Citizenship and Immigration Canada
Citoyenneté et Immigration Canada

ENF 10

Removals

Canada

ENF 10 Removals

Updates to chapter

Listing by date:

Date: 2006-01-19

Changes were made to reflect transition from Citizenship and Immigration Canada (CIC) to the Canada Border Services Agency (CBSA). The term "delegated officer" was replaced with "Minister's delegate" throughout text, references to "departmental policy" were eliminated, references to the CIC and CBSA officers and the Citizenship and Immigration (C&I) Minister and the Public Safety and Emergency Preparedness (PSEP) Minister were made where appropriate, and other minor changes were made.

2004-10-28

Section 11.2 has been updated to replace a link to the list of countries for which there is a temporary suspension of removal. The old link was no longer operational.

Sections 22 and 22.1 have been completely replaced to reflect new procedures that were put in place in May 2004 and were published on the Investigations and Removals website. Procedure, position titles and contacts have been updated.

Section 24.1 has been updated as one of the positions referred to was outdated. Details of the procedure and contacts were also added to the last paragraph.

Section 25 has been updated to change the title “Immigration Control Officer” for “Migration Integrity Officer” as per the new procedure in Section 22.1.

Section 35.2 has been clarified to read “after a removal order *comes into force*” instead of the former “becomes enforceable”.

2003-10-20

Appendix D - 1, Appendix D - 2, Appendix E - 1, Appendix E - 2, Appendix F and Appendix G have been updated.

2003-06-27

Links added.

2003-05-07

Among many changes to this chapter, the highlights include:

- Section 5.1 has been updated to provide a web link to the Treasury Board Travel Guidelines which took effect October 1, 2002.
- Section 6 introduces new definitions for Authorization to Return to Canada (ARC) and Previously Deported Person (PDP).

- Section 9.3 has incorporated new procedures for determining the calculation of when a removal order comes under A49(2), specifically when a decision (formerly known as *deemed notification)* was mailed by the Refugee Protection Division.

- Section 9.5 provides guidance when determining if a removal order is no longer in force and effect.

- Section 10.1 has removed the guidelines for deemed notification. For further information on determining when a removal order comes into force for decisions delivered by mail, refer to the new instructions in section 9.3.

- Section 11.2 provides a direct web link for a list of countries to which CIC is currently not removing (temporary suspension of removals).

- Section 12 has been modified to assist in the application of A50(a) which deals with stays of removal. Note: This section is currently under review and further details will be provided as they become available.

- Section 15 provides amendments to the guidelines for the Pre-Removal Risk Assessment (PRRA) program.

- Section 17. has been amended and provides a link to chapter ENF 11 - Verifying Departure Chapter (sections 10 and 11) for the procedures in determining whether a person should be removed through voluntary compliance or removal by the Minister.

- Section 18 is a new section on entering data on Previously Deported Persons (PDP) onto CPIC. This section provides on overview of the PDP initiative, provides the procedures to complete the PDP screen in FOSS after a person's departure has been verified, as well as the criteria for the PDP information to be downloaded to CPIC.

- Section 19.4 is a new section outlining the circumstances for returning seized documents to refugee claimants.

- Section 20. has been amended to provide clarification on obtaining travel documents.

- Section 24.1 has been amended to provide discretion to officers when contacting Medical Services at NHQ in cases where persons with medical conditions who are subject to removal from Canada claim that inadequate treatment or facilities are available in their destination country.

- Section 31. provides clarification to the guidelines on repayment of removal expenses for persons removed at the expense of CIC.

2003-05-05

Section 18, Entering Previously Deported Persons onto CPIC. New sections provide details on the scope of the PDP initiative and guidance to officers after enforcing removal orders. These sections provide details on how to complete the new PDP document in order to enable the PREV.DEP flag in FOSS and identify a record for download to CPIC-PDP database.

1. What this chapter is about

This chapter describes how to remove foreign nationals from Canada who have contravened the *Immigration and Refugee Protection Act* (IRPA) and its Regulations and who are the subject of an enforceable removal order. It is designed to assist officers in planning, organizing and directing the removal of foreign nationals from Canada.

In addition, the latter part of this chapter, to be read in conjunction with the general removal policies and procedures, outlines specific procedures for the removal of foreign nationals to the United States. These procedures are set out and governed through the administration of the Reciprocal Arrangement between Canada and the United States for the exchange of deportees (see Appendix A).

2. Program objectives

The objectives of Canada's immigration policy concerning removals are:

- to maintain and protect public order, health and security in Canada;
- to remove alien criminals from Canada expeditiously;
- to ensure that all the legal rights accorded to foreign nationals being removed are observed; and
- to conduct their removal effectively and equitably.

3. The Act and Regulations

Officers responsible for the removal of foreign nationals from Canada should be familiar with the legislative and regulatory authorities contained in IRPA and its Regulations. The following are referenced authorities that should assist officers.

Provision	Section
Foreign national	A2(1)
Permanent resident	A2(1)
Enforceable removal order	A48(1)
Effect of an enforceable removal order	A48(2)
When a removal order comes into force: non-refugee protection claimants	A49(1)
When a removal order comes into force: refugee protection claimants	A49(2)
Stay of removal: decision made at a judicial proceeding/PSEP Minister given an opportunity to make submissions/if directly contravened by the enforcement of a removal order	A50(a)
Stay of removal: sentenced to a term of imprisonment in Canada	A50(b)
Stay of removal: duration of stay imposed by the Immigration Appeal Division (IAD) or any other court of competent jurisdiction	A50(c)
Stay of removal: duration of stay under A114(1)(b)	A50(d)
Stay of removal: duration of stay imposed by the PSEP Minister	A50(e)
Return to Canada after an enforced removal order	A52(1)
Arrest and detention with a warrant	A55(1)
Arrest and detention without a warrant	A55(2)

Detention by the Immigration Division	A58(2)
Order for the delivery of inmate at the end of the period of detention	A59
Arrest and detention of a permanent resident named in an A77(1) certificate	A82(1)
Detention of a foreign national named in an A77(1) certificate	A82(2)
Release by the PSEP Minister from detention for removal from Canada	A84(1)
Exceptions for PRRA protection	A112(2)
Persons granted PRRA protection and restricted from refugee protection	A112(3)
Conditions for stay of removal under R232	R162
PRRA application received within 15 days must not be decided until at least 30 days after notification was given	R164
Requirements to return to Canada – departure order	R224(1)
Departure order becoming a deportation order	R224(2)
Requirements to return to Canada – one-year exclusion order	R225(1)
Requirements to return to Canada – two-year exclusion order	R225(2)
Requirements to return to Canada – deportation order	R226(1)
Stay of removal: temporary suspension for generalized risk	R230
Stay of removal: judicial review of an RPD decision	R231
Stay of removal: pre-removal risk assessment	R232
Stay of removal: humanitarian and compassionate considerations	R233
Application of A50(a)	R234
Modality of enforcement: voluntary compliance or removal by the Minister	R237
Requirements for voluntary compliance	R238(1)
Voluntary compliance: choice of country	R238(2)
Requirements for removal by the PSEP Minister	R239
When a removal order becomes enforced	R240(1)
Circumstances when a removal order is enforced outside Canada	R240(2)
Country of removal when removed by the PSEP Minister	R241(1)
Circumstances when the Minister selects the country of removal under R241(1)	R241(2)
Mandatory removal by the PSEP Minister and the PSEP Minister selects a country of removal	R241(3)
Transferred under the *Mutual Legal Assistance in Criminal Matters Act:* not authorized to enter another country.	R242
Requirements to return to Canada: payment of prescribed removal costs if removed by the PSEP Minister	R243

3.1. Transitional provisions

IRPA and its Regulations establish a transitional correspondence between the removal provisions of the former *Immigration Act,* 1976, and IRPA. Each transitional provision having an impact on the removals program is outlined below.

Application of IRPA

Under the transitional provision of A190(1), every application, proceeding or matter under the former Act that was pending or in progress immediately before the coming into force of this section shall be governed by IRPA on that coming into force.

Stays

Under the transitional provision of A197 and despite A192, if an appellant who has been granted a stay under the former Act breaches a condition of that stay, the appellant shall be subject to A64 and A68(4).

Decisions made under former Act

Under the transitional provision of R317(1), a decision made under the former Act that was in effect immediately prior to the coming into force of IRPA continues to be in effect after that coming into force.

Removal orders

Under the transitional provision of R319(1), a removal order made under the former Act that was unexecuted on the coming into force of the removal process continues in force and is subject to IRPA.

Stay of removal

Under the transitional provision of R319(2), the enforcement of a removal order that had been stayed on the coming into force of this section under paragraph 49(1)(c), (d), (e) and (f) of the former Act continues to be stayed until the earliest of the events described in R231(1)(a),(b), (c), (d) and (e).

This provision does not apply if:

- the subject of the removal order was determined by the Convention Refugee Determination Division not to have a credible basis for their claim; or

- the subject of the removal order is inadmissible on grounds of serious criminality, or reside or sojourn in the U.S. or St. Pierre and Miquelon and is the subject of a report prepared under A44(1) on their entry into Canada.

Conditional removal order

Under the transitional provision of R319(4), a conditional removal order made under the former Act continues in force and is subject to A49(2)

Enforced removal order

Under the transitional provision of R319(5), A52 applies to a person who immediately before the coming into force of this section was outside Canada after a removal order had been enforced against them.

Warrants

Under the transitional provision of R325(1), a warrant for the arrest and detention made under the former Act is a warrant for arrest and detention made under IRPA.

Removal not prohibited

Under the transitional provision of R326(3), a person whose removal on the coming into force of this section was allowed by the application of paragraph 53(1)(a), (b), (c) and (d) of the former Act is a person referred to in A115(2). .

Judicial review

Under the transitional provision of R348(1):

> 348. (1) On the coming into force of this provision, any application for leave to commence an application for judicial review and any application for judicial review or appeal from an application that was brought under the former Act and is pending or in progress before the Federal Court or the Supreme Court of Canada is deemed to have been commenced under Division 8 of Part 1 of IRPA and is governed by the provisions of that Division and section 87.

3.2. Forms

The forms required are shown in the following table.

Form Title	Form number
Certificate of Departure	IMM 0056B
Order for Detention	IMM 0421B
Costs Payable by Transporters	IMM 0459B
Detained Sticker	IMM 0476B
Denial of Authorization to Return to Canada	IMM 1202B
Authorization to Return to Canada	IMM 1203B
Notice of Requirement to Carry a Foreign National from Canada	IMM 1216B
Direction to Leave Canada	IMM 1217B
Envelope: Removal Documents	IMM 1226B
Direction to Return to the United States	IMM 1237B
Notice of Removal and Profile	IMM 1253B
Notice of Issuance of Permit	IMM 1443B
Removal Checklist and File Audit	IMM 5125B
Canada Immigration Single Journey Document	IMM 5149B
Withdrawal of a Claim for Refugee Protection Prior to referral to the Refugee Protection Division	IMM 5317B
Criminality 1 Stickers	IMM 5357B
Criminality 2 Stickers	IMM 5358B
Enforcement Incident Report (EIR)	IMM 5381E
Background Information Document	IMM 5417B
Return of Non-Resident Alien – Reciprocal Arrangement – Section 111.2	IMM 5522B

4. Instruments and delegations

With respect to their respective mandates, the Minister of Citizenship and Immigration (C&I) and the Minister of Public Safety and Emergency Preparedness (PSEP) may designate persons or class of persons as officers to carry out any purpose of any provision of IRPA; delegate their powers and functions under IRPA, unless otherwise provided.

While the PSEP Minister has the policy lead for enforcement with respect to IRPA, 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 of Officers and Delegation of Authority document signed by the PSEP Minister can be found in IL 3. As a general rule, CIC officers have been designated the authority to write reports for all allegations except A34 (security) grounds, A35 (grounds of violating human or international rights), and A37 (grounds of organized criminality), which cases will be referred to the CBSA. The 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. Administrative travel guidelines for officers performing escorts

The Treasury Board of Canada travel directive is an important document for Government of Canada employees who travel on government business or arrange for those who travel.

Management and officers can locate the travel directives at the following Web site:
http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/td-dv_e.asp

6. Definitions

Authorization to return to Canada (ARC)	Written authorization by an officer, in prescribed circumstances, to allow a person to return to Canada after their removal order has been enforced.
Certificate of Departure	This document confirms that the person named on the removal order has appeared before an officer at the port of entry (POE) to verify their departure, that they will depart or have departed from Canada, and have been authorized to enter their country of destination. This document also confirms the enforcement of a removal order outside Canada.
Enforceable removal order	A removal order that has come into force and is not stayed.
Enforced removal order	A removal order is enforced only after the requirements of R240(1) or, in the case of a person outside Canada, R240(2) have been met.
Foreign national	A person who is not a Canadian citizen or permanent resident, including a stateless person.
Permanent resident	A person who has acquired permanent resident status and has not subsequently lost that status under A46.
Pre-removal risk assessment (PRRA)	A process which assesses risk prior to the removal of a person who is eligible to apply for a PRRA.
Previously deported person (PDP)	A person whose deportation order has been enforced and requires authorization to return to Canada by an officer pursuant to A52(1).
Removal by the Minister	The PSEP Minister must enforce a removal order where the foreign national does not or cannot avail themselves of enforcement by voluntary compliance, a negative determination is made under R238(1), or the foreign national's choice of destination is not approved under R238(2).
Removal order comes into force	A removal order made with respect to a person who is not a refugee protection claimant comes into force on the latest of the dates set out in A49(1). With respect to a person who has made a claim for refugee protection, a removal order comes into force on the latest of the dates set out in A49(2).
Stay of removal	The PSEP Minister cannot remove a person from Canada in circumstances where IRPA or the Regulations specify that the removal is prohibited, or where there is a valid court order prohibiting the person's removal.
Unenforced removal order	A removal order that has not been enforced in accordance with IRPA and the Regulations.
Voluntary compliance	A person who is not a danger to the public, a fugitive from justice in Canada or another country, or seeking to evade or frustrate the cause of justice in Canada or another country may voluntarily comply with a removal order before an officer and satisfy the officer that the requirements of R238(1)(a) and (b) and R238(2) have been met.

7. Procedure: Investigations and removals Web site

Officers should regularly visit the Web site developed and updated by the Inland Enforcement Division at NHQ. The Intranet Web site can be found at:

http://www.ci.gc.ca/cbsa-asfc/eb-dgel/ourp-nosp/enf-exec/inland-inter/invesremov-enqtrenvoi/index-e.asp

This site provides assistance and instructions to officers performing removal functions and includes:

- current policy instructions;
- the list of countries to which removal has been temporarily suspended;
- removal statistics;
- removal bulletins;
- other useful links for other governments or agencies in Canada and abroad; and
- contact persons at the Inland Enforcement Division, NHQ.

8. Procedure: Office responsibilities for removal

8.1. Responsibilities of an inland CBSA removals office

Officers at an inland CBSA removals office are responsible for making removal arrangements for:

- persons ordered removed by the Immigration Division;
- persons ordered removed by an officer inland;
- persons ordered removed by an officer at a POE and who cannot otherwise be removed to the United States under the Reciprocal Arrangement; and
- the escort or accompanying of a person subject to removal from Canada.

Officers are also responsible for:

- providing guidance to other CBSAs and POEs on document procurement, special procedures and escort assistance; and
- ensuring the safe custody of foreign nationals under a removal order, and the safekeeping of their documents and effects under the officers' charge.

Officers should keep in mind:

- while on escort duty, to be vigilant in ensuring the physical safety of the person and others in their immediate surroundings;
- that the supervisor should determine which officer will assume the lead in the escort; and
- that the *Envelope: Removal Documents* [IMM 1226] is to be used for the safekeeping of papers and documents.

8.2. Responsibility for port-of-entry cases

Removal orders issued to citizens, nationals or aliens of the United States will be received by the U.S. under the terms of the U.S. Reciprocal Arrangement in Appendix A. This also includes visitors entering from the U.S. who have been denied entry at the Canadian POE.

Before a person is returned to the U.S., the U.S. Reciprocal Arrangement must be applied to ensure verbal notice will be given in cases where:

- their status can be satisfactorily established by presentation of a birth or baptismal certificate, a certificate of naturalization or citizenship, a valid or expired passport, or other verifiable evidence of citizenship or nationality; and
- the deportee (i.e., a person under any removal order) does not require institutional care or treatment because of mental or physical conditions.

Persons residing or sojourning in the U.S. or St. Pierre and Miquelon must immediately be removed despite any appeal or leave applications for judicial review that they may have entered.

For all other cases where a removal order has been issued at a POE to persons who are not residing or sojourning in the U.S. or returning to the U.S., officers should seek the assistance of their nearest removal office to arrange for the first available transportation.

For more information on removal to the U.S. under the Reciprocal Arrangement for POE cases, refer to section 36.

9. Procedure: Authority to remove from Canada

9.1. Types of removal orders

There are three types of removal orders:

- departure orders;
- exclusion orders; and
- deportation orders (includes departure orders that have become deportation orders).

For further information on removal orders and the effect of removal orders refer to ENF 6, section 3.9.

9.2. When a removal order comes into force—non-refugee protection claimant

Under A49(1), a removal order for a non-refugee protection claimant will come into force on the latest of the following dates:

- the day the removal order is made, if there is no right to appeal [A49(1)(a)];
- the day the appeal period expires, if there is a right to appeal and no appeal is made [A49(1)(b)]; or
- the day of the final determination of the appeal, if an appeal is made [A49(1)(c)].

9.3. When a removal order comes into force—refugee protection claimant

With respect to a refugee protection claimant, the removal order does not come into force under A49(2) until specific events have passed. At the time the removal order is made, it is not in force and is conditional until it comes into force on the latest of the following dates:

- the day the claim is determined to be ineligible pursuant to A101(1)(e) if the claimant came directly or indirectly to Canada from a country designated by the Regulations [A49(2)(a)];

- in all cases other than A101(1)(e), seven days after the claim is determined to be ineligible [A49(2)(b)]; or

- 15 days after notification that the claim has been rejected by the Refugee Protection Division (RPD) if no appeal is made, or by the Refugee Appeal Division (RAD) if an appeal is made [A49(2)(c)];

Note: At time of publication, the Refugee Appeal Division was not operational.

- 15 days after notification that the claim is declared withdrawn or abandoned [A49(2)(d)]; or

- 15 days after proceedings have been terminated as a result of a notice that the claim was based on misrepresentation under A104(1)(c) or the claim was not the first one made by the claimant under A104(1)(d) [A49(2)(e)].

For the purposes of A49(2)(c) and A49(2)(d), the *Refugee Protection Division Rules* define when a decision is considered to be received. A decision made by the RPD includes:

- when a claim for protection is allowed;

- when a claim for protection is rejected;

- a decision on an Application to Vacate Refugee Protection;

- a decision on an Application to Cease Refugee Protection;

- a decision on an abandonment; or

- when an application to withdraw is allowed.

For decisions referred to in A49(2)(c) and A49(2)(d), the RPD Rules will determine when a decision takes effect and whether that decision is given in person or made in writing. After a decision takes effect, there is a 15-day period under A49(2)(c) and A49(2)(d) for the removal order to come into force.

Either party may withdraw a claim or an application to vacate or to cease refugee protection by one of the two methods below, depending on the status of the application.

1. **No substantive evidence accepted by the RPD:**

   Withdrawal of a claim or application may occur under RPD rule 52(2) if the claimant informs the RPD orally or in writing that they no longer want to continue their claim. In these cases, substantive evidence must not have been accepted at the RPD proceeding. If no evidence has been submitted, the Registrar of the RPD may withdraw the claim, usually on the day the person requests to withdraw. When the claim is withdrawn, the Registrar of the RPD will complete form RPD.12 “Notification confirming the withdrawal of a claim for refugee protection [rule 52(2)]“ and notify the parties.

