



Spring 2019

**Reports of the Auditor General of Canada
to the Parliament of Canada**

Independent Auditor's Report

REPORT 2

Processing of Asylum Claims



Office of the
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of Canada

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Performance audit reports

This report presents the results of a performance audit conducted by the Office of the Auditor General of Canada under the authority of the *Auditor General Act*.

A performance audit is an independent, objective, and systematic assessment of how well government is managing its activities, responsibilities, and resources. Audit topics are selected based on their significance. While the Office may comment on policy implementation in a performance audit, it does not comment on the merits of a policy.

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- gather the evidence necessary to assess performance against the criteria,
- report both positive and negative findings,
- conclude against the established audit objectives, and
- make recommendations for improvement when there are significant differences between criteria and assessed performance.

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Introduction

Background

The in-Canada asylum system

2.1 Every year, war, violence, and persecution displace millions of people. Canada offers refugee protection, or asylum, to people who have a well-founded fear of persecution or are in danger in their countries of nationality.

2.2 With record levels of migration worldwide, Canada was the world's ninth-largest recipient of asylum seekers in 2017, with 50,400 claims—more than double the number from the previous year. A further 55,000 claims were made in 2018. The number of asylum claims does not affect the number of admissions Canada offers under other immigration streams. The decision to grant refugee protection is based on the merit of each individual claim.

2.3 Canada's asylum process aims to determine all claims for refugee protection fairly, efficiently, and in accordance with the law. The *Immigration and Refugee Protection Act* sets out the roles and responsibilities of the three principal federal organizations involved in the process: the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada. Together, they spent approximately \$216 million annually, from the 2013–14 to the 2016–17 fiscal year, to process asylum claims. Budget 2018 announced additional temporary funding of \$174 million over two years to help process the rising number of claims.

2.4 A foreign national can make an asylum claim in Canada at a port of entry or inland office of either the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada. Factors that determine an individual's eligibility to make an asylum claim include whether the individual has committed a serious crime, made a previous claim in Canada, or received protection in another country.

2.5 If the individual is eligible for refugee protection, the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada refers the claim to the Immigration and Refugee Board of Canada for a protection decision. The Board is the independent tribunal responsible for deciding whether to grant refugee protection. In most cases, claimants are released into Canada on terms and conditions to wait for their hearings. If they are found ineligible, they must leave the country or be removed.

2.6 In 2017 and 2018, almost 40,000 individuals were intercepted as they crossed the border from the United States between ports of entry to claim refugee protection. Most of these interceptions occurred in

the province of Quebec. The Safe Third Country Agreement between Canada and the United States generally requires claimants to seek protection in the first safe country they enter. However, the agreement applies only at official land-border ports of entry, so asylum seekers who cross into Canada from the United States between ports of entry can still make a claim.

2.7 Facing a large number of asylum claims in 2017, the government recognized the need to improve the efficiency of the refugee determination system, including how claims were prepared and scheduled for hearings. In particular, intake processes were redesigned to ensure the timely eligibility assessment of people making claims between ports of entry. In addition, the Immigration and Refugee Board of Canada developed an action plan to increase its productivity, including efforts to hire and train more staff. In June 2018, an independent review commissioned by the government recommended further system-wide efficiency improvements to the asylum system. The results of these initiatives fell outside our audit period.

Focus of the audit

2.8 This audit focused on whether the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada consistently processed asylum claims in an efficient and timely manner.

2.9 This audit is important because the rising number of asylum claims is testing the ability of Canada's refugee determination system to process claims in a timely manner. The audit is meant to provide parliamentarians and the public with an understanding of how well the system is performing and what improvements it may need.

2.10 We did not examine asylum claims made before December 2012. Nor did we look at appeals, detentions, or removals. Furthermore, we did not examine the quality of decisions made by the Immigration and Refugee Board of Canada.

2.11 More details about the audit objective, scope, approach, and criteria are in **About the Audit** at the end of this report (see pages 16 to 19).

Findings, Recommendations, and Responses

Overall message



2.12 Overall, we found that Canada’s refugee determination system was not equipped to process claims according to the required timelines. Despite reforms introduced in 2012 to speed up decision making, the system was again faced with a significant backlog of unresolved claims. Since the system was not flexible enough to respond in a timely way to higher claim volumes, the 2017 surge of asylum seekers led to a backlog and increased wait times for refugee protection decisions.

2.13 We also found that a series of inefficiencies contributed to delays in processing claims. There were significant gaps in information sharing and duplication of effort among the three main organizations involved in the claims process: the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada. For example, the organizations used different information technology systems, with limited interoperability. Although the organizations shared some information electronically, they still relied on paper and faxes to share specific claim information. In addition, few claims that were eligible for faster processing received quicker decisions. As a result, claims that could have been fast-tracked tied up the system instead.

2.14 Finally, hearings for almost two thirds of claims were postponed. Most of these postponements were due to issues that were within the government’s control and resulted in delays of several months. In fact, because new hearings were scheduled first, claimants had to wait an average of five months for a new hearing date after a single postponement.

