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Canada's War Crimes Program

3rd Annual Report

1999-2000



Department of Justice

Department of Citizenship and Immigration

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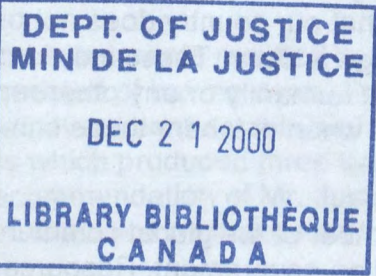
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**CANADA'S WAR CRIMES PROGRAM
ANNUAL REPORT 1999-2000**

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INTRODUCTION

Over the past several years, the Government of Canada has taken significant measures to ensure that our country does not provide safe haven for war criminals. The message is clear. Those individuals who have committed a war crime, a crime against humanity or any other reprehensible act during times of conflict, regardless of when or where these crimes occurred, are not welcome in Canada.

As a responsible member of the global community, our War Crimes Program is a priority for the Canadian government. Resources have therefore been allocated to the Department of Justice, the Department of Citizenship and Immigration and the RCMP to investigate, prosecute and remove these people from Canada. All three departments work together to ensure that the most effective enforcement strategy is pursued in each case.

Canada's reputation as a society governed by the rule of law is cherished by Canadians and respected throughout the world. We pride ourselves on global leadership in the protection of human rights. Consequently we have been actively involved in international fora in support of the international tribunals on war crimes in Rwanda and the former Yugoslavia, the establishment of the International Criminal Court mandated to prosecute war criminals, and the ratification of the *Rome Statute of the International Criminal Court*.

It is the intention of the Government of Canada that the War Crimes Program have the ability to take action against individuals who are suspected of committing war crimes or crimes against humanity by using the most appropriate of six complementary tools: extradition, transfer to the international tribunals, denial of refugee protection, deportation and denaturalization proceedings, denial of access to Canada and domestic criminal prosecutions.

The production and distribution of an Annual Report on the War Crimes Program further demonstrates the Government of Canada's commitment to refusing safe haven to war criminals. This third report provides information concerning the program, outlines the resources set aside to achieve the Government's objectives and offers an overview of the activities and accomplishments during the 1999-2000 fiscal year.

BACKGROUND

World War II Cases

Following World War II, large immigration movements resulted in the admission to Canada of persons subsequently suspected of having committed war crimes or crimes against humanity. In 1985 the government established the Deschênes Commission of Inquiry on War Criminals which produced three lists of suspects containing 883 names. The principal recommendation of Mr. Justice Deschênes was that the RCMP and the Department of Justice be mandated to carry out investigations of these suspects.

In March of 1987, the government responded to the Deschênes Commission Report by announcing that those alleged to have committed war crimes or crimes against humanity would be subject to criminal prosecution or revocation of their citizenship and deportation. Recognizing that the research required to investigate and prepare such cases for prosecution is highly specialized and intensive, the Department of Justice created a Crimes against Humanity and War Crimes Section (Department of Justice War Crimes Section). The War Crimes and Special Investigations Unit of the RCMP, first established in 1985 to assist the Deschênes Commission, and now called the War Crimes/Immigration and Passport Section, has continued to conduct investigations of all suspected perpetrators.

In order to strengthen immigration legislation, the *Immigration Act* was amended in October of 1997, creating a new ground of inadmissibility against persons for whom there are reasonable grounds to believe have committed war crimes or crimes against humanity.

At the initial stages of the program, it was necessary to negotiate agreements with several countries in order to gain access to their archives and permission to contact and interview potential witnesses, either informally or through formal memoranda of understanding. Historians, RCMP investigators and counsel from the Department of Justice traveled overseas to search archives, identify potential witnesses and conduct interviews to further their investigations.

From 1987 to 1992, after extensive investigation, charges were laid under the *Criminal Code* in four cases. None resulted in convictions. The case of Imre Finta was appealed and argued before the Supreme Court of Canada. In 1994 the Supreme Court upheld the acquittal and as a result it became clear that it would be impractical to prosecute further cases under the (then) existing provisions of the *Criminal Code*.

During this period revocation of citizenship and deportation proceedings under the *Immigration Act* were also initiated in the case of Jacob Luitjens. These

proceedings resulted in the deportation of Luitjens to the Netherlands where he was immediately incarcerated for an earlier conviction of collaboration.

In January of 1995, the Government announced a change in its approach to dealing with war criminals, shifting from the criminal prosecution of these individuals to revocation of citizenship. This effectively meant that it was no longer incumbent on the government to prove that individuals were "war criminals" but instead had to prove that they entered Canada and/or obtained citizenship through misrepresentation, fraud, or the concealment of material facts. As part of this process, 1,651 cases have been examined by the Department of Justice's War Crimes Section in order to identify those cases that possess sufficient grounds to warrant the initiation of proceedings.

The government will pursue only those cases for which there is evidence of complicity in war crimes or crimes against humanity. A person is considered complicit if, while aware of the commission of war crimes or crimes against humanity the person contributes, directly or indirectly, to their occurrence. Active membership in the organization responsible for committing the atrocities is not required. An example of complicity would be the act of guarding an execution site even if one had not personally acted as executioner. Additionally, a person may be considered complicit if he was a member of an organization during a time when their activities included the carrying out of atrocities such as executing civilians.

Notwithstanding this shift in focus, all cases are evaluated for both criminal prosecution as well as revocation proceedings. It is the position of the government that where there are allegations of complicity in war crimes or crimes against humanity, revocation of citizenship and deportation is an appropriate remedy. The Federal Court of Canada has indicated that this process "in no way diminishes the respondent's right to be treated fairly in strict compliance with the principles of natural justice."

Modern War Crimes Cases

In the late 1980's, the issue of modern-day war crimes and crimes against humanity became more prominent. Political turmoil, internal ethnic strife, the settling of historical grievances, and religious extremism in Latin America, Africa, and the Middle East caused considerable flows of refugee claimants. Within these movements were small numbers of individuals alleged to be involved in war crimes or crimes against humanity.

As a signatory to the 1951 United Nations Convention relating to the Status of Refugees, Canada is committed to providing protection to persons who fear persecution as described in the Convention. This protection prevents those who claim refugee status from being returned to the country where they have been persecuted. In turn, the Convention maintains that those who have committed

crimes against peace, war crimes or crimes against humanity are not entitled to this protection. In January 1989, the *Immigration Act* was amended to allow for the exclusion from the refugee determination process of individuals who were believed, on reasonable grounds, to have been complicit in crimes against humanity. In addition to denying such individuals protection under the Convention, this exclusion has the effect of reducing the time required to effect their removal from Canada.

In February of 1993, a number of changes were made to the *Immigration Act* intended to bring the classes of criminal inadmissibility up to date with both Canadian and international developments that had occurred in the area. Among these amendments was a provision rendering inadmissible to Canada, senior officials of regimes who have been designated by the Minister of Citizenship and Immigration as being involved in terrorism, systematic or gross human rights violations or crimes against humanity. This provision was a response to a successful immigration application by the Iraqi ambassador to the United States. At that time, the existing grounds of inadmissibility could be used to refuse admission to persons who had been directly involved in crimes against humanity. However, persons in government who were physically removed from these human rights violations but who took part in decisions that led to the commission of these atrocities were not caught by the *Immigration Act*.

Another amendment to the Act provides authority to deny access to a refugee hearing for persons described as war criminals or members of designated regimes if the Minister believes it would be contrary to the public interest to have a refugee claim by such a person heard. This situation occurs at an immigration inquiry where the person is brought before an adjudicator to determine his admissibility to enter or remain in Canada.

