Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

ENF 5

Writing 44(1) Reports

Canada

ENF 5 Writing 44(1) Reports

Updates to chapter

Listing by date:

Date: 2005-11-04

Changes made to reflect transition from CIC to CBSA. The term "delegated officer" was replaced with "Minister's delegate" throughout text, references to "departmental policy" were eliminated, references to CIC and CBSA officers and the C&I Minister and the PSEP Minister were made where appropriate, and other minor changes were made.

Appendix C was removed and Appendix D & E were renamed C & D.

2004-08-20

ENF 5 - Writing 44(1) Reports has been updated to reflect an amendment to paragraph 229(1)(k) of the *Immigration and Refugee Protection Regulations.* The amendment allows the Immigration Division of the Immigration and Refugee Board to issue a removal order at a hearing resulting from multiple allegations that include failure to comply with residency obligations.

2003-09-22

Chapter ENF 5, entitled Writing 44(1) reports, specifically Section 8 on Making a decision to write an A44(1) report, has been updated and is now available on CIC explore.

The amendments were made in response to commitments made to Standing Committee during their study of IRPA which called on CIC to strengthen our guidelines with respect to how we make a determination to refer reports to the IRB, especially in cases of permanent residents. These changes were made in consultation with all the domestic regions as well as the Enforcement Program Management Board. The guidelines are intended to ensure greater consistency in the steps taken to obtain information, prior to deciding the disposition of an A44(1) report.

Among the changes to this chapter, the highlights include:

Section 8:

Section 8.1 has been updated to provide clear guidelines on keeping a record of an inadmissibility in all cases.

Section 8.3 addresses the issue of forwarding incomplete files to the Hearings Unit.

Section 8.7 establishes information gathering guidelines that are to be undertaken prior to writing an A44(1) report.

Appendix A and Appendix B were also revised.

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1. What this chapter is about

This chapter provides functional direction and guidance on the subject of when an officer should consider writing a report under the provisions of subsection A44(1) of the *Immigration and Refugee Protection Act* (IRPA or the Act); and how to prepare and present such a report to the Minister of Public Safety and Emergency Preparedness (PSEP).

2. Program objectives

The objectives of Canadian immigration legislation with regard to the inadmissibility provisions are:

- to protect the health and safety of Canadians and to maintain the security of Canadian society;
- to promote international justice and security by fostering respect for human rights and denying access to Canadian territory to persons, including refugee claimants, who are criminals or security risks;
- to promote compliance and support all the objectives and requirements of the Act by incorporating specific inadmissibility provisions relating to non-compliance.

3. The Act and Regulations

Title	Act and Regulations
Delegation of powers	A6(2)
Examination by officer	A15(1)
Obligation - answer truthfully Obligation - relevant evidence	A16(1) A16(2)(b)
Obligation on entry - permanent residence Obligation on entry - period for their stay	A20(1)(a) A20(1)(b)
Permanent resident	A21(1)
Temporary resident Dual intent	A22(1) A22(2)
Entry to complete examination or hearing	A23
Temporary resident permit	A24(1)
Residency obligation	A28
Security	A34 through A37
Criminality	A36(2)(b)
Health grounds	A38
Non-compliance with Act - foreign national Non-compliance with Act - permanent resident	A41(a) A41(b)
Inadmissible family member	A42(b)
Report on inadmissibility Referral or removal order	A44(1) A44(2)
Applicable removal order	A45(d)
No return without prescribed authorization	A52(1)
Ineligibility Serious criminality	A101(1)(f) A101(2)(b)
Protected person Inadmissible - danger to the public	A115(1) A115(2)(a)
Seizure	A140(1)

Definition of "family member"	R1(3)
Rehabilitation	R18
Seeking to enter Canada	R28(b)
Medical examination	R29
Medifcal examination required Inadmissible under subsection A38(1) Medical certificate	R30 R30(1)(d) R30(4)
Conditions A16(2)	R32
Transit	R35
End of examination	R37
Direct back	R41(b)
Conditions A23	R43(1)
Removal - family members	R227(2)
Exclusion order - A20	R228(1)(c)(iii)
Applicable removal order	R229(1)

3.1. Forms

The required forms are shown in the following table.

Form Title	Form Number
Direction to Return to the United States	IMM 1237B
Allowed to Leave	IMM 1282B
Report under subsection A44(1)	IMM 5480E
Report under subsection A44(1) (continued)	IMM 5066B

4. Instruments and delegations

Pursuant to A6(1), both the Minister of Citizenship and Immigration (C&I) and the Minister of Public Safety and Emergency Preparedness (PSEP) have the authority to designate specific persons as officers to carry out any purpose of any provision of IRPA with respect to their individual mandates as described in A4, and have specified the powers and duties of the officers so designated. In addition, A6(2) authorizes that anything that may be done by each Minister under the Act and Regulations may be done by a person that the Minister authorizes in writing. This is referred to as delegation of authority.

While the PSEP Minister has the policy lead for enforcement with respect to IRPA as per A4, Citizenship and Immigration Canada (CIC) continues to be responsible for screening applicants for inadmissibility and for acting on that responsibility, according to their delegated authority.

The PSEP Minister has designated officers of both the Canada Border Services Agency (CBSA) and CIC to write reports and has delegated the review of those reports to officers of both the CBSA and CIC. For full information, the Designation/Delegation Authorities (Instruments) signed by the PSEP Minister can be found in IL3 (http://www.cic.gc.ca/manuals-guides/english/index.html) As a general rule, CIC officers have been designated the authority to write reports for all allegations except A34, A35 and A37. These cases will be referred to the CBSA. Minister's delegates at CIC will review all reports written by CIC officers and have the authority to either issue removal orders or refer the reports to the Immigration Division.

5. Departmental policy

5.1. Burden of proof

The burden of proof, in the context of immigration legislation, refers to who has the responsibility of establishing admissibility to Canada.

Under the provisions of A45(d), the burden of establishing admissibility depends on whether or not the person has been authorized to enter Canada.

For more details, see the following table.

Persons authorized / not authorized to enter	Details
Permanent residents and foreign nationals authorized to enter	A45(d)] requires the Immigration Division to make a removal order against a permanent resident or a foreign national who has been authorized to enter Canada, if satisfied that they are inadmissible. Consequently, in cases involving persons with lawful status in Canada, including permanent residents, the onus rests on the PSEP Minister to establish that the person is inadmissible. Once an admissibility hearing has commenced, a hearings officer must be prepared to rebut any statements made by the person and offer evidence to support the allegation(s) of inadmissibility.
Foreign nationals not authorized to enter	A45(d) requires the Immigration Division to make a removal order if it is not satisfied that a foreign national who has not been authorized to enter Canada is not inadmissible. A21(1) and A22(1) provide that to obtain permanent or temporary resident status, an officer must be satisfied that, *inter alia*, the foreign national is not inadmissible. This applies to persons seeking entry to Canada or those persons who have entered illegally. Consequently, the onus is on these persons to establish that they are not inadmissible. Synopsis: In cases where the Minister's delegate has jurisdiction under A44(2) to make a removal order, the onus of "the burden of proof," where the person does not hold status, lies with the person.