Providing timely decisions for refugees

Context

2.15 Claim backlogs—the accumulation of cases waiting for refugee protection decisions—have been a persistent issue for Canada’s asylum system. In March 2010, the backlog stood at 59,000 cases, with an average processing time of 19 months. This issue precipitated a reform of the system. Parliament passed legislation in 2010 and 2012 to reduce the backlog while continuing to respect procedural fairness. A central goal of the reforms was faster decisions for claimants.

2.16 These reforms, which took effect in December 2012, set new mandatory timelines for processing asylum claims. For most claimants, hearings had to be scheduled within 60 days. The reforms also required earlier hearings for claimants from designated countries: within 30 or 45 days, depending on whether claims were made at official ports of entry or inland immigration offices. Once the reforms took effect, all new claims referred to the Immigration and Refugee Board of Canada were to be processed under these timelines.

2.17 Claims that had been referred for hearings before the reforms took effect—now called legacy claims—were also to be processed under the new system, but they were not bound by the new time limits. As a result, some 32,000 legacy claims were set aside, meaning new claims were given scheduling priority, and these legacy claims were subject to significant delays. By the end of December 2018, six years later, 585 legacy claims were still waiting for refugee protection decisions.

Increased claim volumes overwhelmed processing capacity

What we found

2.18 We found that Canada's refugee determination system could not respond quickly to increases in claim volumes. The surge of claims in 2017 outstripped the government's capacity to process them within the required timelines, leading to increased wait times. As a result, at the time of our audit, the system faced a backlog of unresolved claims that was worse than in 2012, when the system was last reformed.

2.19 Our analysis supporting this finding presents what we examined and discusses the following topics:

- Worsening backlog of claims
- Inadequate system oversight

Why this finding matters

2.20 This finding matters because fairness and speed are key principles of Canada's refugee determination system. The system must be able to respond quickly to changes in the volume of asylum claims to avoid backlogs and delays in refugee protection decisions.

Recommendation

2.21 Our recommendation in this area of examination appears at paragraph 2.28.

Analysis to support this finding

2.22 **What we examined.** We examined the level of funding provided to the asylum system, along with the claim backlog and wait times between the time when eligibility was determined and the time when initial protection decisions were made. We also examined performance and productivity measures for asylum claims processing.

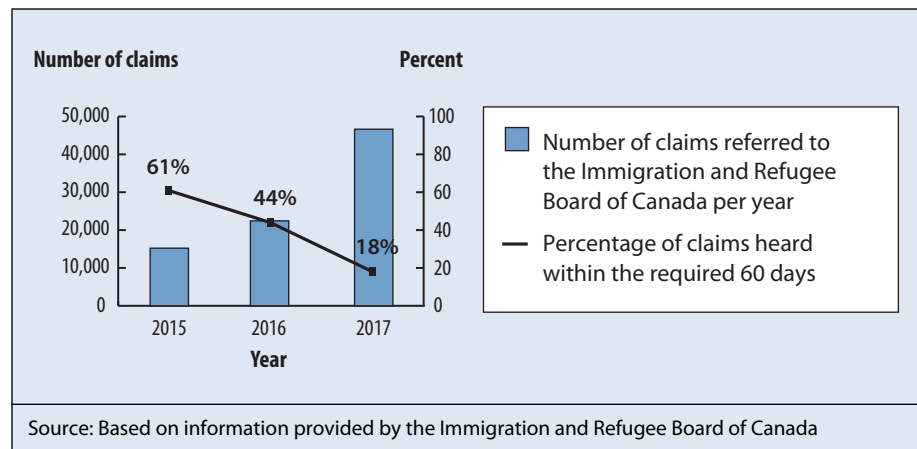
2.23 **Worsening backlog of claims.** We found that the asylum system once again faced a substantial backlog of unresolved claims. By December 2018, there were 71,380 claims waiting for protection decisions.

2.24 We found that none of the organizations we audited could access additional resources quickly enough to respond readily to increases in claim volumes. The number of asylum claims varies each year, yet the system receives a fixed amount of funding to process them. When claim

volumes are significantly higher, as they were in 2017 and 2018, the number of unresolved claims grows and wait times increase. For example, the 2012 reforms set the system’s funding at a ceiling sufficient to process 22,500 claims per year, and temporary funding was later provided to increase the capacity to about 32,000. Yet there were 55,000 asylum claims in 2018 alone.

2.25 The 2017 surge of claims quickly outstripped the system’s capacity to process them on time (Exhibit 2.1). Fewer than 20% of claimants received a hearing for a protection decision within the required 60 days. Half the protection decisions were made at the hearings themselves. The remaining protection decisions were normally provided within 25 days of the hearings. In February 2018, the Board announced that it would set aside the 60-day requirement, as permitted by immigration regulations, and schedule hearings according to when claims had been made. By the end of December 2018, the expected wait time for a protection decision had reached two years.

Exhibit 2.1 Asylum claims tripled over the past three years, and the percentage of claims that were heard within the 60-day timeline declined



2.26 At the current level of funding and productivity, the backlog and wait times will continue to grow. We project that if the number of new asylum claimants remains steady at around 50,000 per year, the wait time for protection decisions will increase to five years by 2024—more than double the current wait time.