In May of 1997, amendments were made to the Post Determination Refugee Claimants in Canada Class regulations and the Deferred Removal Order Class regulations. These amendments prohibited persons who have been excluded under Article 1F(A) of the Convention from accessing these additional humanitarian reviews prior to their removal.

As the issues pertaining to the entry of modern-day war criminals grew more numerous and complex, it was apparent that an improved system was required for identifying and screening these individuals. In April of 1996 three employees were assigned to a new Modern War Crimes Section within Citizenship and Immigration Canada. Due to the escalating number of cases and the lack of supporting infrastructure it was evident that this section required increased resources. At the same time, concerns were expressed over the increase in the numbers of persons in Canada whose files were not being processed in a timely manner. It was therefore acknowledged that the initial identification of modern war criminal cases early in the immigration process would be the best strategy. Early detection, particularly through visa screening abroad, had proven to be

considerably more effective and efficient than attempting to remove the person after arrival in Canada.

Renewed Approach 1998

In the fall of 1997, the government conducted a review of its War Crimes Program. In a press release dated July 21, 1998, the following decisions were announced to improve effectiveness:

Implementation of a government-wide initiative to increase coordination between departments; enhanced cooperation in such areas as case prioritization, compliance with international obligations, communications, and the sharing of information and expertise in order to benefit both World War II and modern war crimes initiatives;

substantial enhancements to the modern war crimes effort in order to strengthen enforcement activities with increased emphasis on prevention;

an additional 14 World War II cases would be initiated over the next three years and additional cases would continue to be developed;

\$46.8 million would be allocated over the next three years; then the government would review the accomplishments of the program before determining funding requirements for future years. To make this review comprehensive, a program evaluation framework would be established in 1998-1999 and a full program evaluation would be conducted in 2000-2001.

Resources over the three years were distributed among departments as follows:

The Department of Justice received \$16.5 million to litigate the new fourteen World War II cases and to litigate modern-day cases on behalf of CIC (\$5.038 million in the first year, \$5.739 million in the second year, and \$5.739 million in the third year);

The Department of Citizenship and Immigration received \$28.2 million to expand its capacity for prevention at posts abroad, to improve case processing in Canada, and to provide enhanced support for the War Crimes Program (\$6.813 million in the first year, \$12.245 million in the second year, and \$9.179 million in the third year);

The RCMP received \$2 million for the investigation of modern-day criminal prosecution cases (\$682,000 in each of the three years).

Subsequent to the government's announcement, a number of initiatives were implemented in the remainder of fiscal year 1998-1999.

A substantial amount of the resources allocated to CIC (\$7-8 million) was committed to developing a large Information Technology (IT) infrastructure that would support the information and research material for the entire program, as well as the compilation of statistics for management reporting, on performance and results. Management reporting is critical in delivering program measurement

and management information to Treasury Board, CIC senior management as well as departmental War Crimes Units worldwide.

The purpose of the infrastructure is to enable CIC to manage and retrieve information pertaining to modern war crimes and crimes against humanity cases, as well as store in a reference facility specific material pertaining to modern war crimes and crimes against humanity. These systems will be accessible to all immigration officers in Canada and abroad and will assist with the prevention of such people from entering Canada, the identification and research of cases and the development of tracking systems and search systems to assist with investigations. They will provide the capacity to track cases through the immigration adjudication and judicial systems, to ensure removal occurs as promptly as allowed by law.

The staff of the Modern War Crimes Section within the Department of Citizenship and Immigration was increased to 12 employees. This permitted the expansion of the mandate to include strategic management of their modern-day war crimes caseload, encompassing the development of a research function, the ability to provide better analysis and support to field offices, an in-house legal advice capability, the development of a computerized operational support and case-tracking system, and the creation of an intelligence unit mandated to develop specific subject expertise in modern-day war crimes. Comprehensive Operations Memoranda were prepared to guide immigration officers in the proper application of the relevant provisions of the Act and a training program specific to war crimes cases was prepared.

Resources were deployed in Citizenship and Immigration field offices in Canada permitting the creation of regional war crimes units in Vancouver, Toronto, Montréal, Halifax, Winnipeg, and at the Case Processing Centre in Vegreville. Resources were also strategically deployed to key posts abroad to strengthen the ability to identify and refuse visa applicants who pose a risk of involvement in war crimes, and also to increase liaison with foreign governments and other contacts on war crimes issues.

OVERVIEW OF PROGRAM OPERATIONS

Interdepartmental Operations Group

The Interdepartmental Operations Group, created in 1998, is the vehicle through which the Department of Citizenship and Immigration, the Department of Justice and the RCMP co-ordinate all war crimes operations undertaken by the Government of Canada. One of its purposes is to ensure that Canada complies with its international obligations. This includes the investigation, prosecution and extradition of war criminals, as well as co-operation with the two international tribunals set up for this purpose, namely the International Criminal Tribunal for

the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

This co-ordination takes place on several levels, ranging from discussing and developing policy objectives common to all three departments to ensuring proper co-operation at the day-to-day working level. The main function of the Interdepartmental Operations Group in this context has been the channeling of cases to the appropriate departmental authority for action.

The Interdepartmental Operations Group ensures that the Government of Canada has properly addressed all allegations of war crimes and crimes against humanity against Canadian citizens or persons present in Canada. In order to meet this objective, the RCMP and the Department of Justice investigate allegations involving reprehensible acts that could lead to a possible criminal prosecution or revocation of citizenship while CIC pursues the application of remedies under the *Immigration Act*.

Starting in December of 1999, the Interdepartmental Operations Group began to review all allegations against individuals involved in genocide, war crimes and crimes against humanity. In excess of 800 files were reviewed, most of which were active CIC files. As a result of this review, files were opened by the Department of Justice War Crimes Section for all allegations of genocide and war crimes from international armed conflicts, most of which stemmed from the Yugoslav and Rwandan conflicts, and for the most serious allegations of crimes against humanity. Approximately 10% of the files reviewed fell within these categories. There will be regular reviews to examine new files that have been opened by CIC or which have come to the attention of the RCMP and Justice War Crimes Sections.

The Interdepartmental Operations Group meets regularly. The Chair of the Group rotates on an annual basis.

Department of Justice

The Department of Justice War Crimes Section is located in Ottawa and includes 10 lawyers, five historians, two paralegals, a historical support group, legal assistants and clerks. In addition, there are counsel from the regional offices who are assigned to specific cases for litigation. Outside consultants and contract historians are also hired when needed. The Section's focus is the investigation of allegations that could lead to a criminal prosecution or to revocation of citizenship and eventual removal, the latter in cooperation with Citizenship and Immigration Canada.

The Section's current workload consists of a significant inventory of active modern files and 82 active World War II files. In addition, initial checks being undertaken on approximately 147 further World War II files will determine

whether they become active or inactive. Much work goes into the complex process of investigating and developing each of these files. However, the passage of time has made it increasingly difficult to obtain admissible evidence to enable the Section to bring forward World War II proceedings. Notwithstanding these difficulties, the Section is still actively investigating World War II matters.

Since 1995, 17 revocation and deportation cases have been initiated. Four revocation matters are currently ongoing before the Federal Court of Canada (Fast, Obodzinsky, Odynsky, Baumgartner). The Government has been successful in four cases before the Federal Court of Canada (Bogutin, Katriuk, Kisluk and Oberlander). In two other cases (Csatory, Maciukas), the respondents did not contest proceedings and left the country. Defendants have been successful in three cases before the Federal Court of Canada (Vitols, Dueck and Podins). In addition, one case is currently before the Immigration and Refugee Board (Nebel). In four cases, suspects passed away during the course of the legal proceedings (Bogutin, Kenstavicius, Tobiass and Nemsila).