2. **Substantive evidence accepted by the RPD:**

   When a claim or application for refugee protection is withdrawn under RPD rule 52(3) and substantive evidence has been submitted to the RPD, the person must make an application to the RPD to withdraw their claim. A hearing is conducted, either orally or in writing, and the RPD member(s) will make a decision on the application. If the application is granted, the RPD Registrar will complete form RPD12.3 “Notice of decision Application to withdraw [rule 53(3)]” and notify both the claimant and the CBSA that the claim is withdrawn.

Decisions delivered by regular mail

The RPD Rules provide the timelines for determining when a decision is considered to be received if it was delivered by regular mail. For A49(2)(c) and A49(2)(d) cases only, a document that is delivered by regular mail to a party in the proceeding is considered to be received seven days after the day it was mailed. If the seventh day is a Saturday, Sunday or other statutory holiday, the document is considered to be received on the next working day [RPD rules 35(2) and 61(1)].

For the purposes of the RPD Rules, a decision is provided through a notice of decision [RPD rule 61(1)] and is considered to be a document under RPD rule 31. Notification under A49(2)(c) and A49(2)(d) is the delivery date of a notice of decision.

For the purpose of the RPD Rules, *regular mail* does not include decisions that are delivered by a means other than the Canada Post regular standard mail service. In cases where a decision is delivered by means other than regular mail (i.e., fax, courier service, e-mail), the decision takes effect when the person receives the decision. For these cases, proof of service will establish the date on which the decision was received.

Example: Calculation of the notification period for a decision sent by mail

A claim was rejected by the RPD on July 31, 2002, and the decision was mailed on the same day using a regular mailing service provided by Canada Post. The seven-day calculation period for the delivery of the decision begins on August 1 and ends on August 7. As the claim was rejected by the RPD, the removal order will come into force on August 22, which is 15 days after the person was notified of the decision. If there is no stay of removal, a departure order becomes enforceable and the person must depart Canada within 30 days. If the refugee claimant was issued an exclusion or deportation order and if there is no stay of removal, the removal order would become enforceable and the person must leave Canada immediately [A48].

There is a simple way to calculate the notification period for the majority of decisions sent by regular mail: there is a seven-day mailing period plus a 15-day period before the removal order comes into force. This equals 22 days from the date of the delivery of a decision for the removal order to come into force. It is important to remember that in cases where the seventh day falls on a statutory holiday, the calculation of time for when the removal order will come into force must be adjusted accordingly.

Decisions delivered in person

When a decision is made at an RPD hearing, the decision takes effect when the Division member or a three-member panel states the decision orally and, if applicable, gives reasons for the decision [RPD rules 63(1)(a), 63(2)(a), 64(a), 65(a), 66(a), 67(1)(a) and 67(2)(a)].

Decisions made in writing

When a decision is made by the RPD in writing, it will take effect when the Division member or a three-member panel signs and dates the reasons for the decision [RPD rules 63(1)(b), 63(2)(b), 64(b), 65(b), 66(b), 67(1)(b) and 67(2)(b)].

Note: For transitional purposes, a conditional removal order made under the former *Immigration Act*, 1976, continues to be a removal order and is subject to A49(2) of IRPA.

9.4. When a removal order becomes enforceable

A removal order is enforceable under A48(1) after the removal order has come into force and is not stayed.

For the procedures on enforcing a removal order, refer to:

- Determining the method of enforcing a removal order in ENF 11, section 9;

- Voluntary compliance in ENF 11, section 10;
- Removal by the PSEP Minister in ENF 11, section 11;
- Criteria for a removal order to become enforced in Canada in ENF 11, section 12; and
- Verifying departure in ENF 11, section 13.

9.5. Removal orders no longer in force and effect

Where a removal order was made by the Minister's delegate or by the Immigration Division on an inadmissibility provision that a person was convicted of an offence, and the grounds for that specific conviction are acquitted at appeal, the outstanding removal order is no longer in force or in effect. This information may come to the attention of an officer through court tracking, at an immigration hearing or directly from the person receiving the acquittal. The officer receiving this information should review the court documents and, if necessary, conduct any background checks to confirm that the person's conviction has been acquitted.

When the removal order is determined to have no legal basis because of an acquittal, and the conviction was the only reason for the making of the removal order, an officer should input a permanent non-computer-based (NCB) entry in FOSS indicating what convictions have been acquitted and that the removal order is no longer in force and in effect. The National Case Management System (NCMS) should also be updated accordingly.

In addition, officers should prepare a letter to the person outlining that "as a result of an acquittal of a conviction of [insert offence name and section number of the offence] on [insert date of acquittal] at [insert court and location], the [insert type of removal order and document number] issued on [insert date of removal order issuance] is of no force and effect." The letter should also indicate that "any further evidence of inadmissibility, including any future convictions, could result in enforcement action."

10. Procedure: Departure orders

A foreign national who is the subject of a departure order must leave Canada within 30 days of the departure order becoming enforceable. Failure to physically depart Canada within the 30-day applicable period and to meet the criteria for a removal order to become enforced under R240(1)(a) to (c) (see ENF 11, section 12) will result in the departure order becoming a deportation order under R224(2).

10.1. Calculation of the applicable period for departure orders

To ensure that the 30-day applicable period is applied consistently and fairly to all foreign nationals, officers must become familiar with the calculation periods and be aware that the calculation of the applicable period is suspended when:

- the person is detained under IRPA; or
- the removal order against the person is stayed.

Under R224(3), the 30-day applicable period is suspended until the foreign national is released or the stay is lifted. The applicable period resumes the day following the release or the lifting of the stay. The number of days in the applicable period that elapsed before the detention or stay are then subtracted from the time remaining in the original 30-day applicable period.

10.2. Calculation of the applicable period for detained persons on a departure order

In cases where a foreign national is the subject of a departure order and has been detained in Canada under IRPA, the 30-day applicable period is suspended under R224(3) until the foreign national's release from detention. Once the foreign national is released, the remaining time, if any, resumes the day following the person's release.

It is very important that the FOSS/NCMS systems are updated when a person is detained or released under IRPA.

Example: Detained on a departure order within the 30-day applicable period.

A departure order becomes enforceable on August 6, 2003.

The foreign national is detained under IRPA on August 23, 2003.

The foreign national is then released from detention on September 2, 2003.

From August 6, 2003 to August 23, 2003, there are 17 days that are counted against the departure order. The clock resumes on September 3, 2003, and the foreign national has 13 days remaining to depart Canada and enforce the departure order. The detention period is not calculated as part of the 30-day applicable period. The foreign national should enforce their departure order by September 15, 2003, in order to avoid a deportation order.

Example: Detained on a departure order within the 30-day applicable period.

A departure order becomes enforceable on July 1, 2003.

The foreign national is detained under IRPA on July 10, 2003.

The foreign national is released from detention on August 31, 2003.

Even though the foreign national was detained for a period of more than 30 days, the person is not considered to be under a deportation order. From July 1, 2003 to July 10, 2003, there are nine days counted against the departure order. The clock resumes on September 1, 2003, at day 10 of the applicable period. The foreign national has 20 days to depart from Canada before the departure order becomes a deportation order.

When departure is verified, it is very important for officers to accurately indicate on the IMM 0056B and in FOSS/NCMS whether the removal order is a departure or deportation order.

10.3. Calculation of the applicable period for a stayed departure order

If a foreign national is the subject of a departure order that is stayed, the officer must consider whether the person is on a valid stay or whether the stay has been lifted. If the stay has been lifted, the officer must calculate the 30-day applicable period, taking into consideration the time when there was no stay of removal in effect. Based on that calculation, if the person's time in Canada exceeds 30 days, the order becomes a deportation order. If the time period is within the 30-day applicable period, the order remains a departure order.

For further clarification, the applicable period could be suspended when a departure order has been stayed pursuant to R230(1). This will occur when the PSEP Minister determines that a country or place poses a generalized risk to the entire population of that country or place. After the Minister has reviewed the circumstances in that country or place and cancelled the stay under R230(2), notification will be distributed indicating that the PSEP Minister has lifted the temporary suspension of removal to that country or place. In these cases, the 30-day applicable period resumes on the day following the cancellation of the stay. The number of days within the applicable period before the stay was imposed is counted against the time remaining.

Example: Stay of departure order.

A departure order becomes enforceable on January 2, 2003.

The departure order is stayed on January 8, 2003.

The stay is lifted on March 21, 2003.

From January 2, 2003 to January 8, 2003, there are six days that are counted against the departure order. From January 8 to March 21, 2003, there are 72 days where the removal was stayed. This period is not calculated as part of the 30-day applicable period. The clock resumes on March 22, 2003, and the foreign national has 24 days remaining from this date to depart Canada and enforce their departure order. The departure order must be enforced by April 14, 2003, in order to avoid a deportation order against the foreign national.

When departure is verified, it is very important for officers to accurately indicate on the IMM 0056 and in FOSS/NCMS whether the removal order is a departure or deportation order.

10.4. Failure to comply with a departure order

If a person fails to depart by the applicable date, the departure order will automatically become a deportation order under R224(2). In these cases, officers should:

- initiate a priority investigation;
- if the person is not located, issue a warrant under A55(1) for removal;
- initiate entry into the Canadian Police Information Centre (CPIC),
- arrest the person for removal;
- detain the person; and
- remove the person.

For further procedures on apprehension, arrest and detention, see ENF 7, section 15 and ENF 20.

11. Procedure: Legal impediments that may stay a removal

A48(2) imposes an obligation on the Department that if the removal order is enforceable, the foreign national against whom it was made must leave Canada immediately and it must be enforced as soon as reasonably practicable.

Statutory and regulatory stays of removal are outlined in A50 and R230 to R240. The courts may also impose stays of removal in individual cases. IRPA has made provision for such stays in A50(a), where removal cannot contravene a judicial order, and in A50(c), concerning a stay imposed by a court of competent jurisdiction. An undertaking given on behalf of the Minister during the course of litigation also constitutes a stay of removal.

In some cases, the enforcement of removal orders can be stayed through the statutory and regulatory provisions of IRPA and its Regulations as well as through court-ordered stays. When a stay of removal is applied, through operation of law, the stay renders the removal order not enforceable under A48(1), and the CBSA must defer removal. As a result, the person must not be removed from Canada until they are subject to a removal order that has come into force and is not stayed.

It is essential for the FOSS and/or NCMS systems to be updated when a stay of removal is in place and when it is lifted. Accurate information is paramount to ensuring that a person who is the subject of a stayed removal order is not removed.

There will be occasions when an officer will be uncertain whether a stay of removal applies in a specific removal case. Should this situation arise, officers should consult their supervisor for direction. If the issue is complex, the supervisor may refer the officer to a regional program specialist or regional justice liaison officer as the case may be. Sometimes, these contacts can bring other issues to an officer's attention that may have been overlooked.

The following charts should assist officers in determining when a stay of removal may be appropriate and when stay provisions do not apply, and any exceptions that may be associated with the statutory, regulatory or court-ordered stays.

11.1. Statutory stays of removal

A50 contains provisions to stay the removal of foreign nationals who have been issued a removal order. When a statutory stay is imposed under IRPA, the removal order is not enforceable.

Authority	When a stay applies	When a stay does not apply
A50(a)	**Decision at a judicial proceeding directly contravenes the enforcement of a removal order, and the PSEP Minister is given the opportunity to make submissions** A stay of removal applies if a decision made in a judicial proceeding would be directly contravened by the enforcement of a removal order. This stay applies where the PSEP Minister was given the opportunity to make submissions. For guidelines and scenarios in which an A50(a) stay of removal applies, refer to section 12.	For guidelines and scenarios in which an A50(a) stay is not applicable, refer to section 12.
A50(b)	**Imprisonment in Canada** A stay of removal applies when a foreign national is sentenced to a term of imprisonment in Canada. Officers must not enforce a removal order if the foreign national was an inmate of a penitentiary, jail, reformatory or prison at the time the removal order was made.	The stay of removal is effective until the sentence being served is completed (see A242). The sentence is completed when the foreign national is released from imprisonment by reason of expiration of sentence, commencement of statutory release or grant of parole. Unless the parole is suspended, terminated or revoked, the removal can take place. The foreign national under a conditional sentence order does not benefit from a stay of removal.
A50(c)	**Stay of removal granted by the Immigration Appeal Division** A removal order is stayed under A66(b) and A68 until the stay is no longer in force.	There is no stay of removal when: • a permanent resident or foreign national who is on a stay of an appeal against an inadmissibility finding under A36(1) or A36(2) is subsequently convicted of another offence under A36(1) and the stay is cancelled; • the appeal is dismissed; or

		• the IAD may, on application or on its own initiative, reconsider the appeal and lift the stay of removal.
A50(c)	**Stay of removal by any other court of competent jurisdiction** A removal is stayed if the Federal Court or the Supreme Court of Canada issues an order to stay the enforcement of a removal order or to bar the PSEP Minister from carrying out the removal order. The stay order will be in effect until the conditions specified in the order are satisfied. If the provincial court issues an injunction or a stay to prevent removal, removal may be stayed pursuant to A50(a) and possibly A50(c). The stay will be in effect until the conditions of the stay order are satisfied or the order is rescinded. For more information on applications for stays, court-imposed stays and undertakings not to remove, refer to ENF 9, section 4 and section 5.	An application for a stay of removal does not trigger or constitute a stay of removal.
A50(d)	**Duration of stay under A114(1)(b)** There is a stay of removal when there is a positive decision to allow the protection of a person described in A112(3). These persons are: • inadmissible on grounds of security, violating human rights or international rights, or organized criminality; • inadmissible on grounds of serious criminality punished by a term of imprisonment of at least two years; • refugee claimants rejected on the basis of section F of Article 1 of the Refugee Convention; or • persons named in an A77 certificate.	A stay of removal is cancelled if the PSEP Minister re-examines the case and determines that the circumstances under which the application was allowed have changed and dismisses the application.
A50(e)	**Duration of stay imposed by the Minister** This provision could include discretionary stays where the PSEP Minister imposes the stay of removal. These stays will be determined on a case-by-case basis and will be assessed by NHQ in accordance with the instruments of delegation. In addition, A50(e) provides for the	

	authority of the PSEP Minister to impose a stay of removal for temporary suspension under R230 where the country or place presents a generalized risk. For more information on R230, refer to section 11.2 below.	

11.2. Regulatory stays of removal

In addition to the stays provided for in A50, A53(d) provides authority for the Regulations to stay a removal order. When the Regulations provide for a stay of removal of foreign nationals, the removal order cannot be enforced.

Authority	When a stay applies	When a stay does not apply
R230	**Temporary suspension for generalized risk** A temporary suspension of removal will be imposed where return to a specific country or place presents a generalized risk that the PSEP Minister considers dangerous and unsafe to the entire general civilian population of that country or place. The PSEP Minister will make the decision by a formal process. When a decision is made to suspend the removal to a particular country, this decision will be announced to all offices. For a list of the countries under a temporary suspension of removals, refer to: http://cicintranet.ci.gc.ca/cbsa-asfc/eb-dgel/reference/man-pol-proc/inlandenf-execint/pol-pub/temp_susp_rem_e.asp#6 Note: Individualized risk is different from generalized risk and is assessed during Immigration and Refugee Board (IRB), humanitarian and compassionate (H&C), and PRRA assessments.	The stay of removal under this provision does not apply to classes of persons who: • have been found inadmissible on grounds of security under A34(1); • have been found inadmissible on grounds of human or international rights violations under A35(1); • have been found inadmissible on grounds of serious criminality under A36(1) or on grounds of criminality under A36(2); • have been found inadmissible on grounds of organized crime under A37(1); or • have been excluded by the Refugee Protection Division by reason of section F, Article 1 of the Refugee Convention. **Exception:** The foreign national who wishes to return to their country of risk may make an application to the Minister under R230(2). The PSEP Minister may cancel the stay if the circumstances of generalized risk to a specific country or place no longer pose a risk to the entire civilian population of that country or place.
R231	**Judicial review of a Refugee Protection Division decision** A stay of removal will occur when a person files an application for leave to commence judicial review of a decision of the Refugee Protection Division. The stay of removal will continue to apply until leave is granted and until the court of last resort has disposed of the judicial review proceeding, if applicable. Removal should be deferred when the person or their counsel presents an officer with a certified	The stay provision does not apply to classes of persons who: • have been found to have no credible basis by the Refugee Protection Division; • are the subject of a removal order because they are inadmissible on grounds of serious criminality under A36(1)**;** • reside or sojourn in the United States or St. Pierre and Miquelon and are the subject of a report under A44(1) at the POE only; or • have filed an application for an extension

	copy of an application for leave to commence judicial review of an RPD decision or when the officer is so advised by the Department of Justice. This stay pursuant to R231 will normally be reflected in the FOSS litigation (LIT) screen as a stay required by the Act/Regs.	of time to file a leave application. • are inadmissible under A34, A35 and A37, being ineligible to have their claim referred to the RPD under A101(1)(f). Since the refugee claim was not referred to the RPD, the person cannot file an application for leave for judicial review of an RPD decision and there is no stay of removal. The stay of removal is effective until the earliest of the following: • the application for leave is refused; • the application for leave is granted, the application for judicial review is refused and no question is certified for the Federal Court of Appeal; • a question is certified by the Federal Court and the appeal is not filed within the time limit; • a question is certified by the Federal Court, the Federal Court of Appeal dismisses the appeal, and the time limit to file an application for leave to the Supreme Court of Canada (SCC) has expired and no application has been made; • an application for leave to appeal a decision of the Federal Court of Appeal to the SCC is made, and the application is refused; or • the application to the SCC is granted, but the appeal is not filed within the time limit or the SCC dismisses the appeal. **For further information on judicial review processes, refer to ENF 9.**
R232	**Pre-Removal Risk Assessment (PRRA)** A stay of removal applies when an officer notifies a person that they may make an application for protection under A112(1) of the Act for the pre-removal risk assessment program. A person is notified that they can make an application for PRRA when: • an officer provides the person with a PRRA application form in person; or • seven days have elapsed since	The stay of removal is effective until the earliest of the following dates: • when an officer receives written confirmation from the person that they do not intend to make an application; • the person does not make an application within 15 days after being notified; • a negative decision of the application has been made; or • a person receives a positive PRRA decision and receives permanent resident status, or their application for permanent resident status is refused.

	the application form was mailed to the person at the last address they provided to the CBSA. In order for the stay of removal to continue, an application for protection must be received by the CBSA within 15 days after the notification is given pursuant to R162.	There is no stay of removal if the person is not notified by the CBSA of an opportunity to apply for PRRA. Subsequent applications will not benefit from a stay. PRRA applications filed at the port of entry will not result in a stay of the removal.
R233	**H&C or public policy considerations** A stay of removal occurs when the grounds for H&C considerations on an application for permanent residency have been approved in principle. Note: Public policy considerations are an element of immigration policy. Public policy may be included in the consideration of exceptional cases. At time of publishing, no public policy scenarios were contemplated. For more information on H&C applications, see IP 5, section 5.	There is no stay of removal where: • there is only an intention to apply for H&C; or • there is an outstanding H&C application that has not been approved in principle by the C&I Minister. The stay of removal is effective until the person is granted, or refused, permanent resident status.