2.27 **Inadequate system oversight.** We found that system-wide performance monitoring identified inefficiencies in the processing of asylum claims. However, the information did not enable the three organizations to effectively allocate resources as needed to better respond to shifting claim volumes. At the end of our audit period, established performance measures were discontinued and were under review. In early 2018, a deputy-level committee of the three organizations was established to improve oversight and coordination of asylum claims

processing, including the development of performance and productivity expectations for key steps of the refugee determination process.

2.28 Recommendation. To better respond to the fluctuating volume of claims made each year, the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada should

- work with central government agencies to design and implement a flexible model that allows them to access additional funding quickly to better match shifting volumes of claims, and
- update their performance and productivity expectations for key steps in the refugee determination system.

***The three organizations' response.** Agreed. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada will continue to utilize existing funding mechanisms and will work with central agencies to explore potential flexible funding approaches to meet current and projected intake. Proposals will be brought forward for government consideration.*

To support this work, the deputy-led Asylum System Management Board will oversee the adoption of updated performance targets that will be used to report on intake, capacity, and productivity across the system. In view of the doubling of refugee intake since 2016, when Canada received 23,900 asylum claims, the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada have taken a number of innovative approaches to improve the effectiveness of the in-Canada asylum system. The Government of Canada has also allocated additional resources to temporarily increase the capacity for refugee intake and for refugee protection decisions. In March 2019, Budget 2019 announced investments of \$1.18 billion over five years, to enable the processing of 40,700 asylum claims in the 2019–20 fiscal year and up to 50,000 claims in the 2020–21 fiscal year, as well as to strengthen processes at the border and accelerate the processing of claims and removals in a timely manner.

Opportunities exist to reduce wait times for claimants

What we found

2.29 We found that a variety of administrative issues prevented the refugee determination system from working as efficiently as it could have. Here are some examples:

- The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada used different information systems to collect and share information.

- Postponed hearings for refugee protection decisions significantly increased wait times for claimants, with two thirds of claims delayed by an average of five months.
- The Immigration and Refugee Board of Canada rarely fast-tracked asylum claims, even when it had the ability to do so.
- The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada did not share information about file reviews in a timely manner.

2.30 Our analysis supporting this finding presents what we examined and discusses the following topics:

- Inadequate information technology systems
- Postponed hearings
- Few fast-tracked claims
- Duplicated review efforts

Why this finding matters

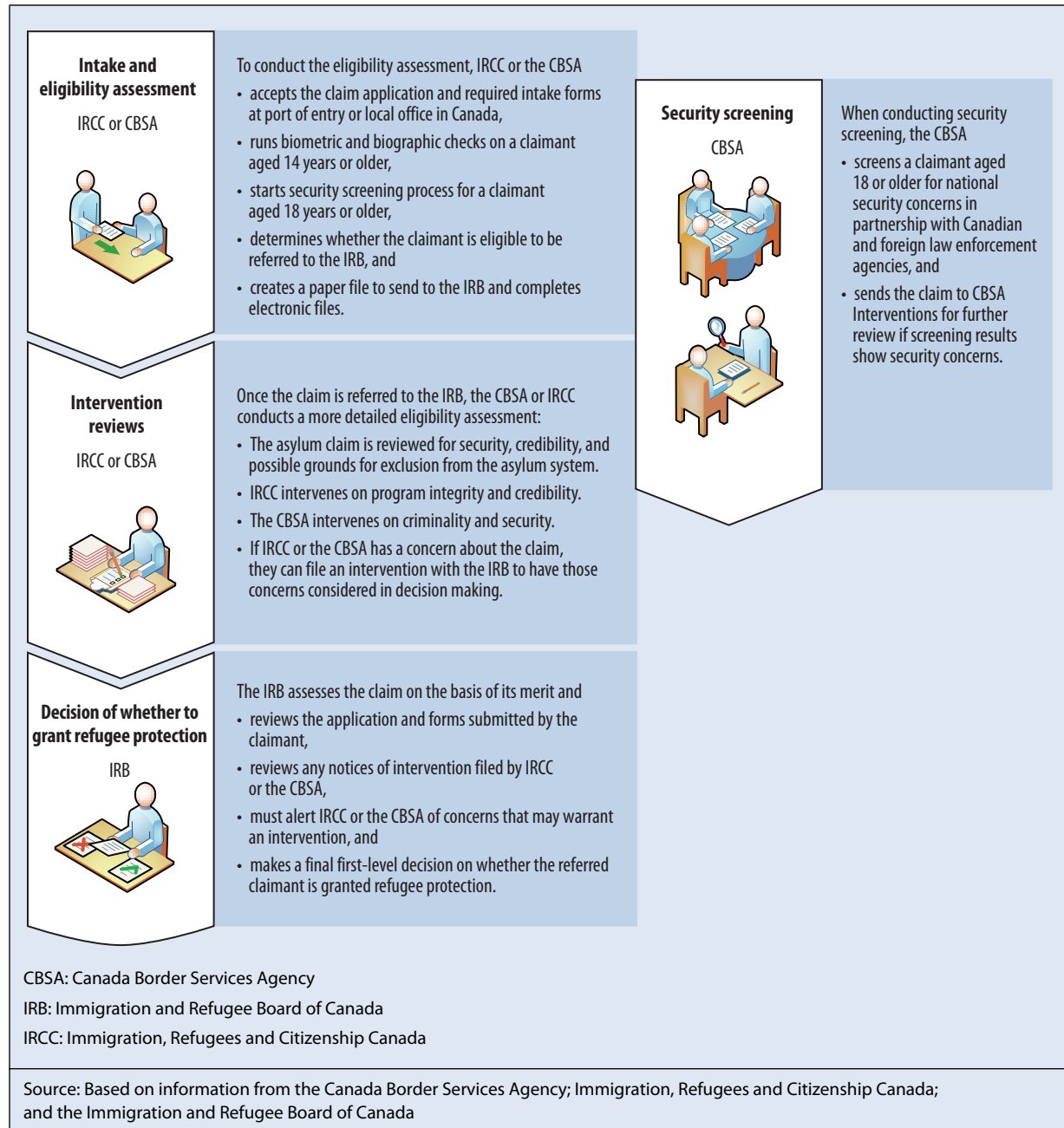
2.31 These findings matter because if the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada processed asylum claims more efficiently, then claimants would receive refugee protection decisions more quickly. All of these issues can be resolved within the current system and legislation.