The table below summarizes the Section's World War II denaturalization and deportation proceedings. Further details are available in Appendix D.

Revocation

- | | | |
|---|---|---|
| • References now before Federal Court
Obodzinsky) | 3 | (Baumgartner, Fast, |
| • Awaiting decisions from Federal Court | 1 | (Odynsky) |
| • Decisions rendered by Federal Court in
favour of the Minister of Citizenship and
immigration since 1995 | 4 | (Bogutin, Katriuk, Kisluk,
Oberlander) |

Deportation

- | | | |
|--|---|---------|
| • Permanent resident - currently at
Adjudication Division, Immigration
And Refugee Board (Immigration Inquiry) | 1 | (Nebel) |
|--|---|---------|

World War II Cases Concluded

- | | | |
|--|---|---|
| • Removed or left Canada voluntarily | 2 | (Csatory, Maciukas) |
| • Proceedings concluded due to successful
defence by Respondent/Defendant | 3 | (Dueck, Podins, Vitols) |
| • Deceased during proceedings | 4 | (Kenstavicius, Tobiass,
Nemsila and Bogutin) |

In addition to pursuing World War II related matters, the Department of Justice's War Crimes Section will apply the experience it has developed over the last 13 years to the investigation and prosecution of modern war crimes. The Section will continue to assist the RCMP with the investigation of all individuals present in Canada who are suspected of committing war crimes or crimes against humanity and to support removal proceedings initiated by CIC as required.

RCMP

The RCMP have 10 regular member positions assigned to World War II and Modern War Crimes investigations within the RCMP War Crimes/Immigration and Passport Section located in Ottawa. Support for the Section is provided by RCMP personnel working in provincial and territorial jurisdictions at Canadian missions abroad and at the Headquarters Forensic Laboratory. Other regional and municipal police forces in Canada, the International Criminal Police Organization (INTERPOL) and a variety of Non-Governmental Organizations (NGOs) operating throughout the world also extend assistance when called upon. The RCMP responds to allegations of war crimes and crimes against humanity reported by the general public as well as by Canadian and foreign government agencies and also supports the denaturalization and deportation proceedings initiated by the Departments of Justice and Citizenship and Immigration.

The RCMP War Crimes / Immigration and Passport Section provides assistance to the United Nations International Criminal Tribunals for the Former Yugoslavia and Rwanda. It assists with the location and interview of potential witnesses and with any requests for the extradition of a suspect indicted by either of the Tribunals.

The RCMP War Crimes/Immigration and Passport Section was successful in tracking a Canadian suspect alleged to have taken three United Nations Military Observers hostage in Bosnia in May and June of 1995. The suspect was located and arrested in Germany in February of 1999. He was subsequently extradited to Canada where he appeared in criminal court in Ottawa on May 14, 1999. He is charged with two counts of hostage taking and kidnapping respectively. The preliminary hearing began in Ottawa on May 23, 2000, and will continue in November.

Department of Citizenship and Immigration

The Department of Citizenship and Immigration takes a three-pronged approach in dealing with modern-day war criminals: preventing suspected war criminals from reaching Canada by refusing them overseas as immigrant, refugee or visitor visa applicants; excluding them from the refugee determination process in Canada; and removing war criminals who have already entered Canada. Most applicants overseas are identified through the visitor visa screening process.

The majority of suspected war criminals in Canada are not permanent residents but have come to Canada as refugee claimants. Many in this group have been able to bypass the overseas screening process by travelling to Canada with fraudulent or improperly obtained travel documents, often posing as persons of countries whose citizens who do not need a visa to visit Canada.

At selected posts abroad special security vetting procedures are in place to ensure that potential war crimes cases are identified and subjected to checks that are more thorough before a visa can be issued. These posts have specific profiles and use questionnaires designed to identify potential war criminals. Where concerns are identified, the case is referred to the Modern War Crimes Section in Ottawa where a Case Analyst will conduct further inquiries with assistance from the Research and Intelligence sections as required.

There are several ways in which the presence of war criminals in Canada is brought to the attention of immigration officials. Information may come to light when the person first makes his claim at a port of entry or during the refugee hearing. In those instances the Immigration and Refugee Board may exclude the person from refugee protection or alternatively adjourn the hearing and request the intervention of the Minister's Delegate (CIC Hearings Officer) to argue the case for exclusion. As well, immigrant/refugee communities have identified persons in their midst who have allegedly committed atrocities in their homeland, such as the Rwandan community in Montréal, in the case of Leon Mugesera.

Lastly, the Canadian Security Intelligence Service (CSIS) when conducting background checks on applicants for permanent residence or for citizenship will refer names of individuals who may be implicated in war crimes or crimes against humanity to Citizenship and Immigration. CIC then conducts further inquiries using its specialized Research and Resource Centre data bases and specific intelligence information, which resides with its Modern War Crimes Intelligence Unit, to establish whether refusal under the war crimes or designated regimes provisions of the *Immigration Act* is warranted.

The **Resource Centre**, established as part of the Modern War Crimes Section, was designed primarily to provide research support to regional field officers, immigration analysts and other enforcement partners in identifying visa applicants and individuals in Canada who may have been involved in war crimes. Currently, the Resource Centre consists of two Research officers and one Research Assistant who respond to requests for information, such as obtaining background material on events and organizations as well as verification of personal information contained in the Personal Information Form (PIF) submitted by refugee claimants and application forms for permanent residence.

The open-source materials, newspapers, journals and historical texts stored in the Centre concentrate on human rights violations that have occurred in current and recent history including legal, military, refugee, historical, and geographic

information. Although the Centre does possess hard copy documentation, the vast majority of the information it has access to is in electronic format via the Internet, including gateways to several media monitoring databases. The Resource Centre is continually identifying new sources of information and expanding its databases accordingly. As part of the information technology infrastructure development for the Modern War Crimes Program, plans are underway to make the majority of these databases available on-line to officers in the field. This will allow for more thorough research and background checks without referral to Headquarters.

The Resource Centre also serves as a central repository of current information such as news reports or bulletins gathered from media sources and international human rights organizations. The Resource Centre creates a Modern War Crimes News document that is compiled, edited and distributed to Canadian regional offices daily. Plans are underway to have this service extended to overseas posts in the next fiscal year.

During this fiscal year the Resource Centre responded to 516 inquiries. Three of these requests involved name checks covering 886 individuals. This includes 40 separate requests for information from the Modern War Crimes Intelligence Unit on behalf of the International Criminal Tribunal on War Crimes from the former Yugoslavia.

The **Modern War Crimes Intelligence Unit** is another result of the government's review of war crimes operations in 1997 and presently consists of a Director and three analysts. As the Modern War Crimes Section was formed, it became apparent that the connection between intelligence information and war crimes investigations needed to be strengthened. Information and intelligence relevant to war crimes, held randomly throughout other departments would be coordinated by the Intelligence Unit to assist in examining war crimes allegations.

Functioning as a "central clearing house" for intelligence within the government, the Intelligence Unit would make contact with all other departments which might have intelligence information concerning governments, countries, places or perpetrators of war crimes that would enhance Canada's war crimes program. Given that most war crimes cases are dealt with under the *Immigration Act* it was decided to place the Modern War Crimes Intelligence Unit within the Department of Citizenship and Immigration.