5.2. Preparation and transmission of an A44(1) report: prescribed circumstances

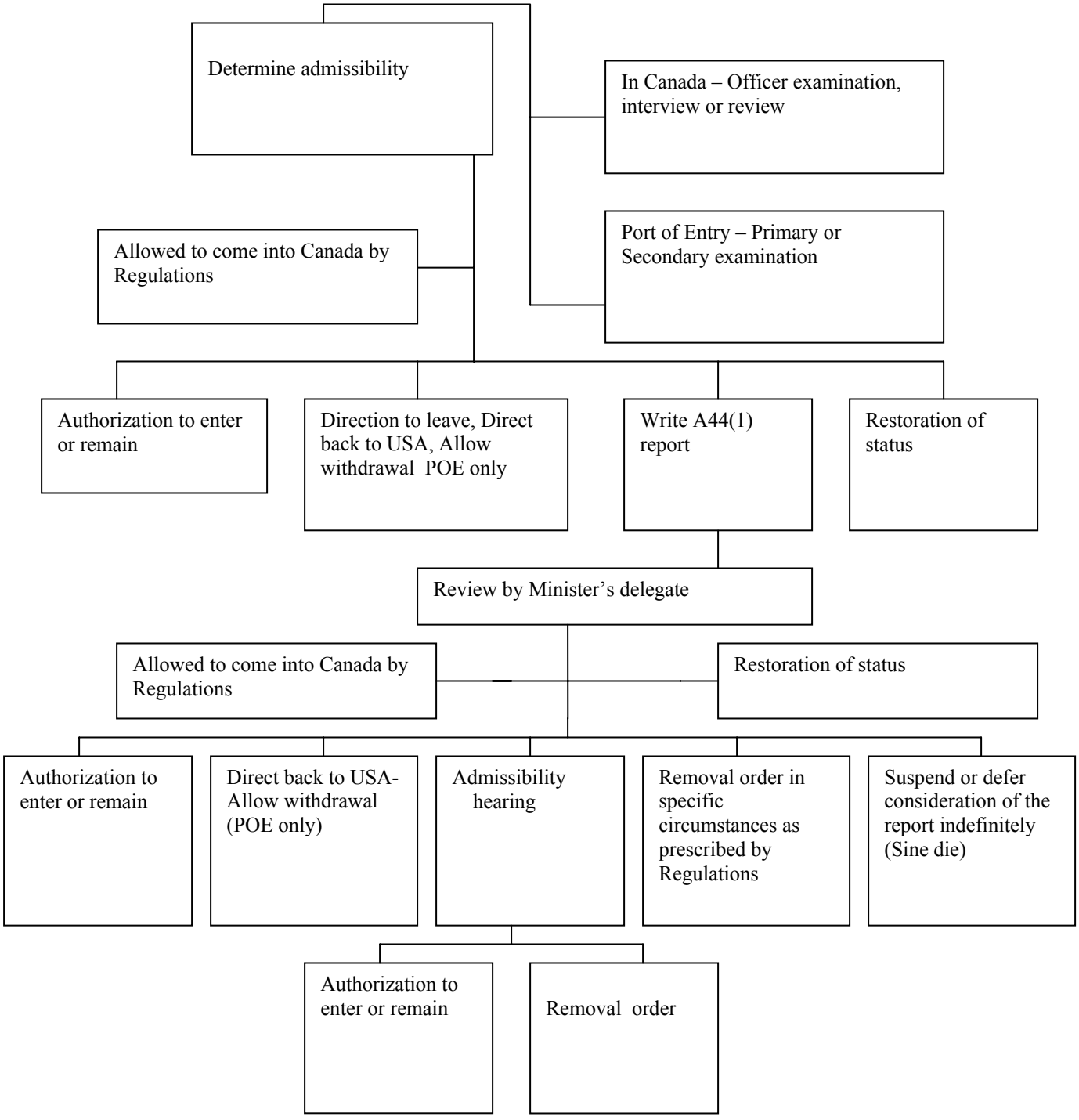
Although an A44(1) report may result from an examination, an examination is not a necessary pre-requisite for an officer to prepare and transmit a report to the Minister's delegate. This is due to the fact that officers are only authorized to proceed with an examination under prescribed circumstances.

Under A44(1), an officer may prepare and transmit a report if that officer is of the opinion that a permanent resident or foreign national in Canada is inadmissible.

6. Definitions

No information available.

7. *Immigration and Refugee Protection Act* – Subsection A44(1) Process



8. Making a decision to write an A44(1) report

8.1. Considerations before writing an A44(1) report

The fact that officers have the discretionary power to write or not write an inadmissibility report does not mean that they can disregard the fact that someone is, or may be, inadmissible or that they can grant status to that person under A21 and A22.

Rather, this discretion gives officers flexibility in managing cases where no removal order will be sought, or where the circumstances are such that the objectives of the Act may or will be achieved without the need to write a formal inadmissibility report under the provisions of A44(1).

It is important for officers to exercise good judgment and common sense when applying the immigration inadmissibility provisions. They should be mindful of all the Act's various objectives and provisions dealing with immigration to Canada and refugee protection. In particular, A3(1)(h) stipulates:

> **3.(1)(h)** to protect the health and safety of Canadians and to maintain the security of Canadian society;
>
> (i) to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks;…

Officers should therefore carefully consider the consequences of writing or not writing a report given that their decision may have an impact on future possible dealings with the person.

Although not considered exhaustive, what follows are some factors that officers may choose to consider when deciding whether or not to write an A44(1) inadmissibility report.

- What is the nature or category of inadmissibility?
- Is the person already the subject of a removal order?
- Is the person already the subject of a separate inadmissibility report incorporating allegations that will likely result in a removal order?
- Is the officer satisfied that the person is, or soon will be, leaving Canada? And in such a case, is the imposition of a future requirement to obtain consent to return warranted?
- Is there a record of the person having previously contravened immigration legislation?
- In the case of non-compliance, was it unintentional or excusable for valid reason?
- Has the person now been fully counselled on the topic of their inadmissibility? And is the officer satisfied that the person now understands what is required in future to overcome their inadmissibility?
- Is there any reason to believe that after having previously been counselled on the subject of inadmissibility, the person simply chose to ignore that counselling?
- Has the person been cooperative?
- Is there any evidence of misrepresentation?
- Has the person applied for restoration of status, and does the person appear to be eligible?
- Has a temporary resident permit been authorized?
- In minor criminality cases, is a decision on rehabilitation imminent and likely to be favourable?

Regardless of the above factors, in all cases where an officer is of the opinion that a person is inadmissible on grounds involving security, violating human or international rights, serious criminality or organized criminality, it is important to have a formal record of that inadmissibility. This is best accomplished by preparing an A44(1) inadmissibility report.

CIC has been designated the authority to write reports for all inadmissibilities except in circumstances where an inadmissibility on grounds involving A34 , A35 and A37 has been

identified. Where these inadmissibilities have been identified, the case is to be referred to the CBSA office. There a decision to pursue the allegation or not will be made. For further instructions on this process see ENF 7, section 7..