Context

2.32 The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada have distinct responsibilities in the refugee determination process, such as security screening or reviews for intervention. However, each organization depends on the others, with information hand-offs taking place at overlapping stages of the claim process (Exhibit 2.2). One organization's delay at any stage of the process affects the claim's progress at another stage.

2.33 All asylum claims follow the same process regardless of the claimant's point of entry, and all are ultimately decided by the Immigration and Refugee Board of Canada. Hearings at the Board typically consist of testimony and representations from the claimant, counsel for the claimant, or the Minister's representative if an intervention is filed. Hearings may require multiple sittings, but the majority are completed in one sitting and last about 2.5 hours.

Exhibit 2.2 Regardless of where or how asylum seekers enter Canada, the processing of their claims involves similar steps



Recommendations

2.34 Our recommendations in this area of examination appear at paragraphs 2.39, 2.44, 2.48, and 2.52.

Analysis to support this finding

2.35 **What we examined.** We examined the claim processing times for first-level refugee protection decisions for all 109,674 asylum claims referred between 1 January 2015 and 30 June 2018. We examined whether biometric checks for criminality or identity were completed for 82,503 claimants aged 14 years or older. We also examined how the three organizations involved in processing asylum claims shared claim information.

2.36 **Inadequate information technology systems.** We found that the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada used different information systems to track and store information about asylum claims. Even though the information systems had some ability to interface with each other, we noted important gaps in which information was not shared, such as changes to hearing dates. Collecting and sharing information securely and efficiently are critical to the proper processing of asylum claims, especially when claim volumes are high.

2.37 Neither the Canada Border Services Agency nor Immigration, Refugees and Citizenship Canada had an upfront quality assurance program in place at intake to ensure the accuracy and completeness of the information collected about asylum claimants. For example, we observed files that contained illegible scans of identity documents and errors in some of the electronic information on asylum claims. On the basis of a representative sample, about 400 claims did not have biometric checks for criminality or identity completed as required. Of the cases we examined, checks were not completed either because the claimant's fingerprints were not taken or system errors occurred when information was transmitted. Although these cases represent 0.5% of all claimants for whom criminality or identity checks were required, the checks are important for public safety and the integrity of the refugee determination system. Neither organization systematically tracked whether a criminal records check was always completed because of poor data quality.

2.38 We found that all three organizations continued to use paper files to process asylum claims. Even when claim information was available electronically, it was printed out and shared between organizations by fax or courier. The Immigration and Refugee Board of Canada continued to rely almost exclusively on paper files in its work. We note that another administrative tribunal, the Parole Board of Canada, exchanges sensitive case information electronically in a secure manner and has realized efficiency gains from doing so.

2.39 Recommendation. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada should

- work together to identify what information needs to be collected and shared for an asylum claim; and
- find a way to share the information securely, accurately, and efficiently, moving from paper to digital processing of asylum claims.

***The three organizations' response.** Agreed. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada are committed to proactively sharing information among the three organizations to ensure the effectiveness and integrity of the in-Canada asylum system.*

The small-scale Integrated Claim Analysis Centre pilot project, recently hosted in Montréal, is proof of concept of this commitment, demonstrating effective and proactive information sharing in support of program integrity. This model permits refugee claims to be systematically examined and for case-specific information to be shared with the Immigration and Refugee Board of Canada before a hearing is scheduled. Budget 2019 permits the government to build on this model and to establish a fully funded pilot.

In support of this commitment, all three organizations will work together to establish a clear understanding of what claimant-specific documents are to be shared, when and how. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada will establish a quality assurance program to identify where there is unnecessary delay or error and monitor overall compliance with this approach. Through regular monitoring, issues such as missing, delayed, incomplete, or illegible claimant information will be identified and addressed in a timely manner by the responsible organization.