12. Procedure: Application of A50(a) stays of removal

12.1. Overview of A50(a) stays of removal

A50(a) will affect whether the CBSA can enforce removal orders where there are other judicial proceedings pending against a person subject to a removal order. A50(a) was not enacted to extend a benefit to persons who may be subject to probation orders, interim release orders as a result of pending criminal charges or other court orders. Its purpose is to provide direction to officers where there is a conflict between removal orders and decisions made in judicial proceedings. By virtue of A50(a), the enforcement of a removal order is deemed subservient or secondary to a decision made in judicial proceedings and to the proper administration of justice.

In order for A50(a) to apply, the following conditions must be met:

- a decision was made (including final judgements and interlocutory orders) in a judicial proceeding (a proceeding in a legally constituted court) at which the PSEP Minister was given the opportunity to make submissions; and

- this decision would be directly contravened by the enforcement of the removal order.

If these conditions do not exist, then an A50(a) stay of removal is not in effect and the removal order should be enforced as soon as reasonably practicable. In order to determine whether the decision that was made at a judicial proceeding would be directly contravened by the enforcement of a removal order, officers must review the individual circumstances, on a case-by-case basis, to determine whether removal would contravene the decision. To ensure consistency in the application of an A50(a) stay with respect to decisions made at judicial proceedings, officers should contact their regional justice liaison officer, regional program specialist, manager or supervisor for further guidance.

Since each case must be evaluated on its individual circumstances, officers should be aware of the complexity of A50(a) and must also consider R234 when determining the applicability of the stay provision.

When making removal arrangements, officers may encounter situations where persons will invoke the statutory stay provisions in A50(a) in an effort to prolong their stay in Canada or avoid removal altogether. In order to ensure that removals are not unduly delayed or unlawfully carried out, officers should carefully assess each situation to ensure proper and correct processing. The following case circumstances should be used as a guideline only and may be of assistance when determining the applicability of A50(a). If the case scenario is not described below, officers should consult their regional justice liaison officer, regional program specialist, manager or supervisor for assistance to ensure the consistent application of A50(a).

Note: The elements of A50(a) are currently under review and further details will be provided as they become available.

For more information on the application of A50(a) to different scenarios, see the examples in sections 12.2 to 12.13 below.

12.2. Person under removal is the subject of a probation order

Note: A50(a) does not apply.

The Federal Court of Appeal decision in *MCI v.Cuskic* (2000), 9 Imm. L.R. (3d) 5, [2001] 2 F.C. 3, 148 C.C.C. (3d) 541, 261 N.R. 73, 186 F.T.R 299 (note), 2000 CarswellNat 2348, 2000 CarswellNat 3451 (Fed. C.A.) decided that the goal of the enforcement of a removal order is to remove persons from Canada as soon as reasonably practicable. The goal of removing persons who are the subject of a removal order is more important than the need to satisfy the terms of probation orders, the purpose of which is to integrate people back into the community.

When removing a person subject to a probation order, officers should take the following steps:

- advise the person and/or counsel that probation orders do not create a situation where a statutory stay exists, and then proceed with removal arrangements; and
- ensure that the regional Department of Justice is contacted if counsel indicates that they intend to file before the Federal Court to stay the removal.

12.3. Person subject to a removal order has pending criminal charges

Note: A50(a) may apply.

If there is an indication that the person has pending criminal charges, officers should communicate with the provincial or federal Crown, as the case may be, to determine if a statutory stay exists pursuant to A50(a).

If a statutory stay applies, then officers should ask the Crown to either withdraw or stay the criminal charges in order to allow for the expeditious removal of the individual concerned. Officers should inform the Crown that the CBSA has an obligation to carry out removals as soon as practicable, i.e., if such persons pose a danger to the public. If the Crown agrees, in writing, to withdraw or stay the criminal charges, either before or after removal is confirmed, the officer will document the file accordingly and proceed with the removal arrangements. Under R234(a), a statutory stay does not exist where there is an agreement between the Attorney General and the CBSA to withdraw or stay criminal charges once the CBSA confirms that a subject has been removed from Canada.

If a statutory stay exists and the Crown will *not* stay charges, officers should document the file accordingly and update FOSS and the NCMS to indicate that removal is stayed until the criminal

matter is dealt with. Officers should monitor these files as the particular circumstances of the case may change and a statutory stay no longer apply.

12.4. Person under removal is the subject of a subpoena to appear as a witness in criminal proceedings

Note: A50(a) provisions may apply.

Officers may also encounter situations where the person being removed is the subject of a subpoena or summons obliging them to appear as a witness at a criminal trial or in other criminal proceedings.

A criminal subpoena/summons is a command by the court to the person to appear as a witness at subsequent criminal proceedings.

Before proceeding with removal in these circumstances, the officer in charge of the removal should obtain as much information as possible (from either the Crown attorney or defence counsel as the case may be) in order to determine whether removal is prohibited pursuant to A50(a) and, if so, whether it is possible to have the subpoena cancelled or, alternatively, whether the person's return to Canada after removal should be facilitated in order to allow the person to comply with the subpoena. The following should be considered:

- whether the Crown or defence would be willing to withdraw/cancel the subpoena or use alternative means of testifying. [R234(b) confirms that no statutory stay exists where there is an agreement between the Attorney General and the CBSA to cancel or withdraw a subpoena once the CBSA confirms that a subject has been removed from Canada];

- if defence counsel refuses to withdraw the subpoena, the CBSA may request that the Crown apply to quash the subpoena;

- if not, and the person is capable of returning to Canada at their own expense, the Department may consider whether officers will facilitate the person's return to Canada, with the appropriate conditions, for the purpose of complying with the subpoena. Before removing a person in this situation, officers should discuss the circumstances with the Crown;

- if a statutory stay exists, then the file should be documented accordingly with appropriate remarks in FOSS and NCMS. The officer should monitor the file to ensure that the person concerned is removed from Canada after completing their testimony and/or is no longer required for the judicial proceeding.

Where there are compelling reasons to remove the person and it has been decided to proceed with removal and facilitate the person's return to allow compliance with the subpoena, the file will be documented accordingly. In addition, the appropriate entry will be made in FOSS by way of an NCB or in NCMS, where available, and the file will be carefully monitored to ensure that removal is carried out at the appropriate time and without delay. As well, the person concerned, their counsel or the Crown attorney (as the case may be) will be kept informed, as required. In addition, the regional Department of Justice (Immigration Section) will be given advance warning of the removal arrangements in order to prepare for any anticipated stay motion before the Federal Court.

12.5. No subpoena but person under removal is required to appear as a witness in criminal proceedings

Note: A50(a) provisions do not apply.

Officers may occasionally encounter situations where the subject of the removal order is required as a witness in a criminal proceeding but is not subject to a subpoena or a summons. In some cases, the CBSA may receive written communication from either the Crown attorney or the

defence counsel to the effect that the person to be removed is required to testify in a criminal proceeding. Prior to IRPA implementation, paragraph 50(1)(b) of the former *Immigration Act*, *1976*, applied; however, this paragraph has not been incorporated into IRPA.

Consequently, it is the CBSA's position that since no court order exists, the provisions of A50(a) do not apply. The appropriate party and the Crown should be so advised, and removal will proceed in the normal manner. The regional Department of Justice (Immigration Section) will be given advance warning of the removal arrangements in order to prepare for any anticipated stay motion.

Note: A50(a) requires that a decision must be made at a judicial proceeding and does not specifically refer to a court order. This provision is under review and officers should consult with their regional justice liaison officer, regional program specialist, manager or supervisor to ensure that the CBSA's position in these circumstances has not changed.

12.6. Person is subject of an appearance notice given by a peace officer in a criminal matter

Note: A50(a) provisions do not apply.

It is the CBSA's opinion that an appearance notice (Form 9 s. 493 of the *Criminal Code*) issued to a person by a peace officer does not create a stay pursuant to A50(a) as long as the appearance notice has not been reviewed by a judge. A peace officer in this specific case is not a *judicial officer* for the purposes of A50(a) and thus their decision does not fall within the parameters of a judicial proceeding. In these specific cases, a client has not been detained or charged for a crime nor has the client gone before a judicial body or tribunal such as a justice of the peace. Instead, the client is required to report to court to answer charges not yet laid against them.

If the person was issued an appearance notice and failed to comply with the conditions in Form 9, a bench warrant may be issued. If a bench warrant exists, officers should consult the Crown before removing such persons.

Should this specific type of case arise, officers should follow the procedures outlined in section 12.3 above and inform the person if the CBSA is proceeding with removal. Before removal, officers must discuss the case with a supervisor and/or contact the regional justice liaison officer. The appearance notice is currently under review and the case circumstances should be examined carefully before such persons are removed. Depending on the specific details of the case, a supervisor or regional justice liaison officer may ask the officer to contact Crown counsel to seek a stay of proceedings. If not, the officer should proceed with removal and keep the regional justice liaison officer advised if counsel indicates they will be filing a stay application to prevent removal.

12.7. Person under removal is subject of a civil summons or a subpoena

Note: A50(a) provisions may apply.

Periodically, officers may encounter situations where a person being removed is the subject of a subpoena or summons and is required to testify at a civil trial (non-criminal proceeding). The CBSA has taken the position that, where a summons or subpoena is issued by a court clerk or a registrar, it does not constitute a decision in a judicial proceeding, and a stay under A50(a) does not apply. However, the CBSA is reviewing other similar circumstances to determine whether a civil subpoena or summons would be considered a judicial proceeding in the application of A50(a).

Before proceeding with removal action, officers should carefully review the civil summons or subpoena to determine whether removal is prohibited pursuant to A50(a), taking into account the CBSA's position. If officers are uncertain as to whether a document constitutes a decision made in a judicial proceeding as contemplated by A50(a), they should consult their supervisors and/or refer such cases to their regional justice liaison officer, regional program specialist, manager or supervisor, as the case may be. In cases where it appears that a person is invoking this stay

provision solely to delay the removal process, this information should be brought to the attention of the regional justice liaison officer, regional program specialist, manager or supervisor.

12.8. Person under removal is subject to a civil court order

Note: A50(a) provisions may apply.

In some cases, the person may be the subject of a court order requiring them to appear at a trial involving civil proceedings (i.e., relating to family and/or custody issues, etc.) or other civil court order which may affect the ability to remove them. As such, a civil court order will constitute "a decision made in a judicial proceeding," and A50(a) may apply, depending on whether enforcing the removal order will directly contravene this decision.

Before proceeding with removal action, officers should carefully review the civil court orders to determine whether removal is prohibited pursuant to A50(a), taking into account the interpretation outlined in this document. If officers are uncertain as to whether a document constitutes a decision made in a judicial proceeding as contemplated by A50(a), they should consult their supervisors and/or refer such cases to their regional justice liaison officer. Cases in which it appears that persons are invoking this stay provision solely to thwart the removal process should be brought to the attention of the regional justice liaison officer.

12.9. Person under removal is subject of a notice of examination in a lawsuit (discovery process)

Note: A50(a) provisions do not apply.

In the case of *Shulgatov et al v. MCI*, a Federal Court Trial Division Judge dismissed a stay application by ruling that notices of examination in civil suits did not create a statutory stay pursuant to paragraph 50(1)(a) of the former *Immigration Act*, 1976. The principal applicant in this case was involved in a serious motor vehicle accident and was both the plaintiff and the defendant in the pending law suits. The Judge ruled that a notice of examination during the discovery process of a lawsuit does not constitute an order made by a judicial body and therefore does not result in a statutory stay of removal. Upon further review, it is the CBSA's opinion that a notice of examination in a lawsuit does not constitute a decision in a judicial proceeding for the purposes of A50(a). There is no statutory stay.

Officers should consult their supervisors and/or refer such cases to their regional justice liaison officer or other similar officer when counsel claims that a statutory stay applies and that removal is prohibited. If the regional justice liaison officer or other similar officer is satisfied that no statutory stay exists, then officers should advise counsel and proceed with removal. They should also ensure that the regional justice liaison officer is aware of the removal actions if counsel intends to file a stay application.

12.10. Person under removal has a court date for a legal name change

Note: A50(a) provisions do not apply.

In the case of *Louis v. MCI,* 2001 CarswellNat 1934, 2001 CarswellNat 3197, 2001 CFPI 967, 2001 FCT 967 (C.F. (Trial Div..)), a Federal Court Trial Division judge dismissed a stay application by the applicant, who claimed that he had to appear in superior court for a motion to legally change his name on a marriage certificate. The applicant filed the motion only after he was told he was being removed from Canada. The Court concluded that the provisions of paragraph 50(1)(a) of the *Immigration Act*, 1976, do not apply in these circumstances, where the applicant could decide for himself the date of his appearance in court and could have decided not to present the motion. Consequently, it is the Department's opinion that these types of judicial matters do not invoke a statutory stay pursuant to A50(a).

Similar situations will arise in the future in which a person attempts to create a situation where a statutory stay under A50(a) may prevent their removal from Canada. When these situations arise,

officers should contact their supervisor and/or refer the case to the regional justice liaison officer or other similar officer to confirm whether a stay exists pursuant to A50(a). If it is the opinion of the regional justice liaison officer or other similar officer that no statutory stay exists, officers should advise counsel that no stay exists and proceed with removal. They should also ensure that the regional justice liaison officer or other similar officer is aware of the removal date in case a last minute stay application is filed.

12.11. Person under removal is subject of a conditional sentence order (CSO)

Note: A50(a) provisions do not apply.

It is the CBSA's opinion that conditional sentence orders would fall into the previously mentioned *Cuskic* exception and a statutory stay would not be applicable pursuant to A50(a). Given the reasoning in *Cuskic*, A50(a) should be read in the context of the overall purpose of IRPA. Since the CBSA is of the opinion that CSOs are similar to probation orders, the CBSA has an obligation to proceed with removal pursuant to A48. There is currently no case law to support the CBSA's position.

It is important to provide the Department of Justice with as much notice as possible whenever removal arrangements are made concerning a person who is the subject of a CSO. A copy of the direction to report for removal should be faxed to the regional justice liaison officer or other similar officer. The fax should be marked "urgent" with the notation "person concerned subject to CSO." The regional justice liaison officer may be aware of new case law in this area that supports the CBSA's position. Regardless, the regional justice liaison officer or other similar officer should be notified in advance of any removal arrangements made involving CSOs until instructed otherwise.

12.12. Person under removal is subject of an RPD summons

Note: A50(a) provisions do not apply.

In the case of *Gillani v. MCI* [IMM-5374-01], the applicant was the subject of a subpoena for a CRDD matter and sought a stay of removal. The Federal Court Trial Division dismissed this application as it ruled that the applicant failed to raise a serious issue. Consequently, the CRDD was not a judicial body for the purposes of the former *Immigration Act*, 1976.

The CBSA is of the position that a summons issued by the Refugee Protection Division is not considered a decision at a judicial proceeding for the purposes of A50(a) and a stay of removal does not apply in this circumstance. Deferral of removal in these types of cases may encourage abuse of the summons process and may make it more difficult for the CBSA to remove persons in these similar circumstances in the future.

Officers should inform the person and their counsel that removal is proceeding, as there is no statutory stay of removal. They should also keep their regional justice liaison officer or other similar officer advised if counsel indicates that they will be filing a stay application to halt the removal.

12.13. Requests for deferral from other enforcement agencies

Note: A50(a) provisions do not apply.

Periodically, the CBSA may receive requests to delay removals from other enforcement agencies that do not fall within the parameters of the A50(a) provision or other stay provisions in the Act or Regulations. Such cases should always be referred to the supervisor or operations manager, who will decide whether or not to defer removal, based on the particular facts of the case and the CBSA's interest in being cooperative with other enforcement agencies that share similar interests, goals and concerns. A decision to defer removal in these circumstances will be an administrative one and will not fall under the A50(a) provisions. Officers should document the file accordingly and update NCMS. The file should be monitored to determine if the enforcement agency still

requires the person to remain in Canada. Once the enforcement agency no longer requires the person, removal should occur as soon as reasonably practicable.

13. Procedure: Removal of persons detained on a removal order

Officers should be aware of the enforcement procedures to be followed when a permanent resident or foreign national is in a correctional institution or other detention facility.

Officers can remove detained persons from Canada who:

- are under CBSA custody after being delivered by an institution at the end of their period of incarceration under A59;
- have been detained under A55(1) or A55(2) or A58(2) for removal from Canada; or
- have been detained pursuant to A82 and ordered released by the PSEP Minister under A84(1) for their departure from Canada.

Officers must remove detained persons as expeditiously as possible and take care to determine if there are any factors such as legal and non-legal impediments that could prevent the enforcement of the removal order. It is important that officers do not remove a person who is subject to a stay of removal under A50(b), where they are serving a sentence in Canada, until the sentence is complete. For further information on stays of removal, refer to section 11 above.

Transitional provisions will prevail for many years when an inmate is sentenced prior to the enactment of IRPA. In these cases, the procedures under the former *Immigration Act,* 1976, will apply.

For inmates sentenced after the coming into force of IRPA, the new provisions of the *Corrections and Conditional Release Act* will apply, as the presence of a removal order will render the inmate ineligible for unescorted temporary absence or day parole until the full parole eligibility date. For further information on persons serving sentences subject to enforcement action, refer to ENF 22.

14. Procedure: File review and pre-removal interview

When the removal order becomes enforceable, the officer planning the removal should perform a final review of the file before conducting a removal interview. The officer should take particular note of the person's case history in order to assess the safety and security of all individuals who will be involved in the removal. In conducting this assessment, the officer should consider the person’s psychological, behavioural and criminal history. The officer's evaluation of risk should be noted in the file and in NCMS. During the removals process, the *Removal Checklist and File Audit* form [IMM 5125B] should be continuously updated as information is received. Case updates should always be input into the “Removal Checklist” screens in FOSS and NCMS.

In cases where the person subject to the removal is a minor, the officer must ensure that a competent representative accompanies the minor during the interview.

The pre-removal interview should establish whether or not the person meets the voluntary compliance (ENF 11, section 10) criteria or whether the person should be removed by the Minister (ENF 11, section 11).

Before being removed from Canada, the person should be asked to attend a pre-removal interview at the CBSA office. If necessary, the pre-removal interview may take place in the detention facility. During the pre-removal interview, officers should:

- update the person on the status of their case;

- advise them that the removal order is enforceable and that they are to be removed from Canada;
- seek the person's assistance in obtaining a travel document and any other information that may be required;
- consider any additional information for a risk assessment and conclude the level of risk;
- notify the person of the opportunity to make an application for a pre-removal risk assessment (PRRA), if applicable;
- make a determination to allow voluntary compliance or removal by the PSEP Minister;
- in the case of a person who has been authorized by an officer to depart Canada voluntarily, advise them that they must leave Canada immediately and enforce their order as soon as reasonably practicable. Officers may allow a person subject to voluntary removal some time to organize their personal affairs before departing from Canada (usually two to three weeks should be enough time);
- if they have reasonable grounds to believe the person will not appear for removal, arrest and detain the person under A55(1); and
- counsel the person on the consequences of the removal order, the effect of the removal order, the requirements to return to Canada and the consequences of non-compliance (see section 30 below). NOTE: In the case of a detained person, removal arrangements should be made as expeditiously as possible to minimize detention costs.

If the person fails to appear either at their pre-removal interview or at the POE on the scheduled date of removal, a warrant under A55(1) may be issued for removal and entered into CPIC. Once the warrant has been entered into CPIC, the case file should be assigned for further investigation. Appropriate information should also be input into FOSS and NCMS.

15. Procedure: Pre-removal risk assessment (PRRA)

The procedures described in this section are intended to guide officers in determining the most appropriate timing for CIC to do a risk review under the pre-removal risk assessment program (see definition of “PRRA” in section 6 above) for a person with a removal order that is in force.