In essence, it is important for the officer to seriously consider whether the information might be important for future dealings with the person and to weigh the longer term consequences of not doing so. These impacts include, but are not limited to: the eligibility of the person to claim refugee status at a later date, access to the Pre-Removal Risk Assessment (PRRA) stream, future primary inspection line (PIL) referrals, and the safety and security of officers dealing with this individual in subsequent investigations.

In rare instances, an officer may choose not to prepare a report with respect to a person who, in the opinion of the officer, is inadmissible on grounds involving security (A34), violation of human or international rights (A35), serious criminality (A36(1)) or organized criminality (A37). In these cases, the officer should notify their supervisor in writing, and enter a Type 01 non-computer-based (NCB) – "Watch For" into the Field Operational Support System (FOSS). This will ensure a long-term historical record of the decision and generate future hits, should the person concerned return to Canada at a later date. The NCB entry should include full details of the inadmissibility, a brief account of what happened, the officer's rationale for not writing the A44(1) report, and the officer's initials or name.

Where a decision is taken not to write a report for a "less serious inadmissibility," the officer should still enter an NCB into FOSS with the inadmissibility details and an account of what transpired, as well as their initials or name. The following is an example of when the recording of such an inadmissibility might be useful:

Example: A foreign national or permanent resident already has a removal order, based on criminality, and is again convicted in Canada of another criminal offence. Although the officer may decide that a report is not necessary since an order has already been issued against the person, it would be useful to have a record of that inadmissibility in case that person is convicted again later, and the next officer dealing with the case wants to pursue a danger opinion.

8.2. Counselling persons who are allowed to leave Canada

Before writing an inadmissibility report under A44(1), officers shall, at a port of entry, always consider allowing the person the opportunity to leave Canada voluntarily. In such circumstances, the same factors as outlined in Section 8.1 above, "Considerations before writing an A44(1) report", are applicable.

If a person is allowed to leave Canada voluntarily, officers should counsel the person as follows:

- Inform the person why they are believed to be inadmissible;
- tell the person that if they leave Canada voluntarily, they will be free to seek entry to Canada once the factor causing inadmissibility has been overcome;
- if the person appears to be eligible for a temporary resident permit, counsel them on this option, including cost recovery; and
- inform the person of the possible consequences of an A44(1) report, including the possibility of an admissibility hearing and/or a removal order being made against them.

In the case of an officer at a port of entry, if the officer allows a person to withdraw their application to enter Canada, then that officer must give the person an "Allowed to Leave" form. See also ENF 4, Port of Entry Examinations.

8.3. When the decision has been made to prepare an A44(1) report

A44(1) gives officers the discretionary authority not to prepare a report. Officers cannot delegate the discretionary authority to another person, nor can another person oblige an officer to do or not to do something that is at the discretion of the officer.

Before officers make a decision to write a report under the provisions of A44(1), they must be satisfied that the applicable standard of proof may be met and that sufficient evidence has been or may be gathered to ensure that each element of an inadmissibility allegation may be satisfied.

Officers should be mindful that any piece of evidence gathered may be used at an admissibility hearing. All evidence gathered should therefore be of a quality sufficient to convince the Minister's delegate, or a member of the Immigration Division, of the person's inadmissibility.

Officers must take steps in all cases to provide adequate documentation to substantiate the inadmissibility allegation(s) in a report. If a decision has been made to write a report but the evidence is not immediately available, officers should not delay completing the report; this ensures that FOSS accurately relfects the status of a person's case. This is especially important in cases were detention is also being pursued. Files should not be forwarded to the Immigration Division or the Minister's delegate unless all evidence substantiating the allegation is on file, except in rare circumstances. In such cases, officers will record on the case-file notes what attempts were made to obtain the evidence so that the Minister's delegate, and if applicable the hearings officer, may follow up, where it is agreed that this is appropriate.

For more information, see Evidentiary requirements, section 8.4 below.

8.4. Evidentiary requirements

To form the opinion that a person is inadmissible to Canada, an officer must have knowledge of the evidentiary rules and requirements for immigration matters. Knowledge of what may be required to substantiate an allegation of inadmissibility is an important consideration in all cases.

Each allegation has specific requirements for evidence; officers are to be guided by the content of chapters ENF 1, Inadmissibility and ENF 2, Evaluating Inadmissibility.

Proof "beyond a reasonable doubt" is the evidentiary rule only in criminal cases. The standard of proof in the context of immigration matters is dependent upon the specific inadmissibility allegation and will be based on either "reasonable grounds to believe" or a "balance of probabilities."

"Reasonable grounds to believe" is a *bona fide* belief in a serious possibility based on credible evidence. That is, they are a set of facts and circumstances that would satisfy an ordinarily cautious and prudent person and that are more than mere suspicion.

"Balance of probabilities" means that the evidence presented must show that the facts as alleged are more probable than not.

See also chapters ENF 1, Inadmissibility; and ENF 2, Evaluating Inadmissibility.

8.5. Reports on persons claiming to be Canadian citizens

Should an officer detect the possibility of Canadian citizenship, then the officer should investigate or cause an investigation of the matter to be initiated before taking any further steps to cause a Minister's delegate review (also referred to as a Minister's proceeding) or an admissibility hearing.

In questioning persons in this regard, officers should be fully cognizant of the *Citizenship Act* and/ or make contact with a citizenship officer who can provide assistance and guidance.

Should a person claiming to be a Canadian citizen make a refugee claim to an officer, the officer should ascertain if that person is indeed a Canadian citizen. If such is the case, officers should advise the person that *IRPA* does not allow for a determination of refugee status of Canadian citizens who are in Canada.

Furthermore, the intent and purpose of Canada's refugee determination process is to offer protection to those who might otherwise be required to return to a country where they fear persecution. Canadian citizens are not subject to this risk.

8.6. Reports on permanent residents and persons claiming to be permanent residents

Where an officer concludes that a person who claims to be a permanent resident is not a permanent resident, or has lost their permanent resident status, and for that reason the officer

decides to report the person under the provisions of A44(1), the officer – depending on the circumstances – shall cite as grounds for the report, either:

- that the person is a permanent resident in Canada who is, in the officer's opinion, inadmissible pursuant to A41(b) because the person failed to comply with the residency obligation of A28; or
- in the case of a person who is unable to present any evidence of permanent resident status, that the person is a foreign national in Canada who has not been authorized to enter and who is, in the officer's opinion, inadmissible pursuant to A41(a) because the person has failed to comply with a requirement of the Act; specifically, the requirement of A20(1)(a) that every foreign national who seeks to enter or remain in Canada must establish, to become a permanent resident, that they hold the visa or other document required under the regulations.

For more information, see section 8.7, below, Writing an A44(1) report on a permanent resident.

8.7. Writing an A44(1) report on a permanent resident

Gathering information from the client

Before an A44(1) report against a permanent resident is referred to the Immigration Division, officers should review all available information against the criteria outlined in ENF 6, Section 19.2, A44 reports concerning permanent residents of Canada .