In addition, the three organizations will work together with central agencies to identify options and potential mechanisms for government consideration to further develop information technology capabilities in support of improved interoperability, information sharing, and client service. Further improvements will be made to existing digital interfaces to provide for the exchange of real-time information (for example, forms, submissions, documents, and updates) among the organizations, and to support the shift to a digital processing environment.

2.40 Postponed hearings. Over our audit period, about 65% of hearings were postponed at least once before a decision was made. We found that postponements caused significant delays. Claims postponed once were delayed by an average of five months compared with cases with no postponement. About a quarter of claims were postponed multiple times, adding at least eight months of delay.

2.41 Hearings were postponed for many reasons (Exhibit 2.3). Claimants themselves may request delays to ensure that they have access to counsel. However, we found that most of the postponements were due to administrative issues within the government’s control. On average, these postponements delayed claims by nine months—more than twice as long as the average delay caused by postponements requested by claimants. Recent changes to scheduling practices should address the most frequent reason for postponements: the unavailability of Board members.

Exhibit 2.3 Because members of the Immigration and Refugee Board of Canada were unavailable, hearings were often postponed

Reasons for postponed hearings	Percentage of postponed hearings
Board member unavailable (operational limitations)	49%
Claimant or claimant’s counsel unavailable	14%
Security screening results still pending	10%
Lack of time to complete a hearing	6%
Need to hear family members’ claims together or separately	5%
Waiting for documents or late disclosure of documents	4%
Interpreter unavailable	3%
Other	9%
Source: Based on information provided by the Immigration and Refugee Board of Canada	

2.42 Over our audit period, the Board postponed hearings for 8,389 claims because the required security screening was still pending. Yet we found that at least one in five of these hearings was postponed in error, because the security screening had in fact already been completed or was not yet due. Postponements in these cases unnecessarily delayed hearings by an additional 10 months on average. We note that at the end of our audit period, the Canada Border Services Agency reallocated resources to significantly improve the timeliness of security screening. This action should help reduce the number of postponements.

2.43 According to Board scheduling practices, postponed hearings should be rescheduled within 10 days. However, we found that fewer than 10% were rescheduled in that time frame. Furthermore, new claims were prioritized over those that had been postponed, resulting in delays of several months for postponed claims. We also found that the Board lacked the flexibility to hear postponed claims in a timely manner. The schedule was fully booked for at least three months ahead.

2.44 Recommendation. The Immigration and Refugee Board of Canada should explore ways to reduce the number of postponed hearings, particularly for reasons within its control, and should reschedule hearings in a timely manner.

The Board's response. Agreed. Since the close of the audit period, the Immigration and Refugee Board of Canada has worked with the Canada Border Services Agency and Immigration, Refugees and Citizenship Canada to significantly reduce postponements within the government's control. These improvements are a result of a realignment of scheduling practices as well as an increase in capacity under Budget 2018, resulting in increased certainty for claimants regarding their hearing date while improving processing efficiencies.

Budget 2019 has also provided additional investments that will increase capacity and further reduce postponements as a result of member unavailability.

In addition, the Board continues to look at ways to reduce the number of postponements of hearings, particularly for those cases where the reason for the postponement is within the control of the Board.

The Board will refine its monitoring framework for postponements to ensure it is able to establish a baseline for current practices and identify areas where adjustments to current practices may be required, including protocols regarding the rescheduling of postponed claims.

2.45 Few fast-tracked claims. The Immigration and Refugee Board of Canada may decide certain claims on the basis of a file review rather than a hearing—a process that should be faster. However, we found that it rarely used this expedited process. In fact, we found that the Board expedited only a quarter of eligible claims. The other three quarters proceeded to regular hearings, and 87% of them received positive decisions. Moreover, we found that the Board did not process expedited claims more quickly. On average, decisions for expedited claims took about the same amount of time as regular claims. In January 2019, the Board announced changes to its expedited process to lead to earlier decisions.

2.46 Similarly, legislation requires that claimants from Designated Countries of Origin (countries that do not normally produce refugees) have their claims processed more quickly while still receiving a merit-based assessment. We found that the Board did not fast-track these cases, even though fast-tracking is a key strategy at its disposal to reduce wait times. During our audit period, we found no significant difference in the time it took for claimants from designated countries versus those from non-designated countries to receive protection decisions.

2.47 On the other hand, we found that the Immigration and Refugee Board of Canada was able to prioritize protection decisions for unaccompanied minors. For the 628 claims made by unaccompanied

minors over our audit period, most had hearings within 60 days and received protection decisions an average of two months earlier than other claims.

2.48 Recommendation. The Immigration and Refugee Board of Canada should make better and more frequent use of the processes at its disposal to expedite protection decisions for eligible asylum claimants.