The Modern War Crimes Intelligence Unit has established and developed links with intelligence agencies in Canada and abroad and with the International Criminal Tribunal for the Former Yugoslavia. It has also produced a number of working aids on countries that are of concern to the Canadian government from a war crimes perspective. Lastly, it has assisted the Resource Centre in responding to requests for information from visa offices and regional offices in Canada.

ACTIVITIES IN FISCAL YEAR 1999-2000

Evacuation of Kosovar Refugees

The decision to airlift 5,000 Kosovar refugees to Canada in response to a humanitarian crisis was an extraordinary act requiring quick action on the part of CIC. As Canadian officials had only a limited opportunity to interview these refugees prior to their arrival in Canada, special procedures had to be established to interview the refugees in Canada to ensure they were not inadmissible to Canada and also to identify potential security risks. These interviews were also designed to ensure that witnesses to and victims of atrocities could be identified and appropriate actions taken. This involved special briefings and training for immigration officers assigned to conduct these interviews.

Regime Designated As Having Been Involved in Gross Human Rights Violations

On June 30, 1999, the governments of the Federal Republic of Yugoslavia and the Republic of Serbia were designated under the *Immigration Act* as regimes that have been engaged in systematic and gross human rights violations and crimes against humanity. As a consequence of this designation, senior officials who had served under these governments are inadmissible to Canada. This designation paralleled the ban of the European Union and the United States on the movement of Yugoslav and Serbian senior officials.

Designation of such regimes is made in consultation with the Department of Foreign Affairs. The following are among the factors considered by the Minister when determining whether a regime should be designated under the Act: condemnation by other countries and organizations; the overall position of the Canadian government including whether a refugee claim by a senior member of the government would undermine Canada's strong position on human rights; the nature of the human rights violations; and immigration concerns such as the number of persons coming from that specific country and whether there might be a concern for the protection of Canadian society.

Since the authority to designate such regimes was included in the *Immigration Act* in 1993, seven regimes have been designated. The Modern War Crimes Intelligence Unit produced detailed studies on several of these regimes in this fiscal year. For a listing of these regimes, see Appendix C.

Training

The Citizenship and Immigration Modern War Crimes Section has developed two specific training courses. The first course is intended for hearings officers, investigators, examining officers and other officers involved in the enforcement of the *Immigration Act* in Canada and at Canadian ports of entry. This three-day course covers Canada's policy and international obligations, various remedies and interventions under the Act, the evidence which is required to substantiate such allegations, sources of intelligence information, and comprehensive case studies. During the year, five courses were delivered to a total of 75 officers in all CIC regions plus one course for employees of the Department of Justice War Crimes Section. A separate module on war crimes is being prepared for inclusion in CIC's regular officer training courses so that information regarding Canada's war crimes program can be institutionalized throughout all branches of the department.

The second course is intended for visa officers abroad. The course objective is to provide visa officers with the knowledge and tools to be able to identify potential war criminals based on selected profiles, sources of intelligence and research, and the types of information required to establish a refusal under the specific grounds of inadmissibility in the Act pertaining to war criminals. This course is included as a module in four separate visa officer training courses and was delivered to 85 visa officers in five separate sessions during the year.

New Modern Day Cases

The establishment of a dedicated Modern War Crimes Program at the Department of Citizenship and Immigration continues to reap substantial benefits. There were marked improvements in prevention and enforcement action against suspected war criminals as compared to the 1998-99 fiscal year (which itself had already showed increased efficiencies over previous years.) Of all the information tracked (which can be found in Appendix E for the 1999-2000 year with a cumulative listing in Appendix F), four types of data are the most indicative of the success of this program.

On the prevention side, 581 individuals who applied to come to Canada were refused entry for war crimes related allegations, which is an increase of 274 refusals over the year before or an improvement of almost 90% . As well, the Modern War Crimes Section has placed the names of almost 1200 individuals on a CIC electronic look-out system of persons against whom it is believed that there are reasonable grounds to believe they have been involved in war crimes. This look-out system can be utilized by visa and immigration officers to screen persons who apply to come to Canada.

With respect to refugee claimants, CIC intervened in refugee hearings involving war crimes allegations 127 times compared with 58 last year (119% higher). The Refugee Division of the Immigration and Refugee Board, excluded 35 persons from becoming a refugee while doing so 25 times last fiscal year (or 40% higher).

The number of persons removed from Canada increased from 27 to 38 or 41% between 1998-99 and 1999-2000 (for some examples, see Appendix G). This leaves 339 persons in Canada against whom there are reasonable grounds to believe have been involved in war crimes or crimes against humanity but are still subject to various processes under the *Immigration Act*.

Last fiscal year, CIC examined overseas and inland a total of 1,620 cases while this number was 2,454 for the present fiscal year (an increase of 834 cases or 51%).

New World War II Cases

During the year, two new cases were identified for revocation of citizenship and deportation proceedings.

On July 30, 1999, Walter Obodzinsky was served with a Notice of Intent to Revoke Citizenship. It is alleged that Mr. Obodzinsky was admitted to Canada and obtained citizenship by false representation. In particular, it is alleged that Mr. Obodzinsky concealed his membership in German-sponsored police forces and attack units that were responsible for the deportation and killing of Jewish and non-Jewish civilians in Belarus during World War II. He has exercised his right to have the case referred to and heard by the Trial Division of the Federal Court.

On September 30, 1999, Jacob Fast was served with a Notice of Intent to Revoke Citizenship. It is alleged that during World War II he collaborated with the German occupation authorities in the Ukraine and headed or was associated with the Political Police in Zaporozhye, Ukraine. It is also alleged that he was associated with the German Sipo/SD. In addition it is alleged that when applying to immigrate to Canada, Mr. Fast failed to reveal that he was a German citizen. In Mr. Fast's circumstances this would also have rendered him inadmissible to enter Canada as German citizens at that time were still "Enemy Aliens". Mr. Fast has requested that the matter be referred to the Federal Court for adjudication pursuant to the *Citizenship Act*. In addition, Mr. Fast has applied to the Federal Court seeking an order quashing the Notice and prohibiting the Minister from referring the case to the Federal Court or making a report to the Governor in Council.

Ongoing World War II Matters

In *The Minister of Citizenship and Immigration v. Oberlander*, Mr. Justice Mackay found that Mr. Oberlander concealed his membership in an *Einsatzkommando* mobile mass killing squad which implemented the Third Reich's "final solution" in the former Soviet Union, particularly in Ukraine. Consequently, the Court found that Mr. Oberlander obtained his citizenship by false representation or fraud or by knowingly concealing material circumstances within the meaning of paragraph 18(1)(b) of the *Citizenship Act*. The Court also found that it was not established that Mr. Oberlander had personally committed any war crimes.

In *The Minister of Citizenship and Immigration v. Kisluk* Mr. Justice Allan Lutfy held that Mr. Kisluk "was admitted to Canada for permanent residence and obtained Canadian citizenship by false representations or fraud or by knowingly concealing material circumstances." The Court found that Mr. Kisluk was questioned concerning his employment history during World War II and that he knowingly concealed his role in assisting the Germans and his presence during the execution of a civilian. Cabinet has revoked Mr. Kisluk's Canadian citizenship. The next step in the process would be the referral of this matter to the Immigration and Refugee Board for removal proceedings.

In the *Eduards Podins* case, Mr. Justice William P. McKeown of the Federal Court released his decision on July 9, 1999. In dismissing the Applicant's case, Justice McKeown found that Mr. Podins "did not obtain his Canadian citizenship by false representation or fraud or by knowingly concealing material circumstances, within the meaning of paragraph 18(1)(b) of the *Citizenship Act*."