Therefore, all persons who are or may be subject to a report are to be informed of the criteria against which their case is being assessed and the possible outcome of the review (including the possibility of loss of appeal rights in A64 cases – see section below entitled "**Loss of appeal right cases**"). They should also be given the opportunity to provide information. This can be done by way of an in-person interview or in writing. For submissions in writing, sufficient time should be allowed for receipt by way of regular mail. If the deadline for receipt is 15 days, an officer should not make a decision on day 15, but instead, wait an additional seven days to allow for mail delays. All detained cases should be interviewed in person.

An example of a call-in notice for an in-person interview is attached in Appendix A.

An example of a written notice, where the review of the case will be done without the benefit of an in-person interview, is attached in Appendix B.

Loss of appeal right cases:

In A64 cases when loss of appeal rights may be involved, where the person was not originally called in for an in-person interview and where no further information has been received within the specified timeframe, it is recommended that the officer attempt to interview the person, either by telephone or in person. This will ensure that the person concerned is aware of the fact that they may not have appeal rights in their case should a removal order be issued.

Where an interview is not possible because the person refuses to meet or talk with an officer, the officer must keep a record of the efforts made to gather the information as well as provide sufficient time for the person to submit the information for consideration.

Security or serious criminality cases:

It is important to balance the requirement to gather information according to the considerations outlined in ENF 6, Section 19.2 and the need to protect the safety of Canadian society. There will be cases where advising a person that an officer is reviewing the circumstances around their alleged inadmissibility could hamper an ongoing investigation. When officers are considering the arrest and detention of such a person for being a danger to the public (for example, criminal intelligence exists that the person is committing crimes of a violent nature), for a security risk or for being involved in organized crime, it is recommended that the report be written and a decision to refer the matter to the Immigration Division be made prior to the arrest. Once the person is in custody, the officer will explain the process and possible outcome to the individual, conduct the interview to gather information with respect to the criteria considered, and provide the information to the Minister's delegate who made the decision to refer the matter to the Immigration Division. After reviewing the information, if the person making the decision determines that the admissibility

hearing is not warranted, they may withdraw the referral in accordance with rule 5 of the *Immigration Division Rules*.

See Appendix C for more information on Minister's opinion/intervention

Referral of a report to the Minister's delegate:

All A44(1) reports concerning permanent residents must be referred to the Minister's delegate making the final decision about whether or not to refer the matter to the Immigration Division, and must be accompanied by either a detailed memorandum or an A44(1) case highlights form which must include:

- the person's identity, with name, aliases, date and place of birth, citizenship, marital status, present immigration status and details of passports and travel documents;
- details of the violations, and the first possible parole or release date if the person is serving a sentence;
- the officer's opinion based on the assessment of the criteria outlined in ENF 6, Section 19.2, and the recommendation(s); any submissions received from the person or notes taken at the interview; and if applicable, the reasons for any delay in submitting the report.

If the officer recommends an admissibility hearing, officers are required to attach the following documents, if applicable, in duplicate to the memorandum:

- certified true copies of all relevant immigration documents and other certificates and affidavits that can be obtained from the records manager of the Query Response Centre at CIC National Headquarters (NHQ), if applicable;
- originals or certified true copies of other documents relevant to the case, such as a birth certificate, marriage certificate, a certificate of conviction or other evidence of a previous conviction that is acceptable in a court of law;
- police occurrence reports;
- probation, parole and psychiatric assessments;
- police records and information on other convictions not reportable under A44(1);
- other documentary evidence that supports the allegation(s) or describes the person's attachment to Canada and potential for successful establishment;
- proof of a search of citizenship records.

When submitting certificates of conviction, officers are to ensure that the conviction (as opposed to the original charge) meets the equivalency requirements of the inadmissibility allegation.

See also, ENF 1, Inadmissibility; ENF 2, Evaluating inadmissibility; and ENF 23, Loss of Permanent Resident Status.

9. Overview of the examination process

Under the Act, the concept of "examination" and the powers attached thereto include the assessment of any application made to an officer, whether abroad, at a port of entry or inland.

Specifically, A15(1) provides that an officer is authorized to proceed with an examination where a person makes an application to the officer.

R28 provides that for the purposes of subsection A15(1), a person makes an application to an officer by:

- submitting an application in writing;
- seeking to enter Canada;

- seeking to transit through Canada as provided in R35; or
- making a claim for refugee protection.

It is important to note that all persons, including Canadian citizens and Canadian registered Indians, can be examined when entering Canada.

In the case of Canadian citizens and Canadian registered Indians, however, the approach to be maintained is that once a Canadian citizen or a Canadian-registered Indian's status is established, they may enter Canada by right and cannot be the subject of further immigration examination.

The Act gives permanent residents of Canada an unqualified right to enter Canada at a port of entry, even if they become subjects of an inadmissibility report, until a final determination has been made regarding their loss of status.

Put simply, this means that all persons may be subject to an examination, whether it be when applying for a visa abroad, when seeking entry to Canada, when transiting through Canada, R35, when seeking to vary the conditions of entry in Canada or when making any other type of application, including making a refugee claim.

Under the provisions of A16(1), all persons being examined have the obligation to answer truthfully all questions put to them by an officer for the purpose of the examination; and must produce all documents or other evidence reasonably required.

For foreign nationals, the requirement to produce evidence may extend to the provision of photographic and fingerprint evidence A16(2).

See also ENF 4, Port of Entry Examinations

10. Point of finality

The Act provides that an examination begins "when a person makes an application to the officer." In the case of a person seeking to enter Canada, such persons are considered to have made an application pursuant to R28(b) as they are "seeking to enter Canada."

R37 specifies when the examination of a person who seeks to enter Canada, or makes an application to transit through Canada, ends. At a port of entry, persons seeking to enter Canada remain subject to an examination until an officer, or the Minister's delegate, finally determines whether they have the right to enter Canada or authorizes their entry to Canada. Except for persons allowed to enter Canada for further examination, or for an admissibility hearing, the determination is not final until the person exits the controlled zone of the port of entry or, if no controlled zone exists, the port of entry.

Put simply, this means that an examination at a port of entry is not complete until the last CBSA officer who deals with the applicant allows that person to leave the controlled area of the port. Until then, the person may be brought back to an officer for a re-examination of their admissibility and appropriate action. This allows officers to make their determination based on all the information and evidence that become known while the person is at the port of entry.

Such re-examinations may result in an A44(1) report. Persons re-examined may have a passport or travel document that contains a port stamp impression. In such cases, if the officer is of the opinion that the person is inadmissible, the port stamp impression will be marked "CANCELLED".

Other examinations will end when an officer makes a decision on the application before them or, in cases referred to the Minister's delegate, when a determination has been made.

See also ENF 4, Port of Entry Examinations

11. Canada/United States of America Reciprocal Arrangement

The reciprocal arrangement between Canada and the United States of America (USA) provides that the USA will accept the return of visitors to that country if they are not "admitted" to Canada for permanent residence and are denied admission at the port of entry.