***The Board's response.** Agreed. The Immigration and Refugee Board of Canada is already implementing ways to make better and more frequent use of its existing processes to improve its delivery of administrative justice and will continue to make further gains in this regard.*

In early February 2019, the Board issued strengthened policy guidance as well as established a task force to support the more efficient processing of less complex claims, which has already achieved meaningful results and lessons learned. The Instructions Governing the Streaming of Less Complex Claims set out the case management principles the Refugee Protection Division will use to identify those claims which may be decided without a hearing, which is allowed for under the Immigration and Refugee Protection Act, and to identify those refugee claims which may be decided with a short hearing because the matter does not appear to present complex legal or factual issues. Both processes lead to the more efficient resolution of claims by better allocating the appropriate level of resources to the matter being decided. Application of the Instructions will allow more claims to be considered for resolution without a hearing or in a short hearing in appropriate circumstances. The Instructions also ensure that security and program integrity considerations remain paramount.

2.49 Duplicated review efforts. Officials from the Canada Border Services Agency and Immigration, Refugees and Citizenship Canada, on behalf of the Minister responsible, can intervene in a claim if they have credibility or security concerns (see Exhibit 2.2). Similarly, Immigration and Refugee Board of Canada members must alert the Minister responsible when they have concerns with a claim that may warrant an intervention.

2.50 We found poor communication between the Board and officials from the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada on claims being reviewed for possible intervention, resulting in a duplication of effort. For example, a representative sample of 1,400 Board notifications on claims for which claimants were later granted refugee protection indicated that about two thirds were sent while officials from the Agency or the Department were still reviewing the same claim themselves. The remaining one third of notifications were sent after the Agency or Department officials had already reviewed the claim in question for possible intervention.

2.51 Current intervention practices do not require officials from the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada to inform the Board about claims that they have reviewed and in which they will not intervene—they inform the Board only about claims that they have concerns about and in which they will intervene. We note that all three organizations recently piloted the practice of informing each other when their review for intervention was complete to determine its potential for reducing wait times for protection decisions.

2.52 **Recommendation.** The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada should notify the Immigration and Refugee Board of Canada as soon as their review of an asylum claim for intervention is complete, whether or not they plan to intervene. The Immigration and Refugee Board of Canada should consider this notification in its scheduling strategy to reduce wait times for protection decisions.

***The three organizations' response.** Agreed. The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada are committed to ensuring the integrity of the in-Canada asylum system. The Ministerial Reviews and Interventions program (Immigration, Refugees and Citizenship Canada) and the Hearings Program (Canada Border Services Agency) work together to examine each refugee claim to identify issues related to integrity, credibility, criminality, and security before a refugee protection decision is taken by the Immigration and Refugee Board of Canada. Ministers' representatives intervene in proceedings to challenge refugee claims if investigations have uncovered adverse evidence that is directly relevant to the claim. Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency will seek to provide timely notification of their intention to intervene or not intervene in a claim. In turn, the Board will take this notification into consideration when scheduling refugee claims.*

In addition, Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency remain committed to proactively sharing information which will support the Immigration and Refugee Board of Canada having hearing-ready files, including information such as previous visa applications and supporting documentation and the results of biometric information sharing with partner countries, while respecting privacy legislation and information sharing agreements. In support of this objective, the Canada Border Services Agency, Immigration, Refugees and Citizenship Canada, and the Immigration and Refugee Board of Canada have been and will continue to test innovative approaches to streamline their procedures and to improve information sharing in an effort to avoid duplication, to reduce overall processing times, and to facilitate the creation of hearing-ready files, which will support an efficient strategic scheduling approach for the Board.

Conclusion

2.53 We concluded that the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada did not process asylum claims in an efficient and timely manner. Canada's refugee determination system faced a significant backlog of unresolved claims because it lacked the necessary flexibility to increase its capacity when the volume of asylum claims grew. Many claims were delayed because of inefficient practices among the three organizations, including the continued use of paper files to process asylum claims.

About the Audit

This independent assurance report was prepared by the Office of the Auditor General of Canada on the processing of in-Canada asylum claims. Our responsibility was to provide objective information, advice, and assurance to assist Parliament in its scrutiny of the government's management of resources and programs, and to conclude on whether the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada complied in all significant respects with the applicable criteria and processed claims in an efficient and timely manner.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard for Assurance Engagements (CSAE) 3001—Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook—Assurance.

The Office applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the relevant rules of professional conduct applicable to the practice of public accounting in Canada, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from entity management:

- confirmation of management's responsibility for the subject under audit;
- acknowledgement of the suitability of the criteria used in the audit;
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided; and
- confirmation that the audit report is factually accurate.

Audit objective

The objective of this audit was to determine whether the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada consistently processed asylum claims in an efficient and timely manner.

Scope and approach

The audit focused on the processing of asylum claims from the moment a claim was made to the initial protection decision by the Immigration and Refugee Board of Canada. Using data analytics, we examined all 109,674 asylum claim applications that were referred between 1 January 2015 and 30 June 2018. These applications included claims made at ports of entry and inland immigration offices, as well as claims by individuals who crossed between ports of entry. Our audit included an

examination of the processes used by Canada Border Services Agency and Immigration, Refugees and Citizenship Canada to determine claimants' eligibility and an examination of whether expected information was provided in a timely way to inform decisions.