15.1. Who may apply for a PRRA?

A person in Canada may apply to the C&I Minister for protection under the PRRA provisions if they are subject to a removal order that is in force under A49 or are named in a certificate described in A77(1). For clarification, the following persons may make an application for a PRRA:

- a person who did not previously seek protection;
- a previous post-determination refugee claimant in Canada class (PDRCC) claimant (PDRCC cases are automatically transferred to the PRRA program under the transitional rules in R346);
- a failed refugee claimant (CRDD or RPD);
- an ineligible refugee protection claimant (with exception);

- a person at a POE who claimed protection after a removal order was issued;
- a person inland who claimed protection after a removal order was issued;
- a person named in a security certificate [A77(1)];
- a person described under A112(3)(a) or (b). This person is the subject of an A44 report for A34(1), A35(1), A36(1) or A37(1) for which a finding was made that determined them inadmissible on these grounds;
- a person described under A112(3)(c). The Immigration and Refugee Board has rejected the person's claim for refugee protection based on section F of Article 1 of the Refugee Convention; and
- a person described under A112(3)(d). The PSEP Minister and the C&I Minister have signed a certificate referred to in A77(1).

The officer will be required to enter the type of applicant in NCMS and to indicate whether the person is an A112(1) applicant or an A112(3) applicant.

When a person is entitled to apply for a PRRA, the officer must complete the "PRRA Initiation" screen in FOSS and NCMS.

15.2. Who may not apply for a PRRA?

There are exceptions to who may apply for a PRRA. The exceptions relate to persons who already have protection or have other means of seeking protection. A person may not apply for a PRRA if they are:

- a person who is the subject of an authority to proceed with extradition;
- a person who is ineligible under A101(1)(e) –- Safe third country provision;
- a person who left Canada less than six months prior to the request to file an application;
- a person named in a security certificate that has been found to be reasonable [A80(1)];
- a person who was found to be a protected person in Canada; and
- a person who was found to be a refugee in another country.

Note: CIC is not under any obligation to assess risk to persons who wish to leave voluntarily and whose removal order is not in force. Therefore, the CBSA does not provide notification of a pre-removal risk assessment to these persons.

15.3. When a person is considered for a PRRA

To determine when a case is removal-ready, the officer must determine if the removal order meets the criteria under A48(1). This is established by ensuring that there are no impediments to the removal under A49(1), A49(2), A50, R230, R231, or R233. An exception to this would be persons who are incarcerated. For details, see "Persons sentenced to a term of imprisonment," in section 15.4 below.

Once all legal impediments have been overcome, the officer should determine whether removal could be effected pending the acquisition of travel documents, visas and final itinerary arrangements.

The officer responsible for removal arrangements will determine whether a person may or may not apply for a PRRA. Officers should review A112(2), which outlines exceptions for making an application for a risk assessment prior to removal. For further information on who cannot apply for a PRRA, refer to PP 3, section 5.8. If the person cannot apply for a PRRA under A112(2), the officer will prepare the case for removal and, if requested, verbally inform the person that they are unable to apply for protection. If this person insists on submitting an application, the officer will inform the person that an application will not be supplied, as they do not meet the requirements to apply for a PRRA. Removal arrangements will continue. If the person wishes to access the Federal Court, the officer must not delay removal for a decision by the Court unless a motion for a stay of removal has been granted.

Although these persons are ineligible for a PRRA, they may nonetheless submit an application. The PRRA officer will not make a decision on this application.

Note: There is no stay of removal when a person is not given notification to apply for PRRA. It is important to update FOSS and NCMS by indicating that the person was not notified of the opportunity to apply for a risk assessment.

15.4. When to notify a person to apply for a PRRA

There are several trigger points that could decide the timing of the notification for a person to submit a PRRA application. Based on a review of the case and the availability of travel documents, an officer should determine when it would be the most appropriate time to notify the person of the opportunity to apply for a PRRA. Notification can be done either by mail or in person. This decision is at the discretion of the officer based on an assessment of the case. It is highly recommended that notification be given in person in the majority of cases. The following circumstances include examples of trigger points that officers should consider when assessing the timing for notifying the person to submit a PRRA application:

- a valid travel document is available;
- an expired travel document or valid identity or birth record is available and a *Canada Immigration Single Journey Document* [IMM 5149B] can be used;
- there is no valid travel document, an application for one has been submitted, the respective embassy or mission has approved the application in principle and the travel document is forthcoming; or
- there is no valid travel document and an application is completed and will be submitted to the embassy or mission.

Although these trigger points are not exhaustive, the officer preparing the file for removal should be able to judge whether the case is removal-ready through experience and consultation with a supervisor, if required.

As the CBSA deals with different embassies and missions located in Canada and abroad, officers are subject to their terms when issuing travel documents. As a result, some timelines for receiving these documents can be very short and others may be longer. Most timelines are dependent on whether the person has provided the documents required, while some are delayed for policy and political reasons. For this reason, the officer must have the flexibility to determine when the person is or will be removal-ready and when is the best time to inform the person of the availability of a PRRA. It is the CBSA's goal to enforce a removal order as soon as practicable after a negative risk decision has been made.

If an officer determines that an in-person interview is required, the person will be contacted to discuss removal arrangements at a time and place to be determined by the officer. The letter of convocation should request that the person bring any identity documents they may possess to the interview. See Appendix D–1 and Appendix D-2 for the sample wording of this letter. If the person

does not report for the interview, the officer will forward the file to the Investigations Unit for the appropriate enforcement action.

Persons sentenced to a term of imprisonment

When a person who is serving a sentence is subject to a removal order, that removal order is stayed pursuant to A50(b) until the sentence is completed. If this person is subject to a removal order that is in force pursuant to A112(1), the officer should assess when is the most beneficial time for the CBSA to notify the person of the opportunity to apply for a PRRA. The CBSA would benefit from an earlier PRRA decision rather than wait until the person is under immigration hold to start the process. This will reduce the detention time, costs and should expedite the removal.

15.5. How to notify a person to apply for a PRRA

The onus is on the Removals Unit to notify the person under a removal order that a PRRA application may now be submitted. The PRRA notification will include the following:

- Notification of PRRA for failed refugee protection claimants (see Appendix E–1) or Notification of PRRA for non-refugee protection claimants (see Appendix E–2);
- a PRRA application and guide; and
- a Statement of No Intention (see Appendix F).

It is preferable that the notification be given in person during the removal interview. However, in some instances it may be more efficient to mail the notification directly to the person or to another CBSA office for pickup. If the person is to pick up the envelope at a CBSA office, the recipient should sign and date an acknowledgement of receipt.

A stay of removal is directly linked to the notification and is triggered when a person is notified by the CBSA that they may make an application for a PRRA.

Note: When the removal order came into force, the decision-maker (i.e., the Refugee Protection Division, Minister's delegate or member of the Immigration Division) gave the person advance information regarding the PRRA.

At the interview, the person will be counselled on the enforcement of the removal order and on the fact that they are now in a removal-ready position. The officer should then evaluate with the person what other documentation is necessary and should be available to enforce the removal order. If the person provides a travel or identity document, the officer should seize the document and place it on file. If there are no travel documents available, the officer should seek the person's cooperation in completing the necessary applications. At this time the officer may impose conditions for reporting purposes.

If the person wishes to apply for a risk assessment, the officer must provide the person with an application kit. A guide will explain the time frames as well as other instructions. The application kit can be downloaded from CIC Explore at:

http://cicintranet/cicexplore/english/form/prra_erar/index.htm.

If the person does not intend to apply, a Statement of No Intention (see Appendix F) should be signed and dated immediately. Removal can then proceed, as there is no stay in effect.

If the person intends on completing the application, the removal order is stayed. For further information on stay provisions, refer to section 11 and section 12 above. The officer should update the NCMS/FOSS screens when notification is given in order to monitor the time frames for the filing of the application.

The officer should verify the "WP" screen in FOSS. This is to establish whether there is a pending application for H&C grounds with risk to be considered. The officer will make a notation in the file

to the attention of the PRRA coordinator, alerting that Unit to the pending H&C with risk application. The file should be forwarded to the PRRA Unit.

Note: It is entirely up to the person concerned to decide whether or not to apply for a PRRA, and no pressure should be made by the officer or anyone else involved to influence a decision one way or the other.

15.6. When a person does not want to apply for a PRRA

For persons not wishing to initiate a pre-removal risk assessment, the Statement of no Intention to apply for PRRA in Appendix F should be signed as soon as possible after notification has been given. This will enable the Department to proceed with removal arrangements without waiting 15 days to file the application, as provided for in the Regulations. If the person later wishes to file an application, the kit will be supplied at that time. However, there is no stay of removal to await the decision. Removal arrangements can proceed.

15.7. The application for a PRRA

The person making the application should be instructed to mail the application to the PRRA Unit within 15 days after notification was given. This is also stated in the kit. The PRRA Unit is responsible for entering the receipt of the PRRA application into FOSS and NCMS. This is important for determining whether the application was received within the time limit and whether the stay of removal continues.

If the person files an application and submissions following the prescribed period of 15 days after notification, the PRRA Unit will accept the application, update FOSS and NCMS, and make a decision. When an application is submitted beyond the 15-day period, the person will not benefit from a stay pursuant to R164, and removal arrangements can proceed. There may be times when a late application is received and the officer conducting the removal may want to consult with their supervisor or manager on whether the removal should be deferred pending the decision of the PRRA application. The discretion to defer will be left entirely to the Removals Unit and caution must be exercised before proceeding with removal.

All submissions in support of an application must be sent directly by the person concerned to the PRRA Unit. That unit will enter the receipt in FOSS and NCMS. In order for the Removals Unit to remain at arm's length of the PRRA Unit, all applications and submissions must be sent directly to the PRRA Unit by the applicant. The Removals Unit must not accept any application or submissions for PRRAs. As well, the removal officer must not interact with the PRRA officer or discuss any pending cases. Any communication between the Removals Unit and the PRRA Unit must be done through the coordinators/managers of these units.

15.8. PRRA decision

Pursuant to R164, a decision on a PRRA application will not be made until at least 30 days after notification was given to the person concerned. The PRRA Unit will enter the type of decision and the date the decision was rendered into FOSS and NCMS.

All decisions, whether positive or negative, will be sent to the respective Removals Unit. The removal officer will ask the person to come to the office by sending a letter to attend and pick up the decision (see Appendix G). The announcement of the decision will be made at the office during the removal interview with the officer. The officer should ask the person concerned whether they require the reasons for the decision and, if so, obtain an acknowledgment of receipt of the reasons and decision from the person.

The convocation letter will again remind the person to bring any travel documents (i.e., passport, identity cards, documentation issued by the Canadian government and other pertinent documentation) if these were not previously submitted or seized.

FOSS and NCMS must always be updated to reflect these events.

For more information about PRRA decisions, see sections 15.9, 15.10 and 15.11 below.

The only circumstance in which a PRRA decision will be mailed directly to the claimant is in POE cases where the person has been returned to the United States to await the outcome of their PRRA decision. In these cases, the decision will be mailed to the address provided on the PRRA application.

15.9. Positive PRRA decision for A112(1) cases

When applicants are advised of a positive PRRA decision, they should be counselled on applying for permanent residency within 180 days of receiving the decision. Information on applications for permanent residency by protected persons can be found in PP 4, section 7.

15.10. Positive PRRA decision for A112(3) cases

If the person is described under A112(3), a positive PRRA decision will stay the removal. For further information on PRRA stays of removal, see section 11.1 above. The person should be counselled on the re-examination of the decision that allowed a stay of the removal pursuant to A114(1)(b). For further information on re-examination of a decision, refer to PP 3, section 17.3.

A re-examination would occur when the officer obtains new information through another source such as a newspaper article, another investigation or a third party. Once this information is obtained, the officer must send the file and the information to the PRRA Unit for a re-examination of the grounds on which the application was allowed.

As a safeguard to ensure that A112(3) cases do not remain in Canada, the officer at the Removals Unit should bring forward the file for review every 12 months to assess whether the case requires a re-examination. The officer will send the file to the PRRA Unit for re-examination, if deemed necessary.

If the subsequent decision maintains the first decision, the removal is stayed until a further re-examination is made.

A negative decision cancels the stay. The PRRA officer will send the decision to the Removals Unit to be delivered in person during the removal interview. The procedures to follow in the case of a negative decision are explained in section 15.11 below.

15.11. Negative PRRA decision

At the interview, the person will be advised of the negative decision. The person will be counselled on the benefits of voluntary removal and advised that departure from Canada is now imminent. Attention must be given to the type of removal order, and the person should be counselled accordingly on its effect. For information on counselling regarding the effect of removal orders, see section 30 below. Based on the interview and case details, the officer should assess whether the person will voluntarily report to a specified location for removal on a specified date or whether the person should be detained for removal.

FOSS and NCMS should be updated regularly to capture all events throughout the PRRA process.

15.12. Application for leave and judicial review of a negative decision

A decision by a PRRA officer may be judicially reviewed if the Federal Court grants leave to do so. The filing of the application for leave with the Court does not automatically stay a removal order. Usually a motion for a stay and a request that this motion be heard on an urgent basis will accompany the application for leave. For detailed information on the steps to take when a motion for a stay has been filed, see ENF 9, section 5.25, section 5.26, section 5.27 and section 5.28.

If a motion for a stay has been denied and the application for leave is proceeding, the removal will *not* be deferred pending the Court's decision on the leave application.

15.13. Subsequent PRRA applications

A person who receives a negative PRRA decision and who remains in Canada following notification under R160 may make another application. The application and written submissions must be forwarded to the PRRA coordinator. If the subsequent application is submitted directly to the removal officer, it must be forwarded to the attention of the regional PRRA coordinator. Pursuant to R165, a subsequent application does not result in a stay of removal and removal arrangements can proceed. In limited cases, exceptional circumstances may warrant the deferral of removal pending a subsequent PRRA decision. In these cases, the officer conducting the removal should consult their supervisor or manager on whether the removal should be deferred. The decision to defer will be entirely at the discretion of the Removals Unit.

FOSS and NCMS should be updated regularly to capture all events throughout the PRRA.

16. Procedure: Criminal ranking on removals

An important objective of the removals policy is to focus first and foremost on removing criminals from Canada. As a general principle, all criminals are a priority. However, it is recognized that some criminals are more serious than others and should be processed more expeditiously.

Criminals should be divided into two streams:

- those convicted of more serious offences (priority one as described in section 16.1 below); and
- those convicted of less serious offences (priority two as described in section 16.7 below)

Note: This system is not intended to displace or override any other previous directives or instructions related to detention.

16.1. Priority one cases

Priority one covers persons who may pose a serious threat to individuals or society. In order to ensure that persons are ranked consistently and objectively, tests A to E have been created to help officers understand what is considered to be a serious threat.

Each of the tests is self-contained. They are not meant to be used in tandem. A person meeting the criteria in any of the following tests should be ranked priority one.

Test	Purpose	For more information, see:
Test A	Test A is intended to include persons who have been convicted of an offence in Canada for which the maximum possible sentence is 10 years or more, or for whom there are reasonable grounds to believe that they have been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence for which the maximum sentence is 10 years or more.	Details of test A (section 16.2)
Test B	Test B includes persons who are believed on reasonable grounds to have committed, outside Canada, an act or omission that constitutes an offence under the laws of the place where the act or omission occurred and, that if committed in Canada, would constitute an offence that may be punishable under any Act of Parliament by a maximum term of imprisonment of at least 10 years, and which involved one or more of the following elements: weapons, violence against the person, sexual assault, narcotics or drugs, or acts against children.	Details of test B (section 16.3)

Test C	Test C covers persons who have been determined by the C&I Minister to be a danger to the public under A101(2)(b) or A115(2)(a) or are the subject of a certificate under A77(1).	Details of test C (section 16.4)
Test D	Test D covers persons who have not been determined by the C&I Minister to be a danger to the public under A101(2)(b) or A115(2)(a) or who are the subject of a certificate under A77(1), but for whom there are reasonable grounds to believe that the opinion of the C&I Minister or the issuance of a certificate is warranted. Although some persons will have already been determined by the C&I Minister to be a danger or have been issued an A77(1) certificate and will thus be covered by test C, test D allows officers to make their decision to rank persons as priority one in the absence of an opinion or certificate. This will enable officers to give the person the appropriate ranking at the same time as a certificate is being requested.	Details of test D (section 16.5)
Test E	Test E covers persons who, in the opinion of the officer, pose a threat to the public or to individuals, including employees. Test E allows officers to rank as priority one those persons who may have neither a conviction nor a danger opinion or certificate, and for whom a danger opinion or certificate may not be issued, but for whom there are reasonable grounds to believe that they constitute a threat to other individuals.	Details of test E (section 16.6)

16.2. Details of test A

In each case, the offence for which the person was convicted must have involved at least one of the following elements:

- weapons;
- violence against the person;
- sexual assault;
- narcotics or drugs; or
- acts against children.

Each of the elements listed represents a number of offences considered to be serious. Listing elements, instead of naming individual offences, ensures that there are no offences which will be inadvertently left out, and eliminates the need to continuously update the chart as changes to the *Criminal Code* or other Acts of Parliament occur.

Violence against the person refers to offences which involve actual physical harm to another person and does not include such things as psychological violence or threats of physical violence. Threats of physical violence, however, can be taken into account under test E (persons who pose a threat to the public or to individuals).

Sexual assault, *narcotics*, *drugs* and *acts against children* refer only to offences proceeded with by way of indictment.

When ranking a criminal under test A, officers must first determine whether or not the person is described under A36(1)(a) or A36(1)(b). Officers should not be concerned with the actual sentence that was imposed by the court—only with the maximum imposable sentence. If this first criterion is met, then the officer should determine whether or not the offence involves any of the listed elements. When determining whether or not any of the elements were involved, officers may not always need to look at the circumstances surrounding the commission of the offence but only at the actual offence for which the person was convicted. Normally, the name of the offence should be enough to determine whether any of the above elements are covered. Otherwise,

officers may have to refer to other information such as police reports to consider risk or danger to the public.

If a person has been convicted of more than one offence, officers should rank the person according to the most serious conviction. The conviction for which the person is ranked must meet both the sentence threshold requirement (of at least 10 years) and the elements requirement.

16.3. Details of test B

The elements are the same as those used in test A and the same meaning should be applied to them under this test.

When ranking a criminal under test B, officers must first determine whether or not the person is described under A36(1)(c). If so, then the officer should determine, as above, whether or not the offence(s) involved any of the listed elements.

16.4. Details of test C

When ranking a criminal under test C, officers must have evidence that:

- a person is inadmissible by reason of a conviction outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament that is punishable by a maximum term of imprisonment of at least 10 years and the C&I Minister is of the opinion that the person is a danger to the public in Canada pursuant to A101(2)(b);

- a person is inadmissible on grounds of serious criminality and the C&I Minister is of the opinion that the person is a danger to the public in Canada pursuant to A115(2)(a);

- a person is inadmissible on grounds of security, violating human or international rights or organized criminality and the C&I Minister is of the opinion that the person is a danger to the public in Canada pursuant to A115(2)(b); or

- a certificate has been signed by the C&I Minister and the PSEP Minister under A77(1) against a permanent resident or foreign national who is inadmissible on grounds of security, violating human and international rights, serious criminality or organized crime.

16.5. Details of test D

When ranking a criminal under test D, officers must have reasonable grounds to believe that the person warrants the C&I Minister's opinion that the person is a danger to the public under A101(2)(b) or A115(2)(a), or warrants a certificate under A77(1). Officers should use the same test that is currently used to recommend a danger opinion or a certificate: evidence equivalent to that which is currently used to support an A44(1) report.