Department of Justice Dedicated Modern War Crimes Information and File Management Database

A new initiative has been undertaken by the Department of Justice War Crimes Section to manage data electronically including file specific documentation relating to its inventory of modern war crimes cases. The Department of Justice, working with its own resources and data provided by the RCMP and CIC gathers information relevant to its investigations. This information along with all file specific data (including all documents) is to be stored in a database. In addition, all members of the unit will have instant access, from their workstations to the suspect's complete file and all other relevant information. The project is close to completion and will improve the efficiency of case management within the Department of Justice War Crimes Section.

Outreach

Part of the strategy involved in implementing Canada's "no safe haven" policy is to reach out to the community, both domestically and internationally. The objective is to foster a broad understanding of Canada's policies regarding

modern war crimes and the initiatives that have been taken to put a viable program in place. Target audiences include a variety of partners and other stakeholders such as like-minded states, international organizations such as the United Nations High Commissioner for Refugees (UNHCR), academics, educational institutions, and NGOs. During the year, representatives of the war crimes program attended the following:

European Union (EU) Commission Exclusion Clause Conference – The Hague

This conference, which was attended by representatives of about 30 European countries, acknowledged that the application of the exclusion clause in the *1951 Refugee Convention* had only come to the fore in the last decade and that the practice varied between EU member states. The objective of the conference was for member and candidate member states to develop a better understanding of how the exclusion clause is applied internationally with a view to making its application more effective and consistent throughout Europe. Representatives of the CIC War Crimes Section attended this conference with the Director General, CIC Refugees Branch, who made a presentation on Canada's relatively extensive and successful experience in applying the exclusion clause, which was well received by the other delegations.

Atrocities Prevention Conference – Washington

The Director of the CIC Modern War Crimes Intelligence Unit attended this conference whose purpose was to initiate a dialogue between NGOs, governments and international bodies regarding the exchange of information to prevent the occurrence of atrocities. The conference was attended by representatives from approximately 30 countries and organizations.

Modern Day War Crimes Conference - Ottawa

The Department of Justice War Crimes Section organized a one-day conference on all legal remedies currently available to deal with war criminals, both nationally and internationally. The work of the International Criminal Tribunals for Yugoslavia and Rwanda was discussed as was the establishment of the International Criminal Court. The parameters of the crimes of genocide, war crimes and crimes against humanity and the options of prosecution, extradition and deportation were the subjects of presentations by experts in their respective fields. The conference was attended by about 70 government and non-government participants

Regional Conference on War Crimes – Nairobi

This conference was organized by the CIC War Crimes Section in order to support the efforts in detecting and refusing possible war criminals at the

Canadian missions in Africa and the Middle East, an important source area for war crimes suspects. The conference lasted for three days; the first two provided training and an opportunity to discuss operational concerns with representatives of all Canadian missions in the region and with representatives of six other government departments with an interest in the issue of war criminals. On the third day exchanges of information were held with representatives of other countries, NGOs such as the UNHCR and the International Committee of the Red Cross (ICRC), and the International Criminal Tribunal for Rwanda. This highly successful conference was attended by 42 participants.

European Union Working Groups – Brussels

In December, the Director of the Modern War Crimes Section headed the Canadian delegation to CIREFI, the EU working group on border and enforcement issues and to CIREA, the EU working group on asylum issues. These semi-annual meetings between the EU states, Canada and the United States are designed to maintain the transatlantic dialogue on illegal migration. Several European states expressed a strong interest in Canada's war crimes program with particular interest in how we identify cases, our intelligence function, and our research and analysis capabilities.

U.S. State Department Conference– Washington

A Canadian delegation consisting of representatives of CIC Modern War Crimes Section, the CIC Modern War Crimes Intelligence Unit and the Department of Justice War Crimes Section attended a conference sponsored by the U.S. State Department on atrocities prevention. This meeting was attended by the several countries that co-operate closely with Canada on both immigration and intelligence issues. The purpose of the meeting was to improve the exchange of information between the four countries in order to better predict and react to emerging crises involving human rights violations.

World War II Conference- Riga

Konrads Kalejs, who had been removed from the United States and Canada in the past, again captured the attention of the media when he was discovered in the United Kingdom and removed to Australia, the country of his nationality. Both the Australian and Latvian governments have come under pressure to prosecute Mr. Kalejs for the commission of atrocities in his native Latvia during the Second World War. In order to ensure that all avenues against Mr. Kalejs and other World War II war criminals of Latvian origin had been explored, the Latvian government organized a two day conference in Riga to which it invited all countries that had had dealings with or information about Mr. Kalejs. Delegations of the United States, United Kingdom, Australia, Germany, Israel and Canada attended this conference during which all participants offered co-operation and

advice. The Canadian delegation consisted of the Deputy Director of the Justice War Crimes Section and the Special Counsel of the CIC War Crimes Section.

War Crimes Lecture Series - Fredericton

The Atlantic Human Rights Institute of St. Thomas University in Fredericton, New Brunswick, organized a series of public lectures discussing all aspects of the issue of war crimes and crimes against humanity in Canada. Representatives of the three departments dealing with war crimes, the RCMP War Crimes/Immigration and Passport Section, the Justice War Crimes Section, the CIC War Crimes Section and the CIC Modern War Crimes Intelligence Unit, participated in two of these lectures with very positive response.

Other

Members of the War Crimes Sections of the three departments were also involved on a number of occasions in other outreach activities by giving lectures and talks about the war crimes program to high schools and universities and presenting workshops to other departments of the Canadian government. They have made bilateral contacts with governments of other countries and the two international tribunals. The regional war crimes units of the Department of Citizenship and Immigration engaged in similar outreach programs.

LEGISLATIVE INITIATIVES

With the coming in force of the new *Extradition Act* and the tabling of two new Bills in the fiscal year 1999-2000, the necessary legislative tools will be available to the Canadian government to apply the entire spectrum of options to address the issue of war criminals in Canada more effectively, namely prosecution, extradition, transfer to international tribunals, exclusion from refugee protection, deportation, revocation of citizenship and denying access to Canada.

The Crimes against Humanity and War Crimes Act (Bill C-19)

Bill C-19, the *Crimes Against Humanity and War Crimes Act* was introduced into Parliament on December 10, 1999. The *Act* would not only fulfill the government commitment to strengthen Canadian criminal law in relation to war crimes it would also implement the *Rome Statute of the International Criminal Court (ICC)*.

The *Crimes Against Humanity and War Crimes Act* would create new offences of genocide, crimes against humanity, war crimes and breach of responsibility by military commanders and civilian superiors. New offences would also be created to protect the administration of justice at the ICC, as well as the safety of judges, officials and witnesses. The *Act* would provide that Canada may prosecute any

individual present in Canada for any of these offences. This Act will likely be of more practical application in the context of recent atrocities.

In addition, the Act would recognize the need to provide restitution to victims. It would also create new proceeds of crime offences and mechanisms to enforce orders of the ICC for restraint and forfeiture of assets. Money obtained would be paid into a Crimes Against Humanity Fund, established under the Act, and would be distributed by the Attorney General of Canada to victims of offences under the Act or the *Rome Statute*.

The comprehensive Act will be a valuable addition to assist Canada in holding accountable those involved in genocide, war crimes or crimes against humanity irrespective of where or when those crimes took place. Canada's leadership in this area means that this legislation will serve as a model for other countries around the world who seek to ratify and implement the *Rome Statute*.

The Citizenship Act

The new *Citizenship Act* is before the Senate. While there is no specific new provision dealing with war crimes or crimes against humanity, the proposed provision to deny citizenship for reasons of public interest could have application to such situations.