We examined the following processes used by immigration and border officers:

- the Canada Border Services Agency's and Immigration, Refugees and Citizenship Canada's intake processes for admissibility and eligibility decisions;
- the Canada Border Services Agency's security screening; and
- the Canada Border Services Agency's Hearings Program and Immigration, Refugees and Citizenship Canada's Ministerial Reviews and Interventions program.

This audit also focused on the internal case management processes of the Immigration and Refugee Board of Canada and its Registry. We examined

- scheduling, triaging, or prioritizing hearings between the Registry and members;
- the rescheduling of hearings (adjournments and postponements); and
- refugee protection decisions.

We also looked at the design and operating effectiveness of the quality assurance and performance monitoring systems in place at the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada.

We did not look at legacy claims (those made before December 2012), appeals, detentions, or removals. We did not examine the quality of first-level protection decisions made by the Immigration and Refugee Board of Canada.

Criteria

Criteria	Sources
<p>To determine whether the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada consistently processed asylum claims in an efficient and timely manner, we used the following criteria:</p>	
<p>The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada consistently determine asylum claim eligibility in an efficient and timely manner.</p>	<ul style="list-style-type: none"> • Policy on Service, Treasury Board • Policy on Results, Treasury Board • Policy on Information Management, Treasury Board • <i>Immigration and Refugee Protection Act</i> • <i>Refugee Protection Division Rules</i> • Memorandum of Understanding between Canada Border Services Agency and Immigration, Refugees and Citizenship Canada, 2017 • Information Sharing Annex between the Canada Border Services Agency, Immigration, Refugees and Citizenship Canada, and Immigration and Refugee Board of Canada • National Security Screening Division Standard Operating Procedures, Vol. 1, Canada Border Services Agency • Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations, 2015
<p>The Immigration and Refugee Board of Canada consistently makes refugee protection decisions in an efficient and timely manner.</p>	<ul style="list-style-type: none"> • Case Management Manual, Refugee Protection Division, Immigration and Refugee Board of Canada • <i>Immigration and Refugee Protection Act</i> • Chairperson's guidelines, Immigration and Refugee Board of Canada • Policy on Service, Treasury Board • IRB Plan of Action for Efficient Refugee Determination, Immigration and Refugee Board of Canada • Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations, 2015
<p>The Immigration and Refugee Board of Canada monitors the efficiency and consistency of its activities to process asylum claims and uses this information to manage its activities.</p>	<ul style="list-style-type: none"> • Directive on Results, Treasury Board • Policy on Learning, Training, and Development, Treasury Board • 2017–18 Departmental Plan, Immigration and Refugee Board of Canada • Policy on Results, Treasury Board • Transforming Our World: The 2030 Agenda for Sustainable Development, United Nations, 2015

Period covered by the audit

The audit covered the period between 1 January 2015 and 30 June 2018. This is the period to which the audit conclusion applies. To gain a more complete understanding of the subject matter of the audit, we also examined certain matters outside of these dates.

Date of the report

We obtained sufficient and appropriate audit evidence on which to base our conclusion on 28 March 2019 in Ottawa, Canada.

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List of Recommendations

The following table lists the recommendations and responses found in this report. The paragraph number preceding the recommendation indicates the location of the recommendation in the report, and the numbers in parentheses indicate the location of the related discussion.

Recommendation	Response
<p>Providing timely decisions for refugees</p> <p>2.28 To better respond to the fluctuating volume of claims made each year, the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada should</p> <ul style="list-style-type: none"> • work with central government agencies to design and implement a flexible model that allows them to access additional funding quickly to better match shifting volumes of claims, and • update their performance and productivity expectations for key steps in the refugee determination system. <p>(2.23–2.27)</p>	<p>The three organizations’ response. Agreed. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada will continue to utilize existing funding mechanisms and will work with central agencies to explore potential flexible funding approaches to meet current and projected intake. Proposals will be brought forward for government consideration.</p> <p>To support this work, the deputy-led Asylum System Management Board will oversee the adoption of updated performance targets that will be used to report on intake, capacity, and productivity across the system. In view of the doubling of refugee intake since 2016, when Canada received 23,900 asylum claims, the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada have taken a number of innovative approaches to improve the effectiveness of the in-Canada asylum system. The Government of Canada has also allocated additional resources to temporarily increase the capacity for refugee intake and for refugee protection decisions. In March 2019, Budget 2019 announced investments of \$1.18 billion over five years, to enable the processing of 40,700 asylum claims in the 2019–20 fiscal year and up to 50,000 claims in the 2020–21 fiscal year, as well as to strengthen processes at the border and accelerate the processing of claims and removals in a timely manner.</p>