Persons re-examined as described above in section 10 “Point of finality” and believed to be inadmissible by an officer are returnable to the USA, regardless of the cancelled port stamp, as they were not “admitted” and meet the criteria of the arrangement.

It should be noted that the Act does not require an officer to stamp travel documents. Furthermore, a port stamp is not an official document nor is it evidence that a person was granted a particular status; it is simply an indication that the person was seen by an officer, nothing more.

NHQ, through the Canadian Embassy in Washington, D.C. first advised the United States Department of Homeland Security (US DHS) of this interpretation in 1998; at the time, a copy of the “Point of Finality” operations memorandum (OM PE 98-28) was also provided. The codification of the “point of finality” operations memorandum in the *IRPA* simply re-affirms that which was previously conveyed.

12. Writing an A44(1) report

12.1. Report requirements

The authority of the Minister’s delegate to cause an admissibility hearing or issue a removal order cannot be exercised unless the form and content of a report under subsection A44(1) are in accordance with the Act governing such procedures.

When an officer is of the opinion that a permanent resident or foreign national in Canada is inadmissible, then that officer may prepare a report under the provisions of subsection A44(1).

The report shall then be transmitted to the Minister’s delegate, along with the officer’s disposition recommendation and reasoning (that is, rationale). This is most easily accomplished by preparing an A44(1) case highlights form. All subsection A44(1) reports:

- must be in writing and must indicate the place and date of issue;
- must be addressed to the PSEP Minister and be signed by the officer who conducted the examination or is otherwise making the report;
- must contain the complete name [correctly spelled] of the person who is being reported;
- must contain the exact section and particulars of the Act upon which the officer based the opinion that the person, who is the subject of the report, is inadmissible;
- must in all cases and in particular in those cases where the sections of the Act are not specific in themselves, indicate in the narrative section of the report, that is to say, below the words “THIS REPORT IS BASED ON THE FOLLOWING INFORMATION,” the specific grounds for applying the particular inadmissible section(s).

A narrative shall be incorporated on all A44(1) reports that justifies the inadmissibility opinion with facts upon which that opinion is based.

For example, in applying A36(2)(b), it is not sufficient to state that the person has been convicted of an offence. The report must fully specify the grounds of inadmissibility in a manner such as the following:

THIS REPORT IS BASED ON THE FOLLOWING INFORMATION:

That [person’s name]:

- has been convicted of an offence; namely, [Possession of Cocaine] on or about [22 November 1982] at or near [Pontiac, Michigan, USA]. This offence, if committed in Canada, would constitute an offence that may be punishable by way of indictment under paragraph 4(3)(a) of the Controlled Drugs and Substances Act and for which a maximum term of imprisonment [not exceeding seven years] may be imposed; and
- has not obtained the authorization of the Minister for entry to Canada.

See also ENF 1, Inadmissibility and ENF 2 Evaluating inadmissibility

12.2. Entering reports in FOSS

An officer will normally "write" an A44(1) report using the "Full Document Entry" (FDE) option in the Field Operational Support System (FOSS).

If, for some reason, FOSS is not available, an A44(1) report may be written on a hardcopy IMM 5480E form, provided it is subsequently entered in FOSS via "Status Entry." Still, officers are advised that completion in FOSS using the FDE option is the preferred method, and should be considered as the default method of reporting a person under the provisions of A44(1).

Officers must take care to avoid errors because the written report is a legal document and may be subjected to close scrutiny not only by the Minister's delegate, but also perhaps by a hearings officer; members of the Immigration and Refugee Board; even Federal or Supreme Court justices.

When an officer uses FOSS, care must be taken to select the proper codes, especially when—at the option of the officer—more than one inadmissibility code is being used or may apply.

For detailed instructions on how to use FOSS, officers are advised to refer to the Field Operations Support System Users' Manual. For general instructions on how to complete Enforcement Data System documents in FOSS, see the Immigration Data Manual (ID Manual).

For detailed instructions on completing an A44(1) report, officers are advised to refer to the ID Manual. When an A44(1) report is entered into FOSS, officers may use either "Full Document Entry" (FDE) or "Status Entry" modes; however, as previously mentioned, FDE mode is to be considered the preferred and default method of entry into FOSS.

Officers will find that they can complete almost all fields in the A44(1) report with a numeric code or abbreviations found in the Coding Manual at , http://www.ci.gc.ca/Manuals/index_e.asp?NewPage=/manuals/immigration/cod/index_e.asp.

The FOSS on-line HELP screens may also be of assistance to officers in determining which code or data field is required without having to reference a manual.

To sign on to the HELP screen, regardless of the type of terminal used, officers must first call up a blank screen by using the NEXT, BACK or CONTROL (CTRL) sequences. On most computers, officers will use either the ESC and $ key sequence, or ESC and $ together.

Once a blank page appears, position the cursor at the top left corner of the screen; then type the word HELP and press the + or XMIT key. The system will then present the HELP Menu screen.

Officers who prepare and complete an A44(1) hardcopy form manually [because FOSS is not available] are to ensure that the hardcopy form is entered into FOSS, via "status entry" mode, as soon as FOSS becomes available.

12.3. After the report is written

Wherever possible, an officer who writes a report must also provide a copy of that report to the person concerned.

In port-of-entry cases, where the person concerned is immediately available, this should pose little difficulty. In other cases, however, such as where the person's whereabouts are unknown or the person is otherwise unavailable, this policy proves difficult to implement.

It is accepted in the context of "natural justice" that persons who are reported under A44(1) should fully understand both the case against them and the nature and purpose of the report.

Therefore, in those cases where a report is prepared as a consequence of an examination [such as at a port of entry] or in any other case where the person concerned is on-site and/or otherwise available to receive a copy of the report, then a copy of the report must be given to the person concerned. Officers should also counsel persons who are the subjects of an A44(1) report on matters as appropriate, such as:

- the reason why the report was (or in the case of an R41 "Direct Back," may be);
- the date and time the person should return if the Minister's delegate was not available to consider a report prepared (or that may be prepared) if the person chooses to return and pursue their entry request with respect to that person [R41(b)];

- if the review by the Minister's delegate is to be conducted at a place other than where the report was completed, appropriate instructions, such as where the office is located and how to get there, should be included;
- the purpose of the review and the options available to the Minister's delegate.

If entry seems justified in the circumstances, officers should also inform persons about the option to apply for a temporary resident permit, including details on the topic of a cost recovery fee. Persons should be counselled that if they wish to apply for a temporary resident permit A24(1), they must pay the cost recovery fee for their application to be considered. They must also be informed that payment of the fee does not guarantee that a temporary resident permit will be authorized. See also IP 1, Temporary Resident Permits

Note: The Regulations establish user fees for services offered to ensure that persons who benefit from the services provided share in the cost of providing those services. This shifts responsibility for funding government services more directly onto users and reduces the financial burden on taxpayers generally. Persons who refuse to pay the required fee for a particular service will have their applications returned. In addition, without payment of the correct fee, the service requested will not be rendered.