16.6. Details of test E

Under test E, officers may take into account the person's behaviour, the seriousness of the offences they are currently charged with, and the number and seriousness of their multiple convictions. For example, if a person has a number of convictions, none of which alone meets the criteria specified in test A, but which taken together indicate a threat to the public or to persons, the person could be ranked priority one under test E. A person who threatens physical violence, if the threats are credible, could be made priority one under this test.

When ranking a person under test E, officers must have supporting evidence which meets the same standard that would support an officer's case for continued detention at a detention review.

16.7. Priority two cases

Priority two is intended to include all criminals not covered by priority one. Officers should rank as priority two any person:

- convicted in Canada of an offence under any Act of Parliament punishable by way of indictment, or two offences not arising out of a single occurrence pursuant to A36(2)(a);
- convicted outside Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, or of two offences not arising out of a single occurrence that, if committed in Canada, would constitute offences under an Act of Parliament pursuant to A36(2)(b);
- who there are reasonable grounds to believe has committed, outside Canada, an act that constitutes an offence under the laws of the place where the act occurred and that, if committed in Canada, would constitute an indictable offence under an Act of Parliament pursuant to A36(2)(c); or
- committing, on entering Canada, an offence under an Act of Parliament pursuant to A36(2)(d).

Priority two rankings need not be based on indictable offences. They can also include summary conviction offences.

Following the officer's ranking decision, officers are to place the appropriate priority sticker, either priority one [IMM 5357B] or priority two [IMM 5358B], on the front cover of the file. The sticker must be placed in the top right-hand corner of the front cover.

17. Procedure: Determining the method of enforcing a removal order

IRPA prescribes that under A48(2), the foreign national against whom the removal order was made must leave Canada immediately after the removal order becomes enforceable, and that it must be enforced as soon as reasonably practicable.

In accordance with R235, a removal order that has not been enforced does not become void through the lapse of time. However, when a foreign national becomes a permanent resident, the removal order becomes void through operation of law under A51.

Before an officer enforces a removal order, an assessment must take place to determine if the removal order should be enforced through voluntary compliance or by the PSEP Minister. The Regulations codify the determination process as a mandatory procedure. During this process the officer must determine, through interviews with the foreign national, the method (or modality) of enforcing the removal order. The final determination of how the removal order is enforced rests with the officer. Under R237, a removal order can be enforced either through:

- voluntary compliance by the foreign national (see ENF 11, section 10); or
- the removal of a foreign national by the PSEP Minister (see ENF 11, section 11).

If the person does not meet the requirements of voluntary compliance, the PSEP Minister must enforce the removal order.

17.1. Issuance of a removal order information kit

After an officer notifies the foreign national that a removal order has become enforceable and the officer has determined that the person can be removed through voluntary compliance, a removal

order information kit should be provided, where appropriate. When preparing the removal order information kit, officers should:

- request that the foreign national provide eight passport-size photographs;
- affix one copy of the foreign national's photograph to the client copy of the *Certificate of Departure* [IMM 0056B];
- stamp the photograph and attach transparent adhesive over it;
- affix a copy of the foreign national's photograph to the other four copies of the Certificate of Departure;
- place the remaining three copies of the foreign national's photograph in the file; and
- give the foreign national a removal order kit that includes instructions on verifying departure, the consequences of not verifying departure, the consequences of a departure order becoming a deportation order under R224(2), procedures for receiving a Certificate of Departure, and the addresses and the hours of the POEs available. The kit also explains that a foreign national must provide an address to which the IMM 0056B can be mailed if necessary.

If the removal is taking place at an airport and transportation has been arranged, a package including the IMM 0056B may be forwarded to the airport.

17.2. Procedures to enforce a removal order

For general procedures on the enforcement of a removal order and the verification of departure of a person under a departure, exclusion or deportation order, officers should refer to:

- the criteria for a removal order to become enforced in ENF 11, section 12;
- the procedures to verify departure in ENF 11, section 13;
- the procedures to complete a Certificate of Departure in ENF 11, section 13.1;
- verifying departure at airports in ENF 11, section 13.2;
- verifying departure to the U.S. from airports with pre-clearance facilities in ENF 11, section 13.3;
- verifying departure at land borders in ENF 11, section 13.4; and
- persons refused entry to their country of destination after a Certificate of Departure has been issued in ENF 11, section 16.

18. Procedure: Entering previously deported persons into CPIC

The primary objective for entering previously deported persons (PDP) into the Canadian Police Information Centre (CPIC) is to enhance public safety and security by providing peace officers with the necessary information to form reasonable grounds that the person may be arrested without a warrant under A55(2)(a). The CPIC-PDP database will equip peace officers across Canada with information that a foreign national has been deported from Canada, has returned to Canada without the authorization prescribed under A52(1) and, at the time of the person's

removal, there were reasonable grounds to believe the person is a danger to the public and/or is unlikely to appear.

After a name is queried in CPIC and is a direct match with a person found in the PDP database, CPIC will instruct law enforcement partners to contact the Immigration Warrant Response Centre (IWRC) for further assistance. For the purposes of arrests made without a warrant under IRPA, peace officers as defined in section 2 of the *Criminal Code* have the authority under A55(2)(a) to arrest and detain a foreign national without a warrant. For further information on arrest and detention by peace officers under IPRA, see ENF 7, section 16.

Information on individuals in the CPIC-PDP database originates from the FOSS-PDP database. For more information on who will be added to the FOSS-PDP database, see section 18.1 below;, for information on who will be added to the CPIC-PDP database, see section 18.2 below.

18.1. Who will be added to the previously deported persons database in FOSS?

Persons issued a *Certificate of Departure* [IMM 0056B] and removed from Canada under a deportation order or a departure order that has become a deportation order will be added to the FOSS-PDP database, except where the removal order was issued to a person described in A42(b) as an accompanying family member and is therefore exempted from the need for authorization to return to Canada as required under A52(1).

In such cases, the deportee will be added to the FOSS-PDP database and a previous deportee (PREV.DEP) flag will be enabled in FOSS.

Note: Persons removed pursuant to exclusion orders and departure orders will not be added to the FOSS-PDP database at this time.

18.2. Who will be added to the previously deported persons database in CPIC?

There will be an automatic transfer to the CPIC system of PDP information on individuals who meet the criteria in section 18.1 above and for whom, at the time of departure, there are reasonable grounds to believe that the person is either:

- a danger to the public; or
- unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the PSEP Minister under A44(2).

Adding a person to the CPIC-PDP database

Adding a deportee to the CPIC-PDP database is a two-step process:

1. complete mandatory fields on the “Certificate of Departure” screen which are key elements to support the PDP initiative; and
2. complete the PDP screen in order to identify a deportee for download to the CPIC-PDP database.

Step 1: Completion of the “Certificate of Departure” screen in FOSS

A person removed under a deportation order or a departure order that has become a deportation order will be automatically added to the FOSS-PDP database (enabling the PREV.DEP flag) after an officer enforces the removal order, fills in the mandatory fields on the “Certificate of Departure” screen in FOSS and completes the PDP screen in FOSS.

When completing the “Certificate of Departure” screen, the officer enforcing the removal order must ensure that the following fields are completed in each case:

- Photograph (y/n);
- Fingerprints (y/n);
- Danger to the Public (y/n);
- Unlikely to Appear (y/n);
- C&I Minister's Danger Opinion Issued (y/n).

Even in cases where existing photographs and fingerprints are on file, the officer should take new photographs and fingerprints at the time of the person's removal. Updating this information is important for future identification purposes and for ensuring that the information in CPIC accurately reflects the person who was actually deported. For the procedures and authorities on fingerprinting and photographing, refer to ENF12, section 12 and section 13.

It is also important that the fields "Danger to the Public," "Unlikely to Appear" and "Minister's Danger Opinion" are accurately completed as they will have an impact on determining whether the information is relayed to CPIC. These are factors that must be assessed by the officer at the time of the person's removal from Canada. They may be used later as reasonable grounds for arrest and detention by a peace officer under A55(2)(a) and should be completed in accordance with the guidance provided in ENF 20, section 5.6 and section 5.7.

Upon completion of the "Certificate of Departure" screen in FOSS**,** the PDP screen will automatically be prompted to an officer's attention whenever the following criteria are met:

- the type of removal order equals a deportation order or a departure order that becomes a deportation order (formerly deemed deport), except where A42(b) is the sole reason for inadmissibility; and
- a confirmed date of departure has been entered.

If the PDP screen does not appear automatically, FOSS has recognized that the deportee does not meet the PDP database criteria and no further action is required by the officer.

Step 2: Completion of the previously deported persons document in FOSS

Completion of the PDP screen is mandatory whenever it is automatically prompted to an officer's attention. It is the instrument used to enable the PREV.DEP flag in FOSS and to identify a record for download to the CPIC-PDP database.

Upon first access, the PDP screen will be pre-filled with the client's basic tombstone data and physical characteristics, replicating the details that will be displayed in CPIC. Officers will recognize their responsibility to provide peace officers with information that will assist them in confirming identity in the event of a positive CPIC "hit." This includes ensuring that the PDP screen is updated with any known information that is missing or requires updating, such as eye colour, appearance (e.g., caucasian), and identifying marks such as scars, tattoos, etc.

In addition to the tombstone information and physical description fields (which can be updated or edited on the PDP screen), the following fields will also copy over to the PDP screen from the Certificate of Departure:

- Photograph (field can be updated or edited);
- Fingerprints (field can be updated or edited);
- Danger to the public (field can be updated or edited);

- Unlikely to appear (field can be updated or edited);
- C&I Minister's Danger Opinion (issued under A101(2)(b));
- Contrary to the national interest (C&I Minister's Danger Opinion issued under A115(2)); and
- Confirmed date of departure.

The "Danger to the Public" and "Unlikely to Appear" fields should be updated in accordance with the guidance provided in ENF 20, section 5.6 and section 5.7. This guidance is intended to help peace officers form grounds for arrest, not to decide those grounds for them; peace officers must make their own decisions as to whether or not there are reasonable grounds for arrest under A55(2)(a).

If any one of the fields "Danger to the Public," "Unlikely to Appear" or "Minister's Danger Opinion Issued" shows a Y[es], the record will be downloaded to the CPIC-PDP database as a national lookout for peace officers.

The PDP document is an electronic record and not a printable form. Therefore, if the deportee has been identified for download to CPIC, the officer must use the "Print Screen" function to print a hard copy of the PDP screen. Within 48 hours, this copy must be sent, together with the photographs and certified copies of fingerprints (with the client ID number written on the back) taken at the time of removal, to

Immigration Warrant Response Centre (IWRC)
NRAC - CBSA
2265 St. Laurent Blvd., 2nd Floor
Ottawa ON
K1G 4K3

Once the valid "Option" command has been entered to complete the PDP document:

- the PDP document will be added to the client history;
- the PREV.DEP flag will display when queried in FOSS (also viewable by CAIPS users) so that at the POE, the deportee will be flagged to officers on the primary inspection line as an automatic referral; and
- as soon as records identified for download to CPIC have been transferred via the FOSS/CPIC interface, the PDP screen will display a "Sent to CPIC" message.

The IWRC will be responsible for the following:

- maintaining a file of photographs and fingerprints related to the CPIC-PDP database;
- verifying the information to be downloaded to CPIC;
- transferring the PDP information to the CPIC-PDP database using the FOSS/CPIC interface;
- validating the records in accordance with the rules governing CPIC users; and
- responding to inquiries from peace officers and CIC.

The process of adding PDP information to CPIC will parallel the manner in which warrants for arrest are handled.

18.3. Completion of the previously deported persons document in FOSS for persons deported prior to the implementation of PDP

To the extent that local resources permit, the CBSA managers are encouraged to authorize the addition of previously deported persons removed prior to the implementation of PDP in CPIC. These cases will involve persons who, in the interest of public safety, should be added to the PDP database in CPIC. Such cases should include persons who could be a terrorist or security threat, a danger to the public or repeat offenders who are unlikely to appear.

When authorized by a CBSA manager, persons who have been deported from Canada prior to the implementation of PDP can be added to the FOSS-PDP database from the "Full Document Entry" (FDE) menu, by choosing option "PD-Prev.Dep.Pers." The person must be an existing client in FOSS and the value entered in the "IF EXISTING CASE – IDENTIFY CASE SERIAL NO." field must be the document serial number of the Certificate of Departure on file. Once this number is entered, the PDP screen will be updated with the client's personal information. Before deciding to add a case, officers are reminded to check the client history to ensure that no visas or permits have been issued since the most recent confirmed date of departure.

19. Procedure: Seizure of documents

The same authorities for seizure at the POE govern the seizure of material items in Canada. A140(1) authorizes an officer to seize and hold any means of transportation, document or other thing if the officer believes, on reasonable grounds (ENF 7, section 6), one of the following:

- that the means of transportation, document or other thing has been fraudulently or improperly obtained or used;
- that seizure is necessary to prevent its fraudulent or improper use; or
- that the seizure is necessary to carry out the purposes of the Act and Regulations.

19.1. When to seize documents

For inland cases, seizure of identity and travel documents should occur when the person becomes the subject of enforcement action. For information on when to seize documents, refer to ENF 12, sections 9.4 to 9.7.

19.2. Documents seized by other agencies

For information on obtaining documents that have been seized by other agencies and would be of use for removal action, refer to ENF 7, section 20.2.

19.3. Disposing of seized documents

After the officer removes a foreign national from Canada, the officer should return any genuine identity or travel documents to the rightful holder.

All seized documents issued by any government department or agency should be returned to the appropriate issuing authority.

For further instructions on the procedures for disposing of fraudulent documents and sending them to regional intelligence officials, refer to ENF 12, section 11.14.

For information on disposing of social insurance cards, refer to ENF12, section 11.13.

19.4. Returning seized documents to refugee claimants

A refugee claimant may request an officer to return their passport, travel document or other identity document. The officer will determine, depending on the circumstances of the case, whether or not to return the requested document.

When to return a document to a refugee claimant

A passport or other document belonging to a refugee claimant may be returned to the rightful holder if they make a request to depart Canada and withdraw their refugee claim. The refugee claim can be withdrawn either:

- to an officer, prior to the referral of the claim, through the completion of the IMM 5317B; or
- to the RPD after the referral of the claim.

When an officer has any doubt about the person's intention to depart Canada, the officer should make arrangements to have the person pick up their passport on departure from the POE CBSA office. The officer will then forward the passport to the POE.

When to retain documents belonging to refugee claimants

R253(2)(d) states that a document can be returned to a person if the seizure is no longer necessary to carry out the purposes of the Act. Therefore, an officer has the authority to retain the seized documents until satisfied that all immigration processes are complete. In cases where a refugee claim is pending, a passport, travel or other identity document should not be returned to the claimant until the refugee hearing and subsequent recourse have been finalized.

In order to carry out the purposes of the Act, seized documents may be retained on file under the following circumstances:

- to expedite the person's identification;
- to assist in background checks;
- to assist in identifying immediate family members;
- to assist in verifying information provided in their Personal Information Form;
- to ensure compliance;
- to ensure that documents are not recycled; and
- to assist in removal should the refugee claim be unsuccessful.

For further information on returning seized documents, refer to ENF 12, section 11.5.

20. Procedure: Obtaining travel documents

Officers should photograph and fingerprint all removal cases for identification purposes in order to ease the process of re-applying for travel documents should this information be necessary in the future. Embassies and consulates may also require this information for transmission to their home country. A16(3) provides the legal authority for an officer to fingerprint and photograph foreign nationals who are the subject of a removal order.

Passports and travel documents for foreign nationals under a removal order can be obtained through regional consulates or through consulates, high commissions and embassies in Ottawa.

The electronic publication *Diplomatic, Consular and Other Representatives in Canada* is available at http://webapps.dfait-maeci.gc.ca/Protocol/main.asp.

Each foreign mission requires a variety of information and documentation. Some missions may insist on a completed application form, while others may require only a letter. Officers should contact the appropriate mission to find out what information is necessary.

If a country does not have an embassy or consulate in Canada, officers should approach the country's embassy in the United States, or the closest geographic equivalent, directly with a request for a travel document. In cases where a country has no representation, or is currently being administered by the United Nations, officers should determine who the appropriate authority is and contact them directly.

When requesting documentation from foreign missions, officers should always request the maximum permissible validity period for the travel document to allow for some flexibility in making removal arrangements. All requests for travel documents from foreign missions should normally include:

- the foreign national's complete name, date and place of birth, and any other relevant particulars such as education and employment history;
- names, places and dates of birth and the present and/or past address of parents, and similar details, where known, of other family members or close relatives residing in the country;
- the foreign national's last place of residence in the country of citizenship;
- the foreign national's date of arrival in Canada;
- a copy of the removal order. When the removal order is based on criminality, officers should provide details of all known convictions;
- two to four passport-size photographs, one to be certified on the reverse to the effect that it is a true likeness of the person concerned;
- identification documents such as an expired passport, seaman's identity card, birth or baptismal certificate, laissez-passer or other books or documents that might help in establishing the citizenship of the person concerned (be sure to keep a copy on file of all documentation sent to the foreign mission); and
- any other relevant file information (i.e., itinerary).

In some cases, it may be necessary to obtain personal information from a *Background Information Document (BID*) [IMM 5417B] that may have been placed on file by another officer. Should a situation arise where a case is concluded and the person is ready to be removed but is not cooperating with the CBSA's efforts to obtain a passport or travel document, the BID will be used in support of an application for a passport or travel document. When determining if a travel document is on file, officers should:

- query FOSS/NCMS for the existence of an original travel document or photocopy;
- review client files to determine whether a formal application for a travel document or a BID has been submitted earlier in the enforcement process; and
- action files containing valid travel documents that can otherwise be used to effect removal without delay.

20.1. Obtaining travel documents for detained foreign nationals

A detained foreign national may not possess travel documents, which could delay removal. It is the CBSA's duty to remove people as efficiently as possible. Therefore, to avoid prolonged detention of the foreign national, officers must make arrangements to obtain travel documents as quickly as possible.

When officers correspond with a foreign mission, three points should be made clear to the mission:

- that a removal order has been issued and is under appeal or other action;
- that arrangements are being undertaken to obtain a travel document to reduce the period of detention to a minimum, should removal be ordered or directed; and
- that officers will immediately inform the mission if the IAD does not direct removal action or should the foreign national concerned otherwise successfully challenge the validity of the order.

Some embassies and consulates will release travel documents without travel itineraries. Where possible, officers should apply in advance for a travel document.

Officers must give top priority to any correspondence pertaining to a detained foreign national. They should either put a *Detained Sticker* [IMM 0476B] on each piece of correspondence that is sent to NHQ and to the IAD to alert them to the urgency of the case, or note in the correspondence that the foreign national is detained.

Officers should make prompt and reasonable efforts to find out the detainee's citizenship, for the purpose of acquiring a travel document and executing the removal order expeditiously.

20.2. Referrals to National Headquarters

In cases where the officer consistently fails to obtain a travel document from a foreign mission, the case may be referred to the Inland Enforcement Division at the CBSA NHQ. Liaison Officers in the Inland Enforcement Division at the CBSA NHQ will take the necessary steps to resolve outstanding issues with the relevant authorities or will seek other solutions as required. In some cases, the Department of Foreign Affairs may be asked to intervene if difficulties in obtaining the necessary travel documentation persist. The contact information for the removals liaison officer at the Inland Enforcement Division at the CBSA NHQ can be found at: http://www.ci.gc.ca/cbsa-asfc/eb-dgel/ourp-nosp/enf-exec/inland-inter/invesremov-enqtrenvoi/contact/index-e.asp

As a general rule, cases must be referred for assistance only where officers have attempted on three separate occasions to obtain a travel document and more than 90 days have elapsed since the first application. The 90-day rule exists to help screen out previous referrals that regions are capable of resolving. If a regional program specialist is available, they are another resource that is useful before referring the case to the CBSA NHQ. Furthermore, only cases that are removal-ready should be referred. Removal-ready implies that the person's location is known, that reasonable grounds exist to believe the individual can be removed within a reasonable time should a travel document be obtained, and PRRA notification has been given.