Recommendation	Response
<p>2.39 The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada should</p> <ul style="list-style-type: none"> • work together to identify what information needs to be collected and shared for an asylum claim; and • find a way to share the information securely, accurately, and efficiently, moving from paper to digital processing of asylum claims. <p>(2.36–2.38)</p>	<p>The three organizations’ response. Agreed. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada are committed to proactively sharing information among the three organizations to ensure the effectiveness and integrity of the in-Canada asylum system.</p> <p>The small-scale Integrated Claim Analysis Centre pilot project, recently hosted in Montréal, is proof of concept of this commitment, demonstrating effective and proactive information sharing in support of program integrity. This model permits refugee claims to be systematically examined and for case-specific information to be shared with the Immigration and Refugee Board of Canada before a hearing is scheduled. Budget 2019 permits the government to build on this model and to establish a fully funded pilot.</p> <p>In support of this commitment, all three organizations will work together to establish a clear understanding of what claimant-specific documents are to be shared, when and how. The Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada will establish a quality assurance program to identify where there is unnecessary delay or error and monitor overall compliance with this approach. Through regular monitoring, issues such as missing, delayed, incomplete, or illegible claimant information will be identified and addressed in a timely manner by the responsible organization.</p> <p>In addition, the three organizations will work together with central agencies to identify options and potential mechanisms for government consideration to further develop information technology capabilities in support of improved interoperability, information sharing, and client service. Further improvements will be made to existing digital interfaces to provide for the exchange of real-time information (for example, forms, submissions, documents, and updates) among the organizations, and to support the shift to a digital processing environment.</p>

Recommendation	Response
<p>2.44 The Immigration and Refugee Board of Canada should explore ways to reduce the number of postponed hearings, particularly for reasons within its control, and should reschedule hearings in a timely manner. (2.40–2.43)</p>	<p>The Board’s response. Agreed. Since the close of the audit period, the Immigration and Refugee Board of Canada has worked with the Canada Border Services Agency and Immigration, Refugees and Citizenship Canada to significantly reduce postponements within the government’s control. These improvements are a result of a realignment of scheduling practices as well as an increase in capacity under Budget 2018, resulting in increased certainty for claimants regarding their hearing date while improving processing efficiencies.</p> <p>Budget 2019 has also provided additional investments that will increase capacity and further reduce postponements as a result of member unavailability.</p> <p>In addition, the Board continues to look at ways to reduce the number of postponements of hearings, particularly for those cases where the reason for the postponement is within the control of the Board.</p> <p>The Board will refine its monitoring framework for postponements to ensure it is able to establish a baseline for current practices and identify areas where adjustments to current practices may be required, including protocols regarding the rescheduling of postponed claims.</p>
<p>2.48 The Immigration and Refugee Board of Canada should make better and more frequent use of the processes at its disposal to expedite protection decisions for eligible asylum claimants. (2.45–2.47)</p>	<p>The Board’s response. Agreed. The Immigration and Refugee Board of Canada is already implementing ways to make better and more frequent use of its existing processes to improve its delivery of administrative justice and will continue to make further gains in this regard.</p> <p>In early February 2019, the Board issued strengthened policy guidance as well as established a task force to support the more efficient processing of less complex claims, which has already achieved meaningful results and lessons learned. The Instructions Governing the Streaming of Less Complex Claims set out the case management principles the Refugee Protection Division will use to identify those claims which may be decided without a hearing, which is allowed for under the <i>Immigration and Refugee Protection Act</i>, and to identify those refugee claims which may be decided with a short hearing because the matter does not appear to present complex legal or factual issues. Both processes lead to the more efficient resolution of claims by better allocating the appropriate level of resources to the matter being decided. Application of the Instructions will allow more claims to be considered for resolution without a hearing or in a short hearing in appropriate circumstances. The Instructions also ensure that security and program integrity considerations remain paramount.</p>

Recommendation	Response
<p>2.52 The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada should notify the Immigration and Refugee Board of Canada as soon as their review of an asylum claim for intervention is complete, whether or not they plan to intervene. The Immigration and Refugee Board of Canada should consider this notification in its scheduling strategy to reduce wait times for protection decisions. (2.49–2.51)</p>	<p>The three organizations’ response. Agreed. The Canada Border Services Agency and Immigration, Refugees and Citizenship Canada are committed to ensuring the integrity of the in-Canada asylum system. The Ministerial Reviews and Interventions program (Immigration, Refugees and Citizenship Canada) and the Hearings Program (Canada Border Services Agency) work together to examine each refugee claim to identify issues related to integrity, credibility, criminality, and security before a refugee protection decision is taken by the Immigration and Refugee Board of Canada. Ministers’ representatives intervene in proceedings to challenge refugee claims if investigations have uncovered adverse evidence that is directly relevant to the claim. Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency will seek to provide timely notification of their intention to intervene or not intervene in a claim. In turn, the Board will take this notification into consideration when scheduling refugee claims.</p> <p>In addition, Immigration, Refugees and Citizenship Canada and the Canada Border Services Agency remain committed to proactively sharing information which will support the Immigration and Refugee Board of Canada having hearing-ready files, including information such as previous visa applications and supporting documentation and the results of biometric information sharing with partner countries, while respecting privacy legislation and information sharing agreements. In support of this objective, the Canada Border Services Agency; Immigration, Refugees and Citizenship Canada; and the Immigration and Refugee Board of Canada have been and will continue to test innovative approaches to streamline their procedures and to improve information sharing in an effort to avoid duplication, to reduce overall processing times, and to facilitate the creation of hearing-ready files, which will support an efficient strategic scheduling approach for the Board.</p>

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