2000	581	15	38	127	1008	2,031	3,039
2000–2001	644	53	42	227	2374	1,872	4,246
2001–2002	445	51	46	350	1797	2,186	3,983
2002–2003	355	73	48	242	2103	303	2406
2003–2004	242	63	44	387	2300	2,740	5,040
2004–2005	385	79	42	155	2651	2,077	4,728
2005–2006	367	40	41	237	3024	1,405	4,429
2006–2007	361	31	35	82	2029	1,407	3,436
2007–2008	326	26	23	80	2244	612	2,856
Total	4,047	621	466	1,969	19,967	16,293	36,260

Inventory	Cases under investigation abroad	Refugee cases under investigation in Canada	Non-refugee cases under investigation in Canada
1997–1998	51	3	82
1998–1999	45	9	71
1999–2000	125	363	135
2000–2001	300	311	208
2001–2002	170	292	205
2002–2003	357	150	125
2003–2004	597	883	115
2004–2005	733	663	65
2005–2006	639	346	27
2006–2007	585	691	23
2007–2008	418	702	31

DEFINITIONS

Entries prevented: Applications refused abroad under 35(1)(a) or (b) of the IRPA (or before June 28, 2002, under 19(1)(j) or (l) of the *Immigration Act*), cases investigated for war crimes but refused on other grounds or withdrawals.

Exclusions: Exclusion by the IRB from refugee protection in Canada under article 1(F)(a) of the *United Nations Convention relating to the Status of Refugees*.

Removals: Persons removed from Canada.

Interventions in RPD hearings: Cases in which the CBSA intervened at hearings of the RPD (Refugee Protection Division) of the IRB.

Cases reviewed abroad: War crimes cases investigated and concluded in visa offices under 35(1)(a) or (b) of the IRPA or 19(1)(j) or (l) of the *Immigration Act*.

Cases reviewed in Canada: War crimes cases investigated and concluded in Canada under 35(1)(a) or (b) of the IRPA or 19(1)(j) or (l) of the *Immigration Act* (includes interventions, exclusions, removals and investigations).

Modern war crimes cases concluded: Alleged war crimes cases reviewed and concluded in Canada and abroad during the fiscal year.

Inventory: Cases remaining under investigation at the end of the fiscal year.

Cases under investigation abroad: Overseas cases being reviewed for war crimes allegations.

Refugee cases under investigation in Canada: Cases referred for second-level *Personal Information Form* review.

Non-refugee cases under investigation in Canada: Includes foreign nationals in Canada who have not made refugee claims, permanent or temporary residents, and applicants for permanent residence or Canadian citizenship.

APPENDIX 4: REGIMES DESIGNATED PURSUANT TO PARAGRAPH 35(1)(B) OF THE IMMIGRATION AND REFUGEE PROTECTION ACT

Designated June 16, 1993, extended on August 15, 1997: the Bosnian Serb regime from March 27, 1992, to October 10, 1996.

Designated October 12, 1993: the Siad Barré regime in Somalia between 1969 and 1991.

Designated April 8, 1994: the former military governments in Haiti between 1971 and 1986, and between 1991 and 1994, except the period of August–December 1993.

Designated October 21, 1994: the former Marxist regimes of Afghanistan between 1978 and 1992.

Designated September 3, 1996, amended September 9, 2004: the governments of Ahmed Hassan Al-Bakr and Saddam Hussein in power in Iraq from 1968 to May 22, 2003.

Designated April 27, 1998: the government of Rwanda under President Habyarimana between October 1990 and April 1994, as well as the interim government in power between April 1994 and July 1994.

Designated June 30, 1999, amended March 14, 2001: the governments of the Federal Republic of Yugoslavia and the Republic of Serbia (Milosevic) from February 28, 1998, to October 7, 2000.

Designated March 14, 2001, amended September 9, 2004: the Taliban regime in Afghanistan from September 27, 1996, to December 22, 2001.

Designated November 21, 2003: the Government of Ethiopia under Mengistu Haile Mariam from September 12, 1974, to May 21, 1991.