12.4. Directing persons back to the USA – Reference R41

If a foreign national is seeking to enter Canada from the United States of America (USA) and if, *inter alia*, a Minister's delegate is not available to consider, under subsection A44(2), an inadmissibility report that may be prepared covering the person, officers may direct the person to return temporarily to the USA until such time as a Minister's delegate is available to consider such a report [R41(b)].

In cases such as the aforementioned, the person concerned shall be given an IMM 1237B - "Direction to return to the United States," indicating an appropriate location, date and time, immediately above the pre-printed statement: "If you desire to continue with your application to enter Canada, please return on the date and time mentioned above."

Additionally, in the case of an IMM 1237B being given to a person, officers are required to complete the "DB - DIRECT BACK" in the Field Operational Support System (FOSS) screen, with remarks – including full details of the inadmissibility and a brief account of what transpired and/or occurred.

Officers should note that there is no requirement for an A44(1) inadmissibility report to be written before, at the time or even after issuance of an IMM 1237B - Direction to return to the United States. If the person concerned does subsequently return - in accordance with the location, date and time elements indicated on a previously issued IMM 1237B - and thereby expresses a desire to continue with their application to enter Canada, an A44(1) report may be prepared at that time.

Synopsis: If officers decide to use the direct-back option, they should:

- counsel the person on the same points as indicated above in Section 12.3 After the report is written;
- arrange an appropriate time, date and place for the person to return;
- complete an IMM 1237B – Direction to return to the United States, which may be generated by FOSS. If FOSS is not available, complete an IMM 1237B by hand and "status enter" the document into FOSS as soon as FOSS becomes available;
- give the person concerned a copy of the IMM 1237B– Direction to Return to the United States;
- complete an IMM 1216B- "Notice of Requirement to Carry a Foreign National from Canada" (if applicable); and
- provide the transportation company (if applicable) with copies of the IMM 1216B and IMM 1237B, and arrange for compliance.

12.5. Additional allegations: Amending the A44(1) report

There may be instances where an officer, after preparing or reviewing an A44(1) report, finds:

- that the grounds cited in the report are not valid, but in the officer's opinion the person falls within some other inadmissible class; or
- there is an additional ground of inadmissibility.

In such cases, the Act requires that the rules of natural justice must be observed in that the person concerned is to be accorded the earliest possible notice of all the grounds against them.

Accordingly, the officer should correct or amend the original A44(1) report and sign just below the correction or amendment, as the case may be. A copy of the amended report must be given to the person concerned and, where applicable, their counsel.

If an officer is considering the possibility of additional allegations where the report has already been referred to the Immigration Division, the officer should contact the hearings officer to determine whether the additional grounds can be added to the report or whether a separate report will be required

12.6. Reporting family members

Officers may need to assemble information about family members of a person who is covered by a report and decide whether the family member(s) should also be reported and/or made subject to a removal order that may be made against them by the Minister's delegate or the Immigration Division.

Officers should always consider including family members as it will avoid separating families and negate the possibility of family members being abandoned when one member of the family must be removed from Canada.

Regulation R1(3) provides:

> **1.(3)** For the purposes of the Act, other than section 12 and paragraph 38(2)(d), and for the purposes of these Regulations, other than sections 159.1 and 159.5, "family member" in respect of a person means :
>
> (*a*) the spouse or common-law partner of the person;
>
> (b) a dependent child of the person or of the person's spouse or common-law partner; and
> (c) a dependent child of a dependent child referred to in paragraph (*b*).

In cases involving allegations within the Minister's delegate's jurisdiction, a separate A44(1) inadmissibility report is required for each family member under A42(b). In cases where the Immigration Division is involved, family members may be included in a removal order - unless the family member is a Canadian citizen or a permanent resident - without the need for a separate inadmissibility report.

It is to be noted that R227(2) provides that in the case of a report and a removal order made by the Immigration Division against a foreign national in respect of whom there are family members in Canada, the removal order may be made effective against the family member(s) provided:

- an officer informed the family member(s) of the report;
- an officer informed the family member(s) that they are the subject of an admissibility hearing and consequently, have the right to make submissions and be represented, at their own expense, at the admissibility hearing;
- the family member is subject to a decision that they are inadmissible under section A42 on grounds of being an inadmissible family member.

Note: For the purposes of A52(1), the making of a removal order against a foreign national on the basis of inadmissibility under A42(b), that is, being an inadmissible family member, is prescribed as a circumstance that does not oblige the foreign national to obtain the authorization of an officer in order to return to Canada.

See also ENF 6 Review of reports under A44(1)

13. Referring reports when a Minister's delegate is not on-site

A44(1) requires that inadmissibility reports be transmitted to the PSEP Minister after being prepared. Under the provisions of A6(2), an officer or a manager may be delegated to act for the PSEP Minister, depending on the person's status. Officers are advised to refer to the delegation documents for a determination as to whom the different reports are to be referred.

Upon receipt of an A44(1) report, the PSEP Minister [or the Minister's delegate] may, if of the opinion that the report is well-founded, refer the report to the Immigration Division for an admissibility hearing; or in specific circumstances, issue a removal order.

As officers cannot prepare and then review/determine their own report, in those instances where a Minister's delegate is not physically on-site and/or otherwise available to conduct an "in-person" review and determination, it will be in order for an officer to contact a Minister's delegate by telephone for the purposes of reviewing and determining an A44(1) report.

All A44(1) report reviews and determinations conducted by telephone must have an A44(1) case highlights form completed by the officer. The officer who contacts the Minister's delegate must also undertake to make full and complete notes throughout all phases of the Minister's delegate review and determination proceeding.

The officer must ensure that all notes made are kept with the case file so that a proper record exists. The officer, on behalf of the Minister's delegate, must also append to the case highlights form a written narrative of the Minister's delegate's decision and, if applicable, any other comment(s) and/or instruction(s) that the Minister's delegate wishes to have recorded.

In those cases where the Minister's delegate has jurisdiction to issue a removal order, officers must be particularly diligent to ensure that all matters relating to "natural justice" and "procedural fairness" are satisfied.

If for any reason the opportunity does not exist for the person concerned to talk with the Minister's delegate via speaker telephone, or if for any reason the Minister's delegate is of the opinion that the person concerned does not truly appreciate the nature of the proceedings, then no decision on the report is to be rendered until such time as a Minister's delegate is physically on-site and able to conduct a review and determination of that report "in-person."

With respect to all manner of documentation that a Minister's delegate might issue, including a removal order, it will be in order for an officer to issue such documents on behalf of the Minister's delegate, only after having received the express verbal authorization from the Minister's delegate to issue such a document; and then only on condition that the officer signs such document on behalf of the Minister's delegate.

Note: If for any reason a Minister's delegate does not wish to proceed with or otherwise continue with a telephone review and determination of an A44(1) report, then the officer must either conclude the case as though no Minister's delegate were involved; or must deal with the case as though an "in-person" Minister's delegate review is required. In other words, the officer is not to proceed in contacting by telephone other Minister's delegates if one such delegate has already been contacted and, for whatever reason, has declined to conduct an A44(1) telephone review.