When a case is referred to the Inland Enforcement Division at the CBSA NHQ for assistance, primary responsibility for the file remains with the officer who referred the case. The Inland Enforcement Division at the CBSA NHQ will attempt only to obtain a travel document. The referring officer remains the principle contact for any information and/or action pertaining to the case.

The officer responsible for the case is expected to continue their attempts to obtain a travel document, unless specifically instructed otherwise by the Investigations and Removals Directorate. Officers must inform the Investigations and Removals Directorate immediately of any

new developments in the case, especially if an officer succeeds in obtaining a travel document after having referred the case to NHQ.

When referring a case to the Investigations and Removals Directorate, it is imperative that officers provide all necessary background information. To avoid unnecessary delays, officers should use the NHQ Referrals/Travel Documents form in Appendix C when referring a case for the first time. This form must be fully completed and submitted with all the required supporting documentation listed. Failure to complete the form properly with all of the required information will result in the case being returned unactioned.

20.3. Removal without a valid passport

In cases where removal without a valid passport is a possibility, officers should assess the case and discuss it with their supervisor. It is possible for officers to effect removal even if the foreign national does not have a valid passport.

In some cases, a foreign national may not require a valid passport to enter their country of nationality. Before officers remove a foreign national who does not have a valid passport or travel document, they will need the concurrence of the transportation carrier and any country of transit. In some cases, it may prove difficult for the foreign national to travel without a passport through other countries en route to the final destination.

An officer of the destination country of nationality will usually grant a citizen admission to a foreign national upon satisfaction that the person is a national of that country. An expired passport, birth certificate, national identification card, or any other recognized document that contains biographical details of the person may be sufficient.

20.4. Removal without documentation

Although it is not recommended to proceed with a removal without proper documentation, a transportation carrier may accept a foreign national under removal order without documentation if the foreign national is being removed directly back to the country of origin and there are no transit points. Before finalizing travel arrangements, the carrier should be contacted to verify that this is acceptable, and officers should be confident that the destination country is willing to accept the deportee without documents. A *Canada Immigration Single Journey Document* [IMM 5149B] should be completed and used where the country will accept such a document. It is necessary to consult with the Inland Enforcement Division at the CBSA NHQ for guidance when no travel documents are available and the subject is still being removed.

20.5. Use of a Canada Immigration Single Journey Document

A *Canada Immigration Single Journey Document* [IMM 5149B] should be used only in instances where it is not possible to obtain an authorized travel document or remove an individual on an authorized travel document. Officers should regard the use of an IMM 5149B as an exception to the rule, not as a standard operating procedure. As such, the decision to use an IMM 5149B must be made on a case-specific basis, taking into account all possible complications including the requirements of transit countries. Officers should always seek the concurrence of their manager before removing on an IMM 5149B. This document does not guarantee entry to the destination country, and officers should be aware of the potential for a person being refused entry into that country. Although there is not a list of countries that accept persons removed on an IMM 5149B, as a general rule such removals should not be attempted to countries such as the United States and the United Kingdom.

If the officer and manager are in doubt as to whether an IMM 5149B can be used, they should consult with the Inland Enforcement Division at the CBSA NHQ . A narrative report should be forwarded by e-mail to the removal liaison officer of the Inland Enforcement Division at the CBSA NHQ. The contact information can be found at: http://www.ci.gc.ca/cbsa-asfc/eb-dgel/ourp-nosp/enf-exec/inland-inter/invesremov-enqtrenvoi/contact/index-e.asp.

The narrative report should include:

- the reason the IMM 5149B will be utilized;
- the proposed date of removal, itinerary and name of the transportation company;
- the reason for removal;
- the number of escorts to accompany the person and, if determined at time of reporting, the names of any escorts;
- any available supporting documentation such as a birth certificate or expired document; and
- any other information that may be useful.

For further information on the escort requirements for the removal of persons on an IMM 5149B, refer to section 23.8 below.

20.6. Visa requirements

When a foreign national is required to transit a country where a visa is required, an officer must acquire the necessary visa before the foreign national is removed from Canada. Some countries require re-entry visas for their nationals being removed back to their countries.

For specific requirements, officers should refer to the *Travel Information Manual* (TIM), but should consult their manager or supervisor before ordering copies. To order copies of this manual, a written request should be addressed to the International Air Transport Association (Netherlands) Data Publications, P.O. Box 49, 1170 AA Badhoevedorp, The Netherlands.

In some cases, it may be necessary for officers to contact the embassy or consulate directly or to confirm visa requirements with the Migration Integrity Officer directly.

21. Procedure: Notice to transportation companies

Officers should inform the transportation companies responsible for removal as soon as a removal order becomes enforceable. Officers should also provide background details in the advance information so that the carriers can conduct any necessary investigations before removal.

If the transportation companies responsible for removal are air carriers, the information from the officer should also include, whenever possible, a photocopy of the original airline ticket, inbound ticket numbers, routing to Canada, other carriers involved en route, flight numbers and dates. These details will assist in the carriers' acceptance of liability and help them to prorate removal costs to any other carriers involved.

Officers should use the *Notice of Requirement to Carry a Foreign National from Canada*[IMM 1216B] to serve notice officially on an airline of its responsibility to convey the person back to their country. Once the officer has established a travel itinerary, the officer presents the IMM 1216B to airline officials for signature.

For further information on the escort responsibilities of transportation companies, refer to section 27.7 below.

22. Procedure: Notification to MIOs, IPMs and RCMP of escort cases

The following two subsections provide details concerning notification prior to removal.

22.1. Notification to immigration program managers (IPMs) and migration integrity officers (MIOs) at visa offices abroad

Removal officers must notify immigration program managers (IPMs) and migration integrity officers (MIOs), as per the Mission Territory List, of all known removals arriving in or transiting their countries of responsibility. This includes escorted removals, airline liability cases, and non-escorted cases who confirm their departure. The IPMs/MIOs must be given this information to advise other government officials and police of the returning individual as required. The visa office general mailbox should also be copied to ensure the notification is read if the IPMs/MIOs are away.

For a list of the office addresses, fax numbers, telephone numbers and territory responsibilities of IPMs/MIOs overseas, officers should consult the IPM Posting List and the Mission Territory List at:

http://www.ci.gc.ca/cbsa-asfc/eb-dgel/ourp-nosp/enf-exec/inland-inter/invesremov-enqtrenvoi/contact/index-e.asp.

There are also specific procedures to follow when transiting Europe. IPMs/MIOs will assign responsibility for liaison on removal issues to a specific visa officer (or other visa office staff) as operations dictate. Therefore, while the IPM will be the first point of contact for a visa office on removals, Canada-based removal officers should understand that they might be dealing with another member of the visa office regarding issues that may arise during a removal. It is important to identify a single point of contact at the visa office regarding removals to reduce confusion for removal officers and to ensure that the effective working relationships with local officials are maintained.

It is imperative that officers send the notification to the post at least seven working days before the proposed removal. If the information cannot be sent within seven working days, officers must notify the IPM/MIO as soon as possible to prevent difficult situations from developing and to ensure that any necessary assistance will be available.

Notification should stipulate whether it is being sent for information only, or if assistance is required in either the transit country or country of destination. The notification should contain the following information:

- names;
- dates of birth;
- passport numbers of escort officers, including police and/or medical officers;
- the full given name, family name and aliases of the foreign national being removed;
- the foreign national's date of birth, citizenship, place of birth and address in the home country;
- a description of the foreign national and a photograph;
- the type, serial number and validity period of the travel document;
- accompanying identification documents;
- the date of the removal order and the IRPA violation under which the removal order was issued;
- the proposed date of removal, itinerary and name of the transportation company;

- any criminal or terrorist background and whether the foreign national has a history of violence;
- the attitude of the foreign national concerning their removal (for example, whether the foreign national is likely to resist forcibly);
- if a medical case, the nature of the medical condition;
- any assistance from foreign authorities that is expected during transit;
- information on accompanying family members; and
- any other information that may be useful.

If a removal is delayed or cancelled, the enforcement officer must notify the visa office immediately. If necessary, further information should be sent regarding the specific reasons for the delay or cancellation and whether further action is required.

Furthermore, the Removals Unit must provide written instructions to port of entry officers of action to be taken if/when a client does not appear for a removal for which the visa offices were notified. For these cases, the IMM 1226B (*Envelope: Removal Documents*), which is sent to the POE by the Removals Unit, must include the appropriate IPM/MIO contact information (name, post, e-mail, fax and telephone numbers). IPMs/MIOs do not need to be notified of airport turnarounds.

In the past, when a removal client did not appear, the notification to visa offices abroad had been actioned by the Removals Unit. Now, in the event that notification of removal was provided ahead of time, and the removal client does not subsequently appear as required, the POE officer must contact the necessary IPMs/MIOs as soon as possible, instead of passing the information to the Removals Unit as before. The method of notification is at the officer's discretion, based on the timing and the circumstances of the case, e.g., fax, e-mail, and/or telephone (mitnet). This will allow the IPM/MIO, and ultimately the CBSA, to maintain good relations with local authorities in both transit and destination countries.

For contentious and serious criminal cases, officers should send an information copy of the notification to the Director of Case Review at CIC Case Management Branch, and to the Director of the Inland Enforcement Division at the CBSA NHQ. In certain cases, temporary instructions may exist requiring an officer to contact the Case Management Branch or the Inland Enforcement Division at the CBSA NHQ before officers commence removal action. For further details, officers should contact their manager or supervisor.

The latest information on specific removal instructions is available on the Inland Enforcement Division Web site at

http://www.ci.gc.ca/cbsa-asfc/eb-dgel/ourp-nosp/enf-exec/inland-inter/invesremov-enqtrenvoi/index-e.asp.

22.2. Interpol Notification

In keeping with the RCMP's Interpol obligation, officers must, prior to removal, notify the RCMP in order that Interpol member countries en route and at the destination are advised of a person who

- has a serious Canadian criminal record,
- has a serious foreign criminal record, or
- is wanted by a foreign country.

Information similar to that listed in section 22.1 above may be included in the notification to the RCMP. RCMP Interpol Operations in Ottawa can be reached by telephone at (613) 990-9595 and by facsimile at (613) 993-8309.

23. Procedure: Assessment of the need for escorts

If the requirements for voluntary compliance (see ENF 11, section 10) are not met under R238(1), the PSEP Minister must enforce the removal order. For cases involving removal by the Minister under R239, the PSEP Minister must enforce the removal order (see ENF 11, section 11). How the removal order will be enforced will affect whether or not the person requires an escort. The accountability for the decision following the assessment of the need for escorts rests with the manager or supervisor.

In cases where it is difficult to decide if an escort is required, the personal interview with the individual scheduled for removal should assist in determining the level of risk likely to be present during the removal. Factors to consider during the interview are the person's comportment, anticipated reaction to their return to the country of destination, the length of the trip, and/or the transit point(s).

A thorough review of the case file and a pre-removal interview should be undertaken to assess the different case variables and the need for escorts. Information on the person's past criminal activity and behaviour, coupled with their physical and psychological condition, will normally provide information crucial to determining the need for an escort and expected events that could occur during a removal.

The objective of assessing the need for escorts is to minimize the risk to the safety and security of the person(s) being removed, the travelling public, transportation company personnel and/or the officer(s) conducting the removal. Where it is determined that an escort is necessary, the following are important factors to consider in order to avoid unnecessary risk and ensure the success of the escort:

- the number of officers required to effect the removal;
- the physical capability of the officers to restrain the individual should it become necessary; and
- the circumstances and locations in which the removal will take place.

23.1. Determining the number of officers for escort

Where a removal case warrants the assistance of other agencies, officers may include immigration officers, RCMP officers, other police officers, or other suitable temporary assistants who have been designated as immigration officers under A138(2) and should be assigned in accordance with operational needs.

In any case, where the manager or supervisor has determined that there is a risk to the safety and security of the person(s) being removed, the travelling public, transportation company personnel or the officer, two officers should be assigned. This is consistent with Transport Canada's security guidelines. Individual airlines may have other security requirements that should be taken into account when determining the number of escorts. For further information on dealing with air carriers, refer to section 26 below.

In some cases, escorts may be assigned to accompany a person only if there is no other alternative routing available. Where the need to accompany a person is based solely on transit requirements and if it is more cost-effective, efforts should be made to find alternative routings to send persons without an escort.

The manager or supervisor may arrange for more than two officers to effect a removal if it is determined that additional assistance may be required. Additional officers will be used only following a final assessment of the individual to be removed. RCMP or other police assistance should be sought in removing persons considered violent or dangerous. The final decision on the use of three or more officers will rest with the manager or supervisor.

An escorting officer may be assigned for facilitation purposes to accompany a person only if there is no other alternative routing available. Given that there are no safety or security risks in these situations, only one officer should be assigned to accompany the person. Only one officer, medical officer or child protection worker, as deemed appropriate by the manager or director, should be assigned to accompany special care cases.

At least one officer of the same sex as the individual under removal must be assigned. Under no circumstances should a female officer escort or accompany a male deportee alone or a male officer escort or accompany a female deportee alone. This is to ensure that the deportee can be searched when taken into custody and when deemed necessary during the course of the escort, and can be supervised during washroom visits.

23.2. Examples of removal cases that may require an escort

The following is a non-exhaustive list of examples to assist in assessing the need for escorts. Two officers should be assigned to remove an individual under the following circumstances:

- the individual has been charged with, or convicted of, a serious offence involving violence in any country. These offences may involve bodily harm (including death), weapons (including explosives), arson, hostage-taking, extortion, or acts against children;
- the individual has demonstrated an unwillingness to be removed or has made verbal or written threats against anyone in regards to their removal and/or it is anticipated that violence or untoward behaviour will be exhibited during the removal;
- the individual has been deemed by the C&I Minister to be a danger to the public;
- it is anticipated that problems may arise at the transit point or that the individual will avoid connecting to the ongoing aircraft; and
- the individual suffers from a medical condition which requires close supervision and the individual poses a safety or security risk. For further information the medical escort cases, refer to section 24 below.

23.3. Exceptional cases that may require an escort

The following are a few examples of exceptional cases in which an escort may be required:

- situations in which an individual has been convicted of a minor assault. The nature of the assault and the potential for violence at the time of removal will be the determining factors in these situations. If it is determined that an escort is required, two officers should be assigned;
- cases involving serious narcotic or drug convictions and the additional factors such as acts of violence or organized crime. The circumstances may vary from the need for no escort at all to the need for two officers. Individuals with minor narcotic or drug-related convictions will not normally be escorted unless there are indications that violence was, or may be, an issue;
- cases of serious criminal charges, particularly charges that are violence-related. In these cases, the individual should be escorted by at least two officers. When the individual is wanted by law enforcement authorities in another country for minor charges, the individual might need to be escorted depending upon circumstances such as their willingness to leave

or the anticipated reception the individual may experience upon arrival at the country of destination. There may also be other law enforcement "liaison" issues that need to be factored into the decision to escort;

- individuals whom the CBSA knows have escaped or attempted to escape the CBSA or police custody may not necessarily require an escort, particularly if their scheduled flight is non-stop. The rationale for this approach is that, if a person appears at the airport voluntarily, then they are willing to leave Canada. However, if the individual has a repeated history of escape, or has made recent attempts to escape, serious consideration should be given to escorting such an individual to their final destination. In such cases where it is determined that an escort is required, two officers should be assigned; and

- individuals convicted of property-related or other offences involving non-violent acts should not be escorted unless there are extenuating circumstances determined in the risk assessment which warrant an escort. In such cases where it is determined that an escort is required, two officers should be assigned. (Property-related offences may include such crimes as theft, possession of stolen property, trespassing or fraud.)

23.4. Escort of multiple removals

In multiple removal cases, the air carrier reserves the right to limit the maximum number of passengers under escort, considering the size of the aircraft and the level of danger involved. It is important, in these cases, that the air carrier is aware of the number of individuals being removed on one flight, the ratio of escorts to removals and the nature of the cases involved.

The following guidelines are suggested for departmental liability cases in which the individuals are not considered to pose safety or security risks and do not fall within the parameters of the profiles outlined earlier:

- 0 to 5 adults = no officer
- 6 to 10 adults = 2 officers
- 11 to 15 adults = 3 officers
- 16 to 20 adults = 4 officers

In cases where the air carrier requests a variance in the number of officers provided, the matter will have to be negotiated with the individual air carrier. The airlines should also be reminded that the CBSA officer would be responsible only for cases where the CBSA is liable for costs. The responsibility for the escort of airline liability cases rests with the airline, and these cases are not to be included in the calculation related to the above profiles.

Officers are reminded that there will be situations that do not fall within the categories above. It should therefore be understood that each case must be assessed in accordance with individual circumstances when determining the need for and the number of officers that may be required, bearing in mind the basic criteria outlined in the profiles. The final decision on whether or not individuals should be escorted ultimately rests with the manager or supervisor.

23.5. Removals involving transit points

Officers are not automatically assigned to ensure connections at transit points. There may be cases where CBSA officers are satisfied that there is no safety or security risk and that the person wants to return, has all the necessary documentation, has made personal reception arrangements at the destination, and will meet connecting flights at the transit point. An escort should not normally be required in such cases.

One officer of the same sex should be assigned to accompany a person to their destination where CBSA officers are satisfied there is no safety or security risk and the need to accompany the person is dictated by transit requirements and/or the CBSA's obligations to satisfy established arrangements or to meet certain requirements imposed by other parties such as other countries or transportation companies.

23.6. Removal of minors

In instances where fewer than three children under the age of 16 years are accompanying adults, they will not be counted in the numbers for the assignment of officers. However, if there are more than three children, an additional officer should be considered.

Unaccompanied minors under the age of 13 should be removed with an escort. Unaccompanied minors between the ages of 13 and 18 can be returned on direct flights to their country of origin, without escort, where the airlines will accept responsibility for the child during the trip and where no other safety and security risk exists. An escort should accompany children between the ages of 13 and 18 on non-direct flights or on direct flights where the airlines cannot accept responsibility for the child's care en route or where other safety or security risks exist.

In all cases of the removal of minors, reception with the family members or representatives of government departments or agencies responsible for child welfare should be arranged prior to departure.

23.7. Removal of violent persons

An individual who has a serious violent criminal history or who otherwise meets a profile requiring two officers should not normally be removed on the same aircraft with multiple removals. However, should this become necessary, the airline should be consulted and, if the airline agrees to the removal, two officers should be dedicated to that removal alone, exclusive of other officers involved in the multiple removals.

23.8. Removal with a *Canada Immigration Single Journey Document*

In situations where persons are being removed on a *Canada Immigration Single Journey Document* [IMM 5149] to countries where this document has been previously used without any problems, the CBSA officers should consult their supervisor or manager to determine that there is no safety or security risk. If no such risk exists and it is anticipated that removal will be successful using an IMM 5149B, an officer may not be required for escort. Whenever a person is removed on an IMM 5149B, the individual should be in possession of supporting documentation such as a birth certificate or national identity card. For further information on when to use an IMM 5149B, refer to section 20.5 above.

When an IMM 5149B is being used to remove a person to a specific destination for the first time, at least one officer of the same sex should accompany the individual being removed.

