

# Fact Sheet

January 2005

## Keeping Canada safe

### Snapshot

Public safety is a priority for Canada Border Services Agency (CBSA). As part of the enforcement of the *Immigration and Refugee Protection Act*, CBSA officers support immigration officers overseas when they assess the applications of people who wish to come to Canada to ensure that access is denied to people who have been involved in serious crimes or who pose a threat to Canada's security. In Canada, CBSA uses various measures to remove people who are inadmissible for reasons such as security, terrorism, criminality, espionage or violations of human or international rights, including war crimes and crimes against humanity.

As an added measure, CBSA has a network of Migration Integrity Officers around the world. As part of their work, they check documents to prevent people from using improper documents to board planes destined for Canada.

### Who is responsible

The CBSA collaborates with several partners, including Citizenship and Immigration, the Royal Canadian Mounted Police, the Canadian Security and Intelligence Service, national, provincial and municipal police, and international police, and law enforcement agencies, to prevent criminals, people involved in organized crime or in human or international rights abuses, and people who pose a security threat from taking advantage of Canada's immigration program.

### Background checks

Background checks are carried out on anyone 18 years of age or over who applies for immigration or comes to Canada and claims refugee status. These background checks are an important tool for identifying criminals and known security threats. Various sources are used for background checks, including visa application forms, intelligence information, criminal conviction records and immigration records.

Background checks may also be carried out on people who apply to come to Canada temporarily.

### Danger opinion

**What are danger opinions?** Danger opinions are issued if the Minister of Citizenship and Immigration believes that a person is a danger to the Canadian public or a danger to Canada's security. They can be issued against Convention refugees facing removal and against a person claiming protection.

A person's history is reviewed to determine if they pose a danger to Canada that outweighs the risk of removal to the country from which they fled persecution.

**What is the effect of a danger opinion?** A danger opinion allows CBSA to remove a Convention refugee from Canada. It also makes a refugee claimant ineligible for referral to the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB).

# Certificates under the Immigration and Refugee Protection Act

**What is a certificate?** A certificate, also referred to as a security certificate is one way for CBSA to remove a person who poses a security threat. A certificate is only issued for removal purposes when there is information that needs to be protected for security reasons.

The certificates are reviewed and signed by the Minister of Public Safety and Emergency Preparedness and the Minister of Citizenship and Immigration. They can be issued against permanent residents and foreign nationals.

Once signed, the certificates are referred to the Federal Court. The judge hears all or part of the evidence from the Minister in the absence of the person named. Evidence and information are heard in private by the judge to protect national security or the safety of any person. The judge will also hear evidence and testimony from the person named in the certificate.

**What is the effect of a certificate?** When a certificate is issued, all other immigration proceedings are suspended until the Federal Court makes a decision on the reasonableness of the certificate.

Foreign nationals (individuals) who are the subject of a certificate are automatically detained.

Permanent residents may be detained on a case-by-case basis.

If the judge determines that the certificate is unreasonable, the certificate is quashed. If, however, the judge decides that it is reasonable, then the certificate automatically becomes a removal order. The Federal Court's decision cannot be appealed.

## Other enforcement action

The CBSA has other ways of issuing removal orders against people who are involved in criminal activity or who are security risks. The CBSA Officers issue removal orders when the case is straightforward. Members of the Immigration Division of the IRB issue removal orders in more complex cases at an admissibility hearing.

An admissibility hearing is similar to a court hearing. Like a judge, the member listens to evidence presented by an officer and the person who is the subject of the admissibility hearing. Unlike a normal court hearing, however, there is no jury and there are fewer restrictions on evidence. The admissibility hearing is open to the public, unless it concerns a refugee protection claimant.

## What changed with the introduction of the *Immigration and Refugee Protection Act* on June 28, 2002

**Streamlining the certificate process** Three important changes under the new Act allow for a more expeditious removal of security threats:

**One process for all security threats** Permanent residents and non-permanent residents are dealt with under the same process.

**Certificates automatically become removal orders** When the Federal Court upholds a certificate, it automatically becomes a removal order that cannot be appealed. This eliminates the necessity of holding an admissibility hearing.

**Suspension of immigration proceedings** In security certificate cases, other immigration proceedings are suspended until the Federal Court makes a decision on the certificate.

**Suspension or termination of a claim for protection** The new Act allows the RPD to suspend a claim for refugee protection when a person is referred to an admissibility hearing before a member of

the Immigration Division for having breached the Act on grounds of security, organized crime or human rights violations. Claims are terminated if the person is found to be inadmissible on these grounds.

**Broader provisions on organized crime** Organized crime provisions have been expanded to include people who engage in transnational human smuggling, trafficking in people or money laundering.

**Elimination of appeals** The new Act eliminates the right to appeal removal orders to the IAD for people who are security threats or war criminals, people who have committed crimes against humanity, people involved in organized crime and serious criminals. This will allow for the speedier removal of such people.

**Streamlining the removal process** Under the proposed Regulations, officers will be able to issue deportation orders to foreign nationals convicted of a criminal offence in Canada.

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