13.1. Reports with allegations outside the Minister's jurisdiction

If a report contains one or more inadmissibility allegations, and if the Minister's delegate has jurisdiction for all inadmissibility allegations contained within that report, it will be in order for the Minister's delegate to decide (that is, finally determine) the disposition of that report.

If, however, there are several inadmissibility allegations in a report, only some of which the Minister's delegate has jurisdiction for, then the Minister's delegate is not authorized to determine a disposition for that report and all allegations must be referred to the Immigration Division.

A44(2) provides that a report based solely on lack of compliance with the residency obligation of A28 may not be referred to the Immigration Division. However, where non-compiance with A28 is one of several allegations, R229(1)(k) provides that the Immigration Division of the IRB may issue a removal order at a hearing for failure to comply with the residency obligation of A28 in cases where the admissiblity hearing resulted from an inadmissibility report based on multiple allegations.

If the Minister's delegate receives two separate inadmissibility reports on the same person, then the Minister's delegate is authorized to make a determination and if appropriate issue a removal order on the report that contains only allegations for which the Minister's delegate has jurisdiction.

Further, on the matter of two separate inadmissibility reports on the same person, if - for whatever reason - the Minister's delegate refers one report to the Immigration Division, then the remaining report with grounds that need not be referred to the Immigration Division (that is, the report that contains only inadmissibility allegations that fall within the Minister's delegate's jurisdiction), should be held in abeyance pending the result of the Immigration Division hearing.

Note: If an officer is considering whether to write two separate inadmissibility reports on the same person, and if the allegation for which the Immigration Division has jurisdiction is not one that is worth pursuing – for example, because it will not affect eligibility of a protection claim or because the Minister's delegate may issue an exclusion order based on the other allegations and there is no concern that the person will be able to return to Canada without consent after one year - then the officer may use discretion and not write an A44(1) report containing allegations for which the Immigration Division has jurisdiction R228(1) and R229(1).

See also Appendix D- A41 Non-compliance table/IRPA vs.1976 Act.

Appendix A Writing a report against a permanent resident

TO: CLIENT ID NAME AND ADDRESS OF CLIENT	OFFICE LOCATION: 1234 ANY STREET SMALLTOWN CANADA

It is alleged that you may be inadmissible to Canada under section ____ of the *Immigration and Refugee Protection Act*, specifically:

Insert IRPA wording here

A decision to allow you to remain in Canada or to seek to have a removal order issued against you will be made in the near future. The next step in the process is to conduct a review of the circumstances of your case. Information such as your age at the time you became a permanent resident of Canada, the length of time you have been here; the location of your family support and related responsibilities; your degree of establishment (work, language, community involvement); any criminal activity in which you may have been involved and any other relevant factors will be considered in the decision making process.

You are requested to present yourself at this office for an interview on:

DATE

Please bring your passport, travel document or national identity card and your Record of Landing (IMM1000), confirmation of Permanent Residence (IMM 5292B or IMM 5509B) or permanent resident card. Also, you may bring any other supporting documentation that you wish to be considered.

If you require interpretation, please bring a translator with you.

Please be advised that should you fail to report for this interview, a decision will be made based on the information available on file.

Please note that, based on the information on file, you

may

may not

have appeal rights to the Immigration Appeal Division should a removal order be issued against you. Section 64 of the *Immigration and Refugee Protection Act* states that:

no appeal may be made to the Immigration Appeal Division by a foreign national or their sponsor or by a permanent resident if the foreign national or permanent resident has been found to be inadmissible on grounds of security, violating human or international rights, serious criminality* or organized criminality.

*must be in respect to a crime that was punished in Canada by a term or imprisonment of at least two years.

Appendix B Writing a report against a permanent resident without an interview

TO:	OFFICE LOCATION:
CLIENT ID NAME AND ADDRESS OF CLIENT	1234 ANY STREET SMALLTOWN CANADA

A report under section 44(1) of the *Immigration and Refugee Protection Act* has or will be prepared alleging that you may be inadmissible to Canada under section ____ of the Immigration and Refugee Protection Act, specifically:

Insert IRPA wording here

A decision to allow you to remain in Canada or to seek to have a removal order issued against you will be made in the near future. The next step in the process is to conduct a review of the circumstances of your case. If the officer forms the opinion that your case should be referred for review by the Minister's delegate or the Immigration and Refugee Board, the report *(attach when available)*, along with the details of your case will be forwarded for review**.** Information such as your age at the time you became a permanent resident of Canada, the length of time you have been here; the location of your family support and related responsibilities; your degree of establishment (work, language, community involvement); any criminal activity in which you may have been involved and any other relevant factors will be considered in the decision making process.

You may make **written** submissions, within 15 days of receiving this letter, by providing reasons why a review **should not** be caused. You can mail any pertinent information to the address noted in the top right hand corner of this letter. Should you choose not to submit any information or documentation, a decision will be made based on the information available on your file.

Please also note that, based on the information on file, you

may

may not

have appeal rights to the Immigration Appeal Division should a removal order be issued against you. Section 64 of the *Immigration and Refugee Protection Act* states that:

no appeal may be made to the Immigration Appeal Division by a foreign national or their sponsor or by a permanent resident if the foreign national or permanent resident has been found to be inadmissible on grounds of security, violating human or international rights, serious criminality* or organized crime.

*must be in respect to a crime that was punished in Canada by a term or imprisonment of at least two years.

Appendix C Overview: Minister's opinions/interventions

Requesting the C&I Minister's opinion

Information may come to the attention of an officer during an examination, or in the course of an investigation that may warrant securing the Minister's opinion that a person is a danger to the public.

For example:

- A refugee claimant where that claimant has been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence under an Act of Parliament that is punishable by at least 10 years' imprisonment A101(2)(b).

In such a case, if the Minister is of the opinion that the person is a danger to the public in Canada, and if it is determined at an admissibility hearing that the conviction is for an offence that, if committed in Canada, would constitute an offence under an Act or Parliament that is punishable by a maximum term of imprisonment of at least 10 years, then that person's claim will be ineligible to be referred to the Refugee Protection Division under the provisions of A101(1)(f).

- A protected person who is inadmissible on grounds of serious criminality and who constitutes, in the opinion of the Minister, a danger to the public in Canada A115(2)(a).

In such a case, if the Minister's opinion is issued, then that protected person [or person who is recognized as a Convention refugee by another country to which the person may be returned] will no longer be protected from the non-refoulement provisions A115(1).

Intervention, cessation and vacation

Officers may have occasion to deal with information that may support a possible intervention, cessation or vacation process.

If such is the case, the information should be brought to the attention of a hearings officer; the hearings officer will then decide if the information and/or evidence should be brought to the attention of the Immigration and Refugee Board (IRB).