The Immigration and Refugee Protection Act (Bill C-31)

On April 6, 2000, the government introduced Bill C-31 which will replace the present *Immigration Act* entirely and permit the immigration and refugee system to be more responsive to the needs and challenges of the future. The underlying premise of the new Act is to open the front door to genuine immigrants and refugees but close the back door to persons who do not need or who abuse Canada's immigrant and refugee system.

The new Act does not contain any additional provisions which specifically deal with the issue of war criminals. For the most part all the provisions, which have proven to be effective in the present *Immigration Act* have been transferred to the new Act. In a number of instances the Bill contains sections which have application to suspected war criminals as well as to other categories of persons involved in very serious criminality such as organized crime or terrorism.

Some of these new provisions which apply to a number of persons including war criminals and streamline their removal process are:

-access to the Immigration Appeal Division of the Immigration and Refugee Board is prohibited entirely to all serious criminals. At the moment permanent residents and refugees, even if they are serious criminals, have access to the

IAD on questions of fact and law but not humanitarian and compassionate grounds;

-persons whose refugee claim has been refused by the Refugee Division of the IRB cannot enter the refugee stream again; this would include persons who have been excluded for the commission of war crimes and crimes against humanity. At the moment, it is possible for persons who have been rejected to make subsequent claims;

-it is no longer necessary to have the Minister of Citizenship and Immigration declare that it is contrary to the national interest to deny access to the Refugee Division to people involved in very serious criminality; a finding that a person belongs to such a category by the Immigration Division of the IRB is sufficient for this purpose;

-the threshold for removing persons to their country of origin who have been found to be refugees but also have committed very serious criminal activities will be changed from "danger to security of Canada" to either "danger to the security of Canada or "contrary to the national interest";

-the Pre-Removal Risk Assessment will not apply to persons who are serious criminals or who are excludable and who pose a "danger to the security of Canada" or when it is contrary to the national interest to have such an assessment performed;

-the protection of confidential information, which is presently possible before IAD and Federal Court hearings, will be extended to hearings of the new Immigration Division of the IRB.

The Extradition Act

A new *Extradition Act* received Royal Assent on June 17, 1999.

The Act combines and significantly updates two acts, the *Extradition Act* and the *Fugitive Offenders Act*. The new law takes into account factors that are commonplace today, for example, enhanced communications technology and the increased mobility of individuals. The new Act expands Canada's capacity to extradite and respond to the growing problem of borderless crimes as well as war crimes and crimes against humanity. Among other things, the new *Extradition Act*.

-establishes clear procedures for the extradition process;

-provides human rights and procedural safeguards for the person whose extradition is sought;

-allows for the use of different forms of evidence that will facilitate extradition to the International Criminal Tribunals and foreign countries, particularly those with a different legal tradition;

-in addition to allowing Canada to extradite persons to states, allows for extradition to the International Criminal Tribunals for Rwanda and the former Yugoslavia;

-permits the use of video and audio link technology for the purpose of providing testimony from witnesses located in Canada or abroad.

Concurrently there were amendments made to the *Immigration Act* that address the issue of refugee claimants who are the subject of an extradition request.

CONCLUSION

Victims of wars, oppression and human rights violations will continue to flee to countries such as Canada in order to seek refugee status. Canada is proud of its record in granting protection to refugees.

Unfortunately, among these victims often come their persecutors, some of whom are war criminals or perpetrators of crimes against humanity. The challenge to be met by Canada and other like-minded countries is to ensure that the right balance is met in designing systems and processes to protect the legitimate refugee while ensuring that persons who have committed war crimes, crimes against humanity and other reprehensible acts are not only refused protection, but are dealt with the full force of the law. The government would like Canadians to feel assured that it has achieved the right balance and will continue to strive to ensure that these two important policy objectives are met.

Canada remains determined to apply all available remedies to guarantee that war criminals do not find safe haven in this country. The initiative has been a resounding success. In addition to addressing cases concerning those individuals who may have slipped through our security screening many years ago, we are applying those lessons learned to modern cases. Modern information management technology is being applied to a problem that has plagued many countries over the last century. Our experience has demonstrated that it is only through a coordinated government-wide approach that we can deal with the issue of the presence of war criminals in Canada.

SELECTED LEGAL PROVISIONS

Immigration Act

3. (**objectives**) – It is hereby declared that Canadian immigration policy and the rules and regulations made under this Act shall be designed and administered in such a manner as to promote the domestic and international interests of Canada recognizing the need

(i) to maintain and protect the health, safety, and good order of Canadian society;

19. (1) (**inadmissible persons**) – No person shall be granted admission who is a member of any of the following classes:

(j) persons who there are reasonable grounds to believe have committed an act or omission outside Canada that constituted a war crime or a crime against humanity within the meaning of subsection 7(3.76) of the *Criminal Code* and that, if it had been committed in Canada, would have constituted an offence against the laws of Canada in force at the time of the act or omission;

(l) persons who are or were senior members of or senior officials in the service of a government that is or was, in the opinion of the Minister, engaged in terrorism, systematic or gross human rights violations or war crimes or crimes against humanity within the meaning of subsection 7(3.76) of the *Criminal Code*, except persons who have satisfied the Minister that their admission would not be detrimental to the national interest.

(**Meaning of “Senior Members of or Senior Officials in the Service of a Government”**) – For the purposes of paragraph (1)(l) “senior members of or senior officials in the service of a government” means persons who, by virtue of the position they hold or have held, are or were able to exert a significant influence on the exercise of government power and, without limiting its generality, includes

(a) heads of state or government;

(b) members of the cabinet or governing council;

(c) senior advisors to persons described in paragraph (a) or (b);

(d) senior members of the public service;

(e) senior members of the military and of the intelligence and internal security apparatus;

(f) ambassadors and senior diplomatic officials; and members of the judiciary.

27(2) (**Reports on Visitors and Other Persons**) – An immigration officer or a peace officer shall, unless the person has been arrested pursuant to subsection

103(2), forward a written report to the Deputy Minister setting out the details of any information in the possession of the immigration officer or peace officer indicating that a person in Canada, other than a Canadian citizen or permanent resident, is a person who

(g) came into Canada or remains in Canada with a false or improperly obtained passport, visa or other document pertaining to that person's admission or by reason of any fraudulent or improper means or misrepresentation of any material fact, whether exercised or made by himself or by any other person;

(i) ceased to be a Canadian citizen pursuant to subsection 10(1) of the *Citizenship Act* in the circumstances described in subsection 10(2) of that Act;

46.01(1) (**Access Criteria**) – A person who claims to be a Convention Refugee is not eligible to have the claim determined by the Refugee Division if the person (e) has been determined by an adjudicator to be

(ii) a person described in paragraph 19(1)(e),(f), (g), (j), (k), or (l) and the Minister is of the opinion that it would be contrary to the public interest to have the claim determined under this Act.

Schedule – Sections E and F of Article 1 of the United Nations Convention Relating to the Status of Refugees

The provisions of this Convention shall not apply to any person with respect to whom there are serious grounds for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity as defined in the international instruments drawn up to make provision in respect of such crimes;

Citizenship Act

10.(1)(Order in Cases of Fraud) – Subject to section 18 but notwithstanding any other section of this Act, where the Governor in Council, on a report from the Minister, is satisfied that any person has obtained, retained, renounced or resumed citizenship under this Act by false representation or fraud or by knowingly concealing material circumstances,

(a) the person ceases to be a citizen, or

(b) the renunciation of citizenship by the person shall be deemed to have had no effect, as of such date as may be fixed by order of the Governor in Council with respect thereto.