An escort officer may not be required for removals through transit points where the person concerned has an IMM 5149B and a visa, and the CBSA officers are satisfied there is no safety or security risk.

When a flight connection is necessary through a strategically important hub or connection point (in particular London, Paris, Amsterdam, Zurich, Frankfurt, Rome, Port of Spain, Lima, Singapore, Hong Kong and the USA), at least one officer of the same sex should be assigned to accompany the person to the connection point only.

24. Procedure: Medical cases for removal

This section contains information on medical cases for removal and requesting medical information for the destination countries of persons under a removal order.

24.1. Requesting medical information for destination countries of persons under a removal order

Some individuals with medical conditions who are facing removal may claim that adequate medical facilities and/or treatment are not available or accessible in their destination country. Medical Services Branch – Health Programs Delivery (HPD) at CIC NHQ is a centralized unit that, upon request, will provide a medical opinion on the medical facilities, treatment and services available in the destination country. Medical expertise is available to officers when there is uncertainty that the person being removed will receive adequate medical treatment in the particular country of removal.

CIC's medical officers at CIC NHQ are responsible for obtaining and providing officers with the requested information. In the past, requests have been directed randomly to the regional medical officer abroad, visa officers and/or Medical Services at CIC NHQ, which has often created delays and duplication of work.

When submitting such requests, officers should provide Medical Services with:

- the name and date of birth of the foreign national;
- file number(s);
- the diagnosis, current treatment and medications;
- the applicant's treating doctor and/or hospital; and
- the destination country.

The officer should clearly state what information is being requested from the Director of Medical Operations in relation to a particular case. The request may be sent by fax to (613) 941-0703 or by e-mail. However, in each case, an e-mail alerting the Medical Services Branch that a fax will be forwarded should be sent to Mary Voisey -- mary.voisey@cic.gc.ca., with a copy to mailbox "MED.HPD.Director". She can be reached at 613-957-3990. A response should be sent by e-mail to the requesting officer. Under normal circumstances, CIC Medical Services will provide a response within 10 working days.

24.2. Medical escorts

The officer may allow a federal government medical officer to act as an escort only when removal is at public expense and medical attention is required en route. Many removal offices employ the services of nurses from non-governmental organizations or correctional institutions, etc., to assist with cases that require medical attention. Officers are encouraged to follow existing local office policy with respect to contracting this medical staff.

Decisions respecting the need to escort persons with medical conditions should be guided by whether the individual will require close supervision and qualified medical assistance in order to undertake the journey to their final destination without posing a safety or security risk. It may be necessary to assign two officers, in addition to the medical personnel, depending on the circumstances.

The following general principles have been established to guide officers in determining when to seek medical assistance with respect to escorting foreign nationals who have a history of violent behaviour, or foreign nationals who may become violent or create a disturbance when removal is in progress.

Under no circumstances will any foreign nationals be taken to a physician solely for the purpose of being placed under sedation for removal from Canada. Where a foreign national has been taken to a physician for some other legitimate medical reason, the physician may address the question of sedation for removal as a secondary issue. If the physician decides to prescribe medication, the foreign national concerned must be asked if he or she wishes to take such

medication, and if not, no medication is to be administered. The only exception is the psychiatric cases described in section 24.3 below.

24.3. Examples of medical escort cases

Example	Case scenarios	For more information, see:
1.	Medical treatment is being administered or foreign nationals are under psychiatric care/treatment in an institution or hospital.	Section 24.4
2.	Foreign nationals have a history of violent behaviour or are likely to become violent.	Section 24.5

24.4. Details of example 1

Cases in which medical treatment is being administered or the person is under psychiatric care or treatment in an institution or hospital usually involve:

- foreign nationals who are suffering from a medical condition that requires the administration of drugs at regular intervals, or
- foreign nationals who are currently in mental or psychiatric institutions or hospitals.

The first situation is one in which medication will have been prescribed for treating medical disorders (e.g., heart condition) that are considered serious enough to warrant the presence of a physician or registered nurse during removal. The physician or nurse is present only for the purpose of administering medication and/or monitoring the condition of the foreign national being removed from Canada. Any drugs administered are given to the patient of their own volition to treat the medical condition.

The second situation is one in which the foreign national being removed from Canada has been institutionalized for psychiatric treatment and is probably being returned to their home country for the continuation of treatment (i.e., usually to a mental institution or hospital). The medication administered in these cases is a continuation of the ongoing treatment prescribed by the psychiatrist or physician.

In either of these two situations, arrangements may be made for the removal from Canada of such foreign nationals under medical escort, if considered appropriate by the officer in consultation with the attending physician or psychiatrist. It will not be necessary to refer such cases to CIC NHQ for concurrence before finalizing travel arrangements and effecting removal.

24.5. Details of example 2

Cases in which there is a history of violent behaviour or the person is likely to become violent usually involve:

- foreign nationals who have a history of violent behaviour, with a criminal record for violent acts, and who are usually being detained in jail, or
- foreign nationals who become violent or create a disturbance when removal is in progress.

In situations where the foreign national has not agreed to any medication being administered or their behaviour is such that they are likely to become violent or create a disturbance, officers making removal arrangements can seek the assistance of the RCMP.

Annex 4 of the Memorandum of Understanding concerning partnership, communication, cooperation and information sharing between Citizenship and Immigration Canada and the Royal Canadian Mounted Police (dated 2002) provides for the RCMP to assist CIC, when requested, with the removal from Canada of foreign nationals who are considered to be violent or dangerous.

The RCMP is guided by the same legal and medical concerns in these cases. Where a difficult removal is encountered, the RCMP will have to physically control the foreign national being removed with the appropriate restraints, as required. All such cases should be accompanied by at least one officer to assist with documentation and immigration matters in the receiving country and at any transit point.

Regional offices should liaise with their RCMP counterparts to ensure that they are aware of these procedures. The RCMP officers providing assistance in these types of escorts will require valid passports as well as up-to-date proof of immunization.

Where a medical escort is being contemplated in any situation not described in these guidelines, the Director of the Inland Enforcement Division, CBSA NHQ should be consulted.

25. Procedure: Establishing emergency contacts

To be fully prepared when effecting a removal, officers should have the following emergency contact numbers with them:

- the telephone number and address of the Canadian embassy in countries of destination and transit;
- the telephone number, name and office address of the responsible migration integrity officer and immigration program manager;
- contact details for the Canadian regional office duty supervisor; and
- contact details for the 24-hour watch office of the Department of Foreign Affairs.

After regular working hours most Canadian offices abroad will automatically switch from the local consular emergency number to the Foreign Affairs' Watch Office. A small number of offices abroad will have emergency numbers that will activate a voice mail which should be checked regularly, while others have the calls directly re-routed to a duty officer cell phone. In cases where emergency assistance is required, officers may reach the Watch Office by calling (613) 996-8885 or 1-800-387-3124. It should be noted that the correct country code prefix for Canada would be required for direct dialing from overseas, and the 1-800 number may not work outside North America.

26. Procedure: Dealing with air carriers

Air carriers are required to comply with their existing flight safety and security procedures, which can be stricter than existing internationally regulated procedures. When officers are required to escort a subject, all airlines must be advised of the following information:

- the identity of the passenger under escort;
- the flight details;
- the reason for the escort; and
- the risk assessment of the passenger under escort as to safety or security.

During some non-airline liability removal cases, an air carrier may insist that an escort officer or officers accompany a person despite the determination that the individual does not constitute a safety or security risk. The airline has the final decision in these matters and can determine whom they will transport on their aircraft. Should the scenario arise, officers are encouraged to explore

alternatives, including the review of the travel itinerary, routing and airline availability. Officers should be assigned only in cases where no other appropriate alternative is available.

26.1. Airline liability

Individual air carriers are responsible for making removal arrangements and providing escorting officers in situations where a transportation liability exists. However, there will be instances in which the airline requests assistance in providing escort officers for the removal. Agreeing to such requests should be the exception rather than the rule and any such case should be immediately brought to the attention of the supervisor or manager. The primary consideration in agreeing to assist the airlines must be based on the risk assessment. Where a safety or security risk in removal has been determined, the person subject to the removal must be escorted. If the supervisor or manager agrees to provide the CBSA staff to effect the removal, there must be confirmation in writing regarding the agreement reached with the airline concerning the use of the CBSA officers. This agreement must also set out the expenses for which the airline will be liable. The letter will be hand-delivered and served on a responsible representative of the airline.

26.2. Using the document envelope

The *Removal Documents Envelope* [IMM 1226] is specially designed for safekeeping papers such as passports, travel documents and tickets for foreign nationals subject to removal proceedings. The document envelope is addressed to the purser, who will inform the pilot. When making removal arrangements, the officer preparing the document envelope should take the following steps:

- complete the face of the envelope (full name, complete itinerary, etc.) and ensure that a current photograph of the foreign national is attached to the front of the envelope for ready identification;

- give the envelope and contents to the examining officer at the U.S. POE if the officer is turning the foreign national over to the United States Department of Homeland Security (USDHS);

- instruct the escorting officer to carry the foreign national's envelope if the foreign national is being escorted to a destination or on part of the journey;

- instruct the officer to hand the envelope to the pursuer on the aircraft, with verbal instructions on the contents if these differ from the pre-printed notice on the face of the envelope, if the foreign national is unescorted or will no longer be escorted after a transit point.

At the time of removal, officers must also brief the purser (either verbally or by a letter to the captain) and provide a copy of the *Notice of Removal and Profile* [IMM 1253B]. The CBSA recognizes that the prime responsibilities of every airline captain are the safety of passengers and crew, and the security of the aircraft. Certain airlines may also have a specific form that must be completed and provided to airline officials when escorting officers are present on an aircraft. In rare cases, a pilot will refuse to board a person based on the subject's demeanour or from the information provided to the pilot. Should these occasions arise, the officers conducting the removal must rely on their communication skills to provide any additional information to the pilot that could affect the pilot's decision. Often, a pilot's initial determination may change once further information is provided by the escorting officers.

27. Procedure: Arranging the escort

The CBSA is responsible for arranging all overseas escorts, except in cases where there is a direct flight from the CBSA in charge of the case to the final destination (for example, Calgary to London, England).

Officers, supervisors and managers are responsible for making escort arrangements to the U.S. border or, if circumstances indicate a need for special care, to the final destination in the U.S. Efforts should be made to minimize the number and length of stopovers.

The itinerary of an escort and the foreign national who is being removed to the U.S. and requires special care may include one or more stops within the U.S. before the final destination is reached. In this case, an officer should stay with the person until their final destination, or until the officer can leave the person in capable hands. Normally when a foreign national requires special care, the escort will continue to the final destination. If the officer requires ground assistance at any of the stopovers en route, the officer should ask the airport authorities or officials of the USDHS at the airport involved. In special care cases, unless the officer has already made appropriate arrangements for the person's reception at an alternative location, the escort should not leave the foreign national at any point other than the final destination.

The officer or the CBSA manager must exercise discretion in deciding whether the foreign national to be removed requires an escort while en route to the final port of departure from Canada. The officer should consider the following questions:

- Does the foreign national have a serious criminal background, or was the foreign national serving a sentence?
- Is the foreign national a potential escapee or considered a danger to the public?
- Has the foreign national been previously removed?
- Is there evidence of mental instability?
- Is the foreign national under any special medication?
- Are there potential problems at transit points?

If the officer determines that the foreign national does not require an escort to another point of departure, the officer should:

- book and confirm the connecting flight, preferably leaving on the same day;
- notify the responsible airlines; and
- notify Canadian officials at transit points.

Detention increases costs and workload at the receiving port. If there is more than a three-hour layover between connecting flights, or if the officer must detain the foreign national overnight, the officer should include in the foreign national's documentation a signed *Order for Detention* [IMM 0421B].

27.1. Removal arrangements prepared by other officers

Officers making removal arrangements should give the officers involved in the removal written instructions outlining the nature of the case, the action required, relevant documents and the foreign national's baggage and personal effects, if the officer has custody of them. The instructions must contain the following information:

- case history: a brief outline noting citizenship, age, basis for removal, accompanying family members, and whether the foreign national is being removed or repatriated;
- flight arrangements: the flight number and carrier, port of departure and departure time;

- escorting instructions: if the foreign national is being escorted from the place of residence to the port of departure, escorting instructions must include dates, hours of departure, cities, transfer points and stopovers;

- documents: passport and number, medical information, warrant for arrest, detaining order, *Certificate of Departure* [IMM 0056B], removal order, notice of removal profile and receipts for the foreign national's property placed in an Envelope: Removal Documents [IMM 1226] ;

- character of the person: information about the foreign national's attitude to removal, behaviour in jail (in applicable cases), and any other information disclosed on file that might be of assistance to the escorting officer; and

- return to duty: the hour and date on which the escort is to report back.

27.2. Advance notification to the port of departure

When the foreign national who is being removed, escorted or not, transits at a port of departure in Canada, the officer should advise the port of the foreign national's arrival at least one day in advance by facsimile or e-mail and follow up by telephone. Since the receiving port has had no prior contact with the individual, it will need all the useful information the officer can provide. International airlines often seek detailed information on foreign nationals being removed.

The following information should be included in the message:

- the foreign national's file number;

- the foreign national's description and sex;

- the names and ages of all family members, if accompanying;

- arrival and departure information;

- details of any previous detention;

- the foreign national's mental attitude;

- the reason for removal; and

- whether the foreign national will be escorted or not and, if so, the names of the officers accompanying the person.

The foreign national will be carrying a *Certificate of Departure* [IMM 0056B] with a photo affixed. The receiving port can use the certificate to confirm that the foreign national is the subject of the removal order. The officer should also arrange to have the foreign national's documentation placed in an *Envelope: Removal Documents* [IMM 1226] and transferred from the first airline's purser to the connecting flight's personnel.

27.3. Subsistence for persons under a removal order

The officer or the CBSA manager has the discretion to arrange for the foreign national's subsistence or the means to buy it. Foreign nationals being removed under the Reciprocal Arrangement, and who are travelling without escort from the Canadian border to distant points in the United States, should be given cash only.

If it appears necessary to provide financial assistance for transportation to foreign nationals other than those being removed to the U.S., officers should consult their manager or supervisor.

27.4. Luggage and personal finances

When the officer accepts the foreign national into custody, the institution or immigration station may require receipts for the foreign national and the foreign national's effects. If so, the officer must get a complete list of valuables, money or baggage belonging to the foreign national and see that this list appears on the receipt. A copy should be retained and placed on file when the officer returns to duty.

Often, family members will bring in personal effects or funds to an inland removal office to assist their relative who is subject to removal. A written receipt should be provided. When these effects are returned at the completion of the escort, officers should obtain a signature from the person being removed to acknowledge that these effects have been returned. In the absence of a receipt, the officer should record this information in their notebook. If an officer is not diligent in recording the return of these personal effects and funds, then the Department and/or the officer could face claims of theft or loss of effects.

The officer must ensure that the foreign national's baggage has been collected, that it accompanies the foreign national when removal is effected, and that it is checked through to the final destination whenever possible.

Whenever possible, officers should pick up and cash any pay cheques belonging to the foreign national and conclude all banking arrangements on behalf of the foreign national. Money should be exchanged, if possible.

Officers should advise foreign nationals under a removal order to limit their effects so as not to exceed the free baggage allowance limits imposed by transportation companies. Any excess to the baggage allowance is the responsibility of the foreign national, and arrangements must be made to ship excess belongings at their own expense.

27.5. Escorts for removal via the U.S.

Unless officers make other arrangements with the USDHS, it is the CBSA's responsibility to arrange for an escort for removal via the U.S. if the person must deplane in the U.S. en route to a third country. This provision applies even if the airline does not require the person under removal order to be escorted.

27.6. Escorts for removal via countries other than the U.S.

There are countries other than the U.S. that are frequently used as transit points and may also require the presence of an officer to facilitate the removal. A supervisor or manager may agree to deploy escort officers when persons are removed via transit points, as the CBSA requires continued access to these transiting hubs for the continued success of the removals program.

27.7. Escort by transportation companies

If a transportation company is responsible for ensuring the departure of a foreign national from Canada, the company must make its own escort arrangements for travel outside Canada.

If the company does not offer an escort to a foreign national within Canada, it must be reminded in writing of its legal obligation to convey such persons. If the transportation company continues to refuse to provide an escort officer, officers may escort the foreign national, but expenses for the escort should be charged to the company (see ENF 15, section 5.1).

Aside from escorting foreign nationals to U.S. ports of departure to third countries, only in exceptional circumstances will an officer escort a foreign national outside Canada to accommodate a transportation company.

The arrangements and all removal and escort costs must be clearly documented and accepted in writing by the airline.

28. Procedure: Taking precautions to prevent escape

This section provides details on taking safety precautions to prevent escape and using holding centres or cells when transiting Canada.

28.1. Taking safety precautions

Officers must exercise every caution to prevent the escape of foreign nationals in their custody, and must decide whether handcuffs or other restraining equipment should be used according to the circumstances. Officers should take the following precautions:

- do not handcuff, chain or tape the subject to any immovable object while in transit;
- when transporting a foreign national by automobile, ensure that the foreign national is seated on the passenger side of the rear seat;
- a second officer must sit directly behind the driver;
- check the vehicle and surrounding area to ensure that there are no objects that could be used by the foreign national as a weapon;
- if the foreign national causes a disturbance during escort, try to remove the foreign national from public view as quickly as possible;
- when using public transportation, arrange if possible to enter the vehicle ahead of the other passengers, sit at the rear of the vehicle, and ensure that you and the subject are the last passengers to disembark; and
- do not linger with the foreign national in public places.
- one or more escort officers must remain alert at all times and always keep the subject in sight and at close distance;
- if transportation is delayed, officers should try to secure a room in the terminal away from the general public.

28.2. Use of holding centres, cells when transiting through Canada

Other regions can provide their cells or holding centres when officers are transiting a removal through Canada. Use of these facilities should be considered if:

- an officer is aware that there will be several hours before the onward flight to the destination; and
- an officer experiences unforeseen delays before taking the onward flight.

If it is determined that a holding cell is required in these cases, officers should contact the CBSA office at the transit point to obtain the procedures for admittance to a holding centre or cell, including instructions on the forms that must accompany the detention and release of the detainee.

29. Procedure: Actions to take upon escape or attempted escape

This section sets out the actions to take regarding escape or attempted escape from the custody of the CBSA or the facilities of a transportation company, and the preparation of an Enforcement Incident Report (EIR).

29.1. Escape or attempted escape from CBSA custody

IRPA provides for the prosecution of foreign nationals who escape or attempt to escape from lawful custody or detention [A124(1)(b)].

Officers must take the following action immediately if a foreign national escapes from custody:

- notify the nearest municipal or provincial police and the RCMP;
- notify the nearest immigration manager or supervisor, who will in turn notify by e-mail or facsimile the director of the region concerned. The e-mail or facsimile should give details of the identity of the foreign national and place of escape unless the officer is instructed otherwise;
- enlist the help of other local officers to search the area thoroughly and provide any other assistance necessary;
- if the escape occurs outside Canada, notify the local municipal or state police force and the nearest immigration representative for advice on how best to handle the situation in the local context;
- if the escape occurs in the U.S., notify the nearest USDHS officer and the manager of the Canadian port responsible for the case. The port manager will then notify the appropriate officials;
- the officer should complete an *Enforcement Incident Report* [IMM 5381B] by the end of their shift or as soon as reasonably practicable. For further information on the preparation of an EIR, refer to section 29.3;
- submit a full written narrative report to their manager or supervisor, providing details of events leading up to the escape, the escape itself and action taken following the escape. As soon as a complete investigation has been concluded, the manager or supervisor at the port of origin must submit a full report to the area manager. The report must contain any observations or recommendations from the manager that may assist in determining the cause of the escape and preventing future escapes through proper remedial action. The area manager must forward the report with any necessary comments and recommendations to the Director of Inland Enforcement;
- if the escapee is not located, the officer must issue a warrant under A55(1) and enter it into CPIC, issue a lookout and update FOSS/NCMS immediately; and
- when the escapee is again placed in custody, the officer must inform all authorities previously notified of the escape.