In some cases, an officer may receive information that could affect the decision of the Refugee Protection Division. If an officer becomes aware of new information relative to any of the inadmissibility provisions under A34 through A37, or where there is information to suggest that there is a contradiction of any document or statement made by a refugee, officers should:

- conduct an interview with supporting notes, see ENF 7, Section 14.2 – General rules for note-taking, and prepare a statutory declaration, see ENF 7, Section 14.6 – Statutory declarations, recording information or identifying documents received;
- seize any relevant documents under A140(1) that could be used as evidence;
- create a general information NCB in FOSS and update the National Case Management System (NCMS) to indicate that the case is under investigation and the reason(s) for investigation (for example, "under investigation - grounds to support intervention, cessation or vacation [as appropriate] may exist");
- contact the hearings officer to discuss case details;
- at the request of the hearings officer, conduct further investigation to collect additional evidence;
- when the investigation is complete, the file and all supporting documentation should be transferred to the hearings officer with a memorandum outlining the case details.

See ENF 7, Investigations and arrests; and ENF 24, Ministerial Interventions

Appendix D A41 Non-compliance table/IRPA vs.1976 Act

A41

In those cases where the A41 non-compliance allegation is being used by an officer and the Minister's delegate has jurisdiction for all other inadmissibility allegations contained within that A44(1) report, officers are to confine FOSS cause code entry to only the broader A41 by A20(1)(a) or (b) – as appropriate – allegation cause code numbers. The specific deficiency comments are then to be incorporated within the narrative portion of the A44(1) report, under the heading: "THIS REPORT IS BASED ON THE FOLLOWING INFORMATION:"

In other words, the specific description of the particular deficiency in the visa or other required document (for example, a passport) and the specific reference–if any–to a regulation [for example, R52(1)(a) are only to be incorporated and reflected within the officer's narrative [which justifies the inadmissibility allegation] under the heading: "THIS REPORT IS BASED ON THE FOLLOWING INFORMATION:"

This is considered necessary in order to preserve the jurisdiction of the Minister's delegate under R228(1).

A41(a) - Foreign Nationals

	1976 Act	**Stated requirement under 1976 Act**	**IRPA A41(a) combined with:**	**FOSS Input [cause code A36 plus]:**	**IRPA Equivalent**
1.	A19(2)(d) A9(1) No Immigrant Visa	Have visa prior to appearing at port of entry	**A20(1)(a)**	A49	May not enter Canada to remain on a permanent basis without first obtaining a permanent resident visa [R6].
2.	A19(2)(d) & A9(1) or R13(4) No CVV	Must have visa, student or employment authorization at port of entry	**A20(1)(b)**	A52	May not enter Canada to remain on a temporary basis without first obtaining a temporary resident visa [R7].
3.	A19(2)(d) 10(a) and (b) or R13(4) No student authorization at POE	Must obtain student authorization if studying	**A20(1)(b)**	A52	May not enter Canada to study without first obtaining a study permit [R9].
4.	A19(2)(d) A10(c) or R13(4) No authorization at POE	Must obtain employment authorization if working	**A20(1)(b)**	A52	May not enter Canada to work without first obtaining a work permit [R8].
5.	A19(2)(d) A12(4)	Tell truth, produce documents or evidence	**A16(1)**	A43	When making application, must answer truthfully, produce any relevant or required document.
6.	A19(2)(d) A11	Must under go a medical examination	**A16(2)(b) combined with R30(1)(a) through (e)**	A47 R07 R09 R11 R12 R13	Must submit to medical examination.
7.	New		**A20(1)(a) A20(1) (b)**	A49 A52	Must hold medical certificate that is based on

					last medical examination [R30(4)].
8.	A19(2)(d) R14(1)	Immigrant, no passport	**A20(1)(a)**	A49	Seeking to become a permanent resident at a POE, must hold document listed in R50(1) paragraphs (a) to (h)
9.	A19(2)(d) R14(3)	Visitor, no passport	**A20(1)(b)**	A52	Seeking to become a temporary resident at a POE, must hold document valid for period authorized, listed in R52(1) paragraphs (a) to (i)
10.	19(2)(d) A18(1)	Fail to fulfil conditions	**R45(1)**	R21	An officer can require a person or group of persons seeking to enter Canada to arrange guarantee or deposit money.
11.	A19(1)(h)	Non-genuine visitor	**A20(1)(b)**	A52	Must establish that they will leave by end of period authorized
12.	A19(1)(h)	Non-genuine immigrant	**A20(1)(a)**	A49	Must establish intent to establish residency
13.	A19(1)(i)	Return without consent	**A52(1)**	A61	If subject of enforced removal order, must not return without authorization
14.	A27(2)(b)	Working without authorization	**A30(1)**	A58	Must not work unless authorized
15.	A27(2)(e)	Overstay	**A29(2)**	A55	Must leave Canada at end of period authorized for their stay.
16.	A27(2)(e) A26(1)(a)	Cease to be visitor for failing to comply with terms or conditions	**A29(2)**	A55	TR must comply with any conditions imposed under the Regulations.
17.	A27(2)(e) A26(1)(b)	Cease to be visitor for studying or working without authorization	**A30(1)**	A58	Must not work or study unless authorized
18.	A27(2)(e) A26(1)(c)	Cease to be visitor for remaining longer than authorized	**A29(2)**	A55	Must leave Canada at end of period authorized
19.	A27(2)(e) A26(1)(c.1)	Ship jumper	**A29(2) X** **R184(1)(a)** **R184(1)(b)** **R184(2)(a)** **R184(2)(b)** **R184(2)(c)**	A55 R28 R29 R30 R31 R32	Cite the specific paragraph that applies.
20.	A27(2)(f)	Coming in at a	**A18(1) R27(2)**	A48	Persons seeking entry at a

		place other than a port of entry and failing to report forthwith to an immigration officer		R06	place other than a POE must report for examination without delay.
21.	New		**A18(1)** **R27(1)**	A48 R05	Persons seeking entry must report for examination without delay.
22.	A27(2)(f)	Eluding examination	**A18(1) X** **R27(1)** **R27(2)**	A48 R05 R06	Persons seeking entry at a POE or at a place other than a POE must report for examination without delay.
23.	A27(2)(h)	Returning without consent	**A52(1)**	A61	If subject of enforced removal order, must not return without authorization
24.	A27(2)(g)	Coming into or remaining in Cda by improper means	**A18(1) &** **R27(1)**	A48 R05	Persons seeking entry at a POE must report for examination without delay.

A41(b) - Non-compliance - Permanent Residents

	1976 Act	**Stated requirement Under 1976 Act**	**IRPA A41(b) combined with:**	**FOSS**	**IRPA Equivalent**
1.	A27(1)(b)	Knowingly contravened a term or condition	**A27(2)**	A37	Must comply with any condition imposed under the Regulations
2.	A19(2)(d) and A9(1)	At a port of entry, ceased to be a permanent resident	**A28(1)**	A38	Requires compliance with the residency obligation - must reside within Canada 730 days in a five-year period.
3.	27(2)(a) 19(2)(d) A9(1)	In Canada, ceased to be a permanent resident	**A28(1)**	A38	Requires compliance with the residency obligation - must reside within Canada 730 days in a five-year period