(2) (Presumption) – A person shall be deemed to have obtained citizenship by false representation or fraud or by knowingly concealing material circumstances if the person was lawfully admitted to Canada for permanent residence by false representation or fraud or by knowingly concealing material circumstances and, because of that admission, the person subsequently obtained citizenship.

18.(1) (**Notice to person in respect of revocation**) – The Minister shall not make a report under section 10 unless the Minister has given notice of his intention to do so to the person in respect of whom the report is to be made and (a) that person does not, within thirty days after the day on which the notice is sent, request that the Minister refer the case to the Court (Federal Court, Trial Division); or

(b) that person does so request and the Court decides that the person has obtained, retained, renounced or resumed citizenship by false representation or fraud or by knowingly concealing material circumstances.

(2) (**Nature of Notice**) – The notice referred to in subsection (1) shall state that the person in respect of whom the report is to be made may, within thirty days after the day on which the notice is sent to him, request that the Minister refer the case to the Court, and such notice is sufficient if it is sent by registered mail to the person at his latest known address.

(3) (**Decision Final**) – A decision of the Court made under subsection (1) is final and, notwithstanding any other Act of Parliament, no appeal lies therefrom.

22. (1) (**Prohibition**) Notwithstanding anything in this Act, a person shall not be granted citizenship under section 5 or subsection 11(1) or administered the oath of citizenship

(c) while the person is under investigation by the Minister of Justice, the Royal Canadian Mounted Police or the Canadian Security Intelligence Service, or is charged with, on trial for, subject to or a party to an appeal relating to, an act or omission referred to in subsection 7(3.71) of the *Criminal Code*;

(d) if the person has been convicted of an offence in respect of an act or omission referred to in subsection 7(3.71) of the *Criminal Code*.

GLOSSARY OF TERMS

Crimes against Humanity

Includes crimes such as murder, extermination, enslavement, torture and any other inhumane act committed against civilians, in a widespread or systematic manner, whether or not the country is in a state of war, and regardless if the act is in violation of the territorial law in force at the time. The acts may have been committed by state officials or private individuals, and against their own nationals or nationals of other states.

Genocide

The deliberate and systematic destruction, in whole or in part, of a national, ethnic, racial or religious group, whether committed in times of peace or in times of war, by state officials or private individuals.

War Crimes

Criminal acts committed during international armed conflicts (war between states) and civil wars, which violate the rules of war as defined by international law. These acts include the ill-treatment of civilian populations within occupied territories, the violation and exploitation of individuals and private property, and the torture and execution of prisoners.

Complicity

Active membership in the organization responsible for committing proscribed atrocities is not required. A person is considered "complicit" if, while aware of the acts committed, the person contributes, directly or indirectly, to their occurrence.

APPENDIX C

REGIMES DESIGNATED PURSUANT TO SECTION 19(1)(L) OF THE IMMIGRATION ACT

designated 16 June 1993: the Bosnian Serb regime between 27 March 1992 until 10 October 1996;

designated 12 October 1993: the Siad Barré regime in Somalia between 1969 and 1991;

designated 8 April 1994: the former military governments in Haiti between 1971 and 1986, and between 1991 and 1994 except the period August -December 1993;

designated 21 October 1994: the former Marxist regimes of Afghanistan between 1978 and 1992;

designated 3 September 1996: the governments of Ahmed Hassan Al-Bakr and Saddam Hussein in power since 1968;

designated 27 April 1998: the government of Rwanda under President Habyarimana between October 1990 and April 1994, as well as the interim government in powers between April 1994 and July 1994;

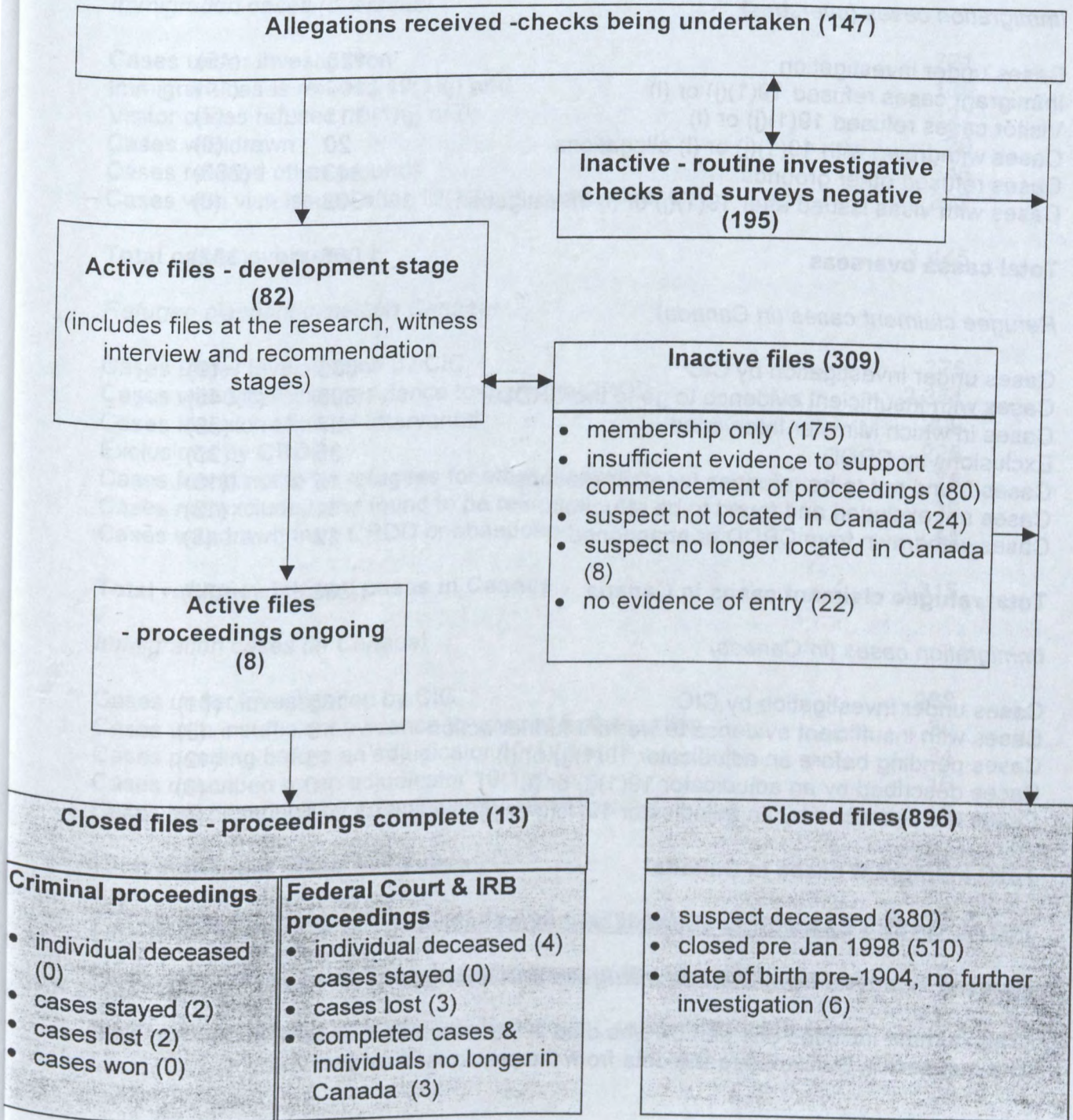
designated 30 June 1999: the governments of Federal Republic of Yugoslavia and the Republic of Serbia (Milosevic) since February 28, 1998.

APPENDIX D

WORLD WAR TWO CASES - INVENTORY

Category	Sub-Total	Total
Allegations:		
Allegation received, initial checks and surveys being undertaken		147
Active Files		
Active files - development stage		82
Active files - proceedings ongoing (Federal Court & Immigration and Refugee Board)		8
Inactive files		
a) membership only	175	
b) insufficient evidence to support commencement of proceedings	80	
c) suspect not located in Canada	24	
d) suspect no longer located in Canada	8	
e) no evidence of entry	<u>22</u>	
		309
Total:		
Inactive files - routine investigative checks and surveys negative		195
I. Closed files		
a) suspects deceased	380	
b) date of birth pre-1904, no further investigation	6	
c) closed prior to 1998	<u>510</u>	
		896
Total:		
II. Closed files		
a) Criminal Proceedings (pre- 1995)		
a.a) individuals deceased	0	
a.b) cases stayed	2	
a.c) cases lost	2	
a.d) cases won	0	
b) Federal Court and/or Immigration & Refugee Board Proceedings		
b.a) individuals deceased	4	
b.b) cases stayed	0	
b.c) cases lost	3	
b.d) completed cases and/or individuals no longer in Canada	<u>3</u>	
Total of Closed Files II:		<u>14</u>
Total number of individuals listed in inventory to date		1,651

WORLD WAR TWO CASES – INVENTORY FLOW CHART (total 1651)



APPENDIX E

MODERN-DAY WAR CRIMES IMMIGRATION CASES 1999-2000

Immigration cases (overseas)

Cases under investigation	125	(45)
Immigrant cases refused 19(1)(j) or (l)	107	(14)
Visitor cases refused 19(1)(j) or (l)	111	(7)
Cases withdrawn with 19(1)(j) or (l) allegations	20	(0)
Cases refused other grounds	343	(286)
Cases with visas issued after 19(1)(j) or (l) investigation	302	(0)
Total cases overseas	1,008	(352)

Refugee claimant cases (in Canada)

Cases under investigation by CIC	363	(9)
Cases with insufficient evidence to go to the CRDD	1,303	(1,045)
Cases in which Minister Intervened	127	(58)
Exclusions by CRDD	35	(25)
Cases found not to be refugees for other reasons	15	(18)
Cases not excluded and found to be refugees	11	(13)
Cases withdrawn from CRDD or abandoned	12	(8)
Total refugee claimant cases in Canada	1,866	(1,176)

Immigration cases (in Canada)

Cases under investigation by CIC	135	(71)
Cases with insufficient evidence to warrant further action	13	(5)
Cases pending before an adjudicator 19(1)(j) or (l)	16	(12)
Cases described by an adjudicator 19(1)(j) or (l)	0	(3)
Cases not described by an adjudicator 19(1)(j) or (l)	1	(1)
Total immigrant cases in Canada	165	(92)

TOTAL CASES EXAMINED (Canada and overseas) 3,039 (1,620)

Persons removed from Canada (refugees and immigrants) 38* (27)

*This number includes one person who died in Canada before removal.
The numbers in brackets are the data from the previous fiscal year.

APPENDIX F

MODERN-DAY WAR CRIMES IMMIGRATION CASES - CUMULATIVE

Immigration cases (overseas)

Cases under investigation	221
Immigrant cases refused 19(1)(j) or (l)	130
Visitor cases refused 19(1)(j) or (l)	127
Cases withdrawn	20
Cases refused other grounds	645
Cases with visa issued after 19(1)(j) or (l) investigation	302
Total cases overseas.	1,445

Refugee claimant cases (in Canada)

Cases under investigation by CIC	375
Cases with insufficient evidence to go to the CRDD	2,351
Cases in which Minister Intervened	209
Exclusions by CRDD	225
Cases found not to be refugees for other reasons	78
Cases not excluded and found to be refugees	36
Cases withdrawn from CRDD or abandoned	41
Total refugee claimant cases in Canada.	3,315

Immigration cases (in Canada)

Cases under investigation by CIC	288
Cases with insufficient evidence to warrant further action	30
Cases pending before an adjudicator 19(1)(j) or (l).	34
Cases described by an adjudicator 19(1)(j) or (l)	16
Cases not described by an adjudicator 19(1)(j) or (l)	8
Total immigrant cases in Canada	376

TOTAL CASES EXAMINED (Canada and overseas) 5,136

Persons removed from Canada (refugees and immigrants) 145*

*This number includes one person who died in Canada before removal.

SELECTED CASE SUMMARIES

Person 1 – colonel in Croatian army between January 1992 and November 1993, during which time he led a special commando unit at the front in the Croatian-Serbian war; was present during time that atrocities were committed during ethnic cleansing in the Siroki Breg area. He was excluded from the refugee determination process in May 1997 and removed under escort to Croatia on June 28, 1999.

Antonio, Jaime – member of the New People's Army (NPA) in the Philippines between 1979 and 1982. The NPA is known to have been involved in crimes against humanity when targeting civilians in their campaign against the government of the Philippines. He was excluded from the refugee determination process in June 1993 because he killed four persons on behalf of the NPA. He was removed to the Philippines on August 4, 1999.

Ramos, Jose Leonel – member of the Honduran army between 1974 and 1991. Several of these years were spent as a member of the Cobra death squad, an elite counter insurgency group with a history of torture and assassinations. He was excluded from the refugee determination process in September 1999 for being complicit in numerous acts of crimes against humanity such as torture and flagrant mistreatment of detainees. He was removed under escort to Honduras on October 6, 1999.

Person 2 – member of the armed forces and a guard in the national prison in Haiti. He was excluded from the refugee determination process because of his participation in mistreatment, including torture, of prisoners in July 1999. Removed to Haiti on October 6, 1999.

Pequeno, Manuel (aka Maphanga, Eddie; aka De Caires, Flavio; aka Torres, Otilio) – member of the State Security Police in Angola and secret agent for FLEC, a terrorist organization dedicated to the independence of the Cabinda province in Angola. He claimed refugee status in May 1998 but failed to show for his refugee hearing in January 1999. He unsuccessfully tried to claim refugee status under another name in February 1999. An attempt was made to remove him under escort to South Africa in that same month but he was returned to Canada. In April 1999 he tried to revive his original refugee claim but this was refused by the Immigration and Refugee Board, a decision which was upheld by the Federal Court in October 1999. He was removed under escort to Angola on October 16, 1999.

Mayorga, Gonzales - member of the National Police of Peru, as well as a member of the group Police Investigations of Peru (PIP), the latter an organization known for its human rights violations. Excluded from refugee determination in February 1999. Access to the Federal court denied in May 1999 and removed to Peru on December 22, 1999.

Kiared, Mohammed – inspector with the Algerian police between 1986 and 1993 during which time he had been a personal and knowing participant in torture. He was excluded for the first time from the refugee determination process in July 1994 but because of irregularities in the process the Federal Court, Trial Division, referred the matter back to the Convention Refugee Division of the Immigration and Refugee Board for a new hearing. He was excluded again in July 1997, denied access to the Federal Court in August 1998 and removed under escort to Algeria on January 25, 2000.

Tavousi, Ghahnavieh - member of the "Basij" a volunteer force under the command of the Revolutionary Guard in Iran which has been involved in crimes against humanity. He was excluded from the refugee determination process on and denied access to the Federal Court in March 1997. He applied for immigrant status but was refused in January 2000 because of his involvement in crimes against humanity. He was removed under escort to Iran on March 1, 2000.

Person 3 – member of the Securitate, a Romanian government security agency during the Ceaucescu regime, known for being responsible for torture and extra-judicial killings of opponents of the regime. Excluded from refugee determination in October 1996 and removed to Romania on March 24, 2000.