29.2. Escape or attempted escape from transportation company facilities

If a foreign national escapes from the custody of a transportation company's facilities, the local CBSA manager must immediately:

- notify the nearest municipal or provincial police and the RCMP;

- notify the nearest immigration manager or supervisor, who will in turn notify by e-mail or facsimile the director of the region concerned. Details in the e-mail or facsimile should include the identity of the foreign national, place of escape, name of the transportation company responsible for the escapee, and the method of escape;

- obtain a written report on the escape from the transportation company or crew member;

- conduct a full investigation into the cause of the escape and all precautions taken by the transportation company. If there is negligence or failure on the part of the transportation company to provide proper security or facilities, make recommendations for penalty action or any remedial action necessary to prevent future escapes;

- on returning to work, the officer should complete an IMM 5381B. For further information on the preparation of Enforcement Incident Reports, refer to section 29.3;

- send the report to the area manager, who will forward it with any necessary comments or recommendations to the Director of the Inland Enforcement Division at the CBSA NHQ . The officer must also ensure that a warrant is issued under A55(1) and entered into CPIC if the escapee is not located immediately; and

- input details of the incident into FOSS/NCMS immediately.

If the transportation company is at fault, the Director of the Inland Enforcement Division at the CBSA NHQ must write to the company advising it of its responsibility under IRPA and the Regulations, and that it is liable to a penalty. The transportation company has 30 days in which to show cause why the penalty should not be imposed. The Director of the Inland Enforcement Division at the CBSA NHQ will then send to the Director General, Enforcement Branch, CBSA, NHQ a full report of the escape from the transportation company's care or custody. This report must provide comments on the cause of the escape, the details of the escape itself, any remedial action that has been taken to prevent further escapes, and copies of all correspondence to the transportation company.

The CBSA NHQ will reply to any representations from the transportation company, informing it in writing of the amount of the penalty when one is imposed and what action, if any, is required for an additional security deposit. When the escapee is again placed in custody, all the authorities previously notified of the escape should be informed.

29.3. Preparation of an *Enforcement Incident Report* (EIR)

The *Enforcement Incident Report* [IMM 5381B] has been designed to provide the CBSA with information on the kinds of resistance that officers encounter in the field and how often incidents occur. Officers are required to complete an EIR by the end of their shift or as soon as reasonably practicable. If an injury requiring medical attention occurs during an escort, officers are required to contact their supervisor or manager as soon as possible. For further procedures on when the EIR should be submitted, to whom it should be submitted and the time frames for submission, refer to ENF 7, section 23.

Should an incident arise during an escort outside Canada, officers may not always be in a position to write a report immediately. In such cases, it is essential that the responsible officer have a written record of the incident. Officers who are performing overseas escort duties should carry their notebooks with them in order to write down the information if and when an incident occurs.

30. Procedure: Counselling on the consequences of the different removal orders

It is essential that when an officer verifies the departure of a foreign national and enforces the removal order that the person is made aware of their requirements should they want to return to Canada. The fact that the person was counselled on the effect of the removal order and their requirements to return should be included on the IMM 0056B and input into FOSS and NCMS.

Officers should be informed of the consequences prescribed to the type of removal order that has been enforced.

30.1. Requirements to return for deportation orders

Under R226(1), all persons who are the subject of an enforced deportation order must always require authorization to return to Canada under A52(1). Officers are reminded that a departure order becomes a deportation order, through operation of law, under R224(2) if the foreign national does not meet the requirements to enforce their removal order under R240(1)(a), (b) and (c) within 30 days after the order becomes enforceable. When a departure order has been enforced at a mission outside Canada, within or beyond the 30-day applicable period, all departure orders must be enforced as deportation orders pursuant to R224(2) and require the authorization to return to Canada pursuant to A52(1).

30.2. Requirements to return for exclusion orders

There are two types of exclusion orders:

- exclusion orders issued for a one-year ban; and
- exclusion orders issued for a two-year ban.

Exclusion orders with a one-year ban under R225(1) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return within one year after their removal order was enforced.

Exclusion orders with a two-year ban under R225(2) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return within two years after their removal order was enforced.

30.3. Requirements to return for departure orders

Departure orders that have been enforced at a POE within the 30-day applicable period under R224(1) do not require a foreign national to obtain authorization to return to Canada under A52(1). Officers should ensure that, if a removal order information kit is issued in Canada, the person is fully counselled that they must meet the requirements of R240(1)(a), (b) and (c) and present themselves before an immigration officer at a POE. The person should be counselled that failure to meet these requirements will result in the departure order becoming a deportation order under R224(2).

30.4. Requirements to return for accompanying family members

Foreign nationals included in removal orders (exclusion or deportation orders) that have been made on the basis that the person is an accompanying family member under A42(b) will not require authorization to return to Canada under A52(1). Officers should counsel these persons accordingly pursuant to R225(4) and R226(2).

The files of persons removed under A42(b) must not be downloaded into the previously deported person database and will not be placed in CPIC.

31. Procedure: Repayment of removal expenses

Under the Regulations, the fee to reimburse removal expenses has been extended to include persons who were removed at public expense, not just those who were deported. Removals are defined in R229 to include departure orders, exclusion orders and deportation orders. These fees apply only in situations where the relevant costs have not been recovered from a transportation company.

As set out in R243(a) and R243(b), a person must repay the following costs incurred for removal:

- $750 for removal to the U.S. or St. Pierre and Miquelon;
- $1,500 for removal to any other destination.

Once an officer determines that the Authorization to Return to Canada will be granted, the office in Canada where the removal order originated should inform the officer outside Canada whether repayment under R243 is applicable. Officers should collect the prescribed cost for each person included in the removal order for whom the CBSA paid removal costs. Collection of this fee will occur prior to the Authorization to Return to Canada being granted under A52(1).

Note: Removal costs can be recovered from a foreign national only when Her Majesty in right of Canada incurred expenses for the person's removal and the CBSA has not recovered liability costs from a transportation company.

31.1. Repayment of removal costs for departure orders

Persons who were removed under a departure order at the CBSA's expense and who return to Canada do not require authorization under A52(1) but will be subject to the cost recovery fees for the repayment of removal costs at the time of entry. If the foreign national cannot or will not repay the costs of removal, the officer at the POE will determine whether the person should be reported under A44(1) for non-compliance pursuant to A41 with remarks that the person has failed to comply with R243.

31.2. Repayment of removal costs for exclusion orders and the requirement of Authorization to Return to Canada

Persons who were removed under an exclusion order at the CBSA's expense and are returning prior to the allowed period of time as prescribed in R225(1) or R225(3) must first obtain an *Authorization to Return to Canada* [IMM 1203B] from an officer in accordance with A52(1) (see IR 5 for the applicable cost-recovery fee). Second, they must repay the prescribed costs of their removal as per R243(a) or R243(b).

31.3. Repayment of removal costs for exclusion orders that no longer require Authorization to Return to Canada

Persons who were removed under an exclusion order at the CBSA's expense and are returning to Canada after the expiry of the prescribed period of time under R225(1) or (3) do not require the *Authorization to Return to Canada* [IMM 1203B] but must repay the prescribed costs of their removal pursuant to R243(a) or R243(b).

31.4. Repayment of removal costs for deportation orders

Persons who were removed at the CBSA's expense must always first obtain an *Authorization to Return to Canada* [IMM 1203B] from an officer in accordance with A52(1) if they are subject to a

- deportation order pursuant to R226(1), or a

- departure order that has become a deportation order pursuant to R224(2).

Second, the foreign national must repay the prescribed costs of their removal per R243(a) or (b) .

32. Procedure: Persons refused entry to another country

Officers should take appropriate action if a person was not granted lawful admission to another country. In these cases, the foreign national who has not met the departure requirements under R240(1) cannot be said to have enforced their removal order. For information on the options available to officers after a person has been refused entry to another country, refer to ENF 11, section 16.1.

33. Procedure: File clean-up after removal

Once a person has been removed from Canada, there are still additional procedures that must be completed before the file can be considered complete. The officer responsible for the removal should ensure that:

- the IMM 0056B is on file and entered into FOSS/NCMS and any local case-tracking procedures are completed;
- NCMS is updated and all processes concluded;
- the appropriate copy of the removal order has been sent to the Records Services Division, Microfilm Unit at CIC-NHQ to be microfilmed; and
- case notes that are relevant to the removal are added to the file, including a copy of the incident report if the officer encountered such actions as physical resistance or threatening comments.

The officer should also take the following steps:

- if necessary, request that the return of a security deposit or guarantee for compliance is actioned. For further information on the refund or forfeiture of a guarantee, refer to ENF 8, section 6.5;
- for billing purposes, contact the appropriate officer in transportation liability cases where the CBSA has made removal arrangements on behalf of the transportation company. The officer must ensure that an IMM 0459B form is completed that outlines all costs incurred in removing a person from Canada (with the exception of detention costs). Expenses include flight costs for deportees and escorting officers, fees for travel documents, fees for visas, wages of escorting officers including any overtime, accommodations, meals and incidentals, public transportation costs, entry/exit permits, etc.;
- if appropriate, contact the Crown counsel to confirm that a person has been removed from Canada;
- notify other agencies (i.e., parole, probation, welfare, Human Resources and Skills Development Canada, health, etc.) to confirm that the person has been removed from Canada; and
- return any seized government-issued documents to the respective agencies (i.e., driver's licence, social insurance cards, health cards, etc.). For further information on disposing of seized documents, refer to ENF 12, section 11.

There may also be other local procedures in place for larger offices, such as archiving files. Officers should refer to local office policy for concluding removal cases. On occasion, a file can be closed for reasons other than the successful removal of a person from Canada. Some possibilities include cases in which:

- a person is deceased. Officers should enter an NCB in FOSS, update NCMS, and complete the notes to file;
- The CBSA can confirm a person is no longer in Canada, for example, if the USDHS advises the CBSA that a person has been apprehended in the U.S. and deported to their country of nationality. Officers should enter an NCB in FOSS, update NCMS and complete a memo to file;
- if an officer at a Canadian mission outside Canada has enforced a removal order pursuant to R240(2) and issued a Certificate of Departure, visa officers have been instructed to send the responsible removal office in Canada a copy of the notes and the IMM 0056B. Upon receipt, the officer at the removal office in Canada should input the provided information into FOSS/NCMS; and
- if a decision is made to grant permanent resident status, officers should update NCMS. The removal order becomes void when the person becomes a permanent resident under A51.

Officers must be satisfied that the file is no longer considered an active removal case before concluding. If officers have any concern about whether a case should be closed, they should contact their manager or supervisor for assistance.

34. Procedure: Removal to the United States under the Reciprocal Arrangement

Canada and the United States signed an arrangement for the exchange of deportees on July 24, l987. The *Reciprocal Arrangement between the Canada Employment and Immigration Commission and the United States Immigration and Naturalization Service, Department of Justice, for the Exchange of Deportees between the United States of America and Canada* (the Reciprocal Arrangement) fosters a high degree of cooperation and reciprocity in removing deportees expeditiously from our respective countries.

The terms of the Arrangement apply equally to foreign nationals under removal orders from the U.S. to Canada and from Canada to the U.S.

Appendix A reproduces the Reciprocal Arrangement. Officers should be particularly aware of section 10 , which contains definitions of specific terms used in the Arrangement. It is important to note that some definitions, such as “voluntary departure”, differ from the meaning provided in IRPA.

For the purposes of the Reciprocal Arrangement only, the definition of the term “voluntary departure” has been broadened to include situations in Canada where:

- a removal order has been made;
- a departure order has been issued; or
- a referral for an admissibility hearing has been made under A44(2).

For more information on the Reciprocal Arrangement and the procedures for:

- removal to the United States under the Reciprocal Arrangement for inland cases, see section 35 below;

- removal to the United States under the Reciprocal Arrangement for port–of-entry cases, see section 36 below; and

- removal to the United States under the Reciprocal Arrangement for variable cases, see section 37 below.

35. Procedure: Removal to the United States under the Reciprocal Arrangement for inland cases

The following subsections contain detailed information about persons who may be removed to the United States under the Reciprocal Arrangement for inland cases.

35.1. Persons who can be removed to the U.S. without a letter of consent

The following classes of foreign nationals may be returned to the U.S. without a letter of consent from the Immigration Attaché at the U.S. embassy in Ottawa. Such persons include:

- a foreign national given permission to depart Canada voluntarily. For the purpose of the Reciprocal Arrangement only, voluntary departure includes:

  - a foreign national who is given permission to depart Canada through voluntary compliance pursuant to R238;

  - a foreign national who has been issued a departure order; and

  - a foreign national who has been referred to an admissibility hearing under A44(2), or has been arrested for an admissibility hearing and is given permission to depart Canada voluntarily without going to an admissibility hearing;

- a foreign national who is a citizen or national of the U.S. A national of the U.S. is a person who is not a citizen of that country, but who owes permanent allegiance to it. Appendix B outlines the status of persons living in U.S. territories and protectorates. The immigration attaché at the U.S. embassy in Ottawa will accept verbal notice of the deportee's return to the U.S. if:

  - the person can satisfactorily establish the deportee's citizenship or nationality in the U.S. by advising that the CBSA has a birth or baptismal certificate, a certificate of naturalization, a valid or expired passport, or other official and verifiable evidence of citizenship or nationality, and

  - the deportee does not require institutional care or treatment because of a mental or physical condition. If a deportee who is a citizen or national of the U.S. requires institutional care or treatment because of a mental or physical condition, or if an officer cannot satisfactorily establish evidence of citizenship or nationality through the required documentation, officers must send written notice of the deportee's removal to the U.S. to the immigration attaché at the U.S. embassy in Ottawa;

- an alien to the U.S., as defined in section 10 of Appendix A, who came to Canada directly from the U.S. and was allowed into Canada under the authority of a temporary resident permit, provided that:

  - officers satisfactorily establish that written notice was given to the immigration official in charge of the opposite U.S. port immediately after the permit was issued, confirming that it was issued, and

- officers give verbal notice or establish that verbal notice was given to the official in charge of the U.S. port opposite the Canadian port of exit or to the U.S. Immigration Attaché, whichever is appropriate, within one year of the revocation or expiration of the permit, or from the date of a final removal order (removal order has come into force under A49(1) or A49(2)), whichever is later.

Should difficulties arise in any case of a deportee, as defined in section 10 of Appendix A, being returned to the U.S. under the terms of the Reciprocal Arrangement, contact:

Immigration Attaché
United States Embassy
490 Sussex Drive
Ottawa, Ontario K1N 1G8
Tel.: (613) 688-5307
Fax: (613) 688-3092

Both written and verbal notices must include sufficient identifying and biographic information to establish that the deportee is returnable under the terms of the Reciprocal Arrangement. Both immigration services will accept telegraphic verification of birth in lieu of an actual copy of the birth certificate as evidence of citizenship.

If officers were unsuccessful in obtaining confirmation of birth of a U.S. citizen, officers should tell the immigration attaché at the United States embassy what sources were contacted to avoid duplication of effort by the U.S. service.

If officers get verification of birth in the U.S. from the appropriate bureau of vital statistics by means of a telephone call, the Attaché will normally accept an officer's word they have confirmed the pertinent details. Officers should note the necessary data obtained from the vital statistics authorities during their telephone call, such as the deportee's full name, date and place of birth, parents' names, registration number and date of registration, and the full name, position and telephone number of the person who provided the information.

35.2. Removal under the Reciprocal Arrangement with letters of consent

The officer should apply for a letter of consent from the Immigration Attaché at the U.S. embassy in Ottawa immediately after a removal order comes into force. This procedure includes departure orders that have become deportation orders under R224(2).

If the officer fails to apply for a letter of consent within one year after the removal order has come into force under A49(1) or A49(2), the foreign national cannot be returned to the U.S. under the Reciprocal Arrangement. It is imperative that files are carefully reviewed and that letters of consent are promptly requested so that the opportunity to return a foreign national under the Reciprocal Arrangement is not missed.

In the case of persons being removed from Canada to the U.S., the U.S. immigration attaché in Ottawa may issue a letter of consent on behalf of:

- permanent resident aliens of the U.S., provided that:
  - the alien has not abandoned residence by residing in a third country;
  - the alien proceeded directly from the U.S. to Canada and was not admitted for permanent residence to Canada at that time;
  - the officer submits the request for consent to return the alien within one year from the date of a final order of deportation (removal order has come into force under A49(1) or A49(2));
  - the alien came into Canada on or after August 1, 1949; and

- officers have requested the letter of consent immediately after being notified that the removal order became effective;

- a non-resident alien of the U.S., provided that:
  - the alien was denied admission at a POE and was ordered removed from Canada;
  - the alien proceeded directly from the U.S. to Canada;
  - the officer submits the request for consent to return the alien within one year from the date of a final removal order (removal order has come into force under A49(1) or A49(2)); and
  - in the case of a non-resident alien who requires medical evaluation or institutional care or treatment, officers have made appropriate arrangements for reception in the U.S.

Officers should send their request for a letter of consent in duplicate to the address of the Immigration Attaché at the U.S. embassy that is provided in section 35.1.

Officers should include the following in their request for a letter of consent:

- background information;
- any information concerning reception by law-enforcement agencies;
- any required advance notification;
- a copy of the letter *Return of Non-Resident Alien—Reciprocal Arrangement—Section 111.2* [IMM 5522B] sent by the CBSA manager to the Department of Homeland Security (DHS) port opposite;
- the A44(1) report;
- a copy of either the exclusion order or the deportation order; and
- all available evidence that verifies the deportee's identity and nationality (i.e., a copy of a birth certificate or baptismal certificate, copies of the information pages of a passport, and an alien registration card).

Note: Officers must give top priority to requesting a letter of consent in a detained case.

35.3. Advance notice of deportees of interest to U.S. law enforcement authorities

If, well before the actual removal, officers are aware that a deportee is or may be of interest to law enforcement authorities in the U.S., officers should provide the appropriate law enforcement agency with advance notice of the relevant facts and circumstances of the case and the person's travel arrangements.

35.4. Removal to the U.S. following the issuance of a deportation order after admission to Canada

The Reciprocal Arrangement provides for the return of U.S. citizens and permanent resident aliens of the U.S. if they have been ordered removed after admission, and if all other requirements of the Arrangement are met.

Unless they are the subject of a stay pursuant to IRPA, the Regulations or other court order, the officer will remove:

- a citizen or national of the U.S., provided that
  - the foreign national concerned meets the requirements of the Arrangement, and
  - existing policy on removals pending appeals or other litigation allows this action; and
- a permanent resident alien only if
  - the foreign national comes within the terms of the Reciprocal Arrangement,
  - existing policy on removals pending appeals or other litigation allows this action, and
  - the officer has first obtained a letter consenting to the foreign national's return to the U.S.

A non-resident alien of the U.S. who has been ordered removed after admission is not returnable under the terms of the Reciprocal Arrangement. In this case, if the officer is executing a removal order, the officer must ensure the removal is in accordance with voluntary compliance under R238 or is enforced by the PSEP Minister under R239. Should a non-resident alien of the U.S. who has been ordered removed after admission subsequently be refused entry to the U.S., the officer shall allow the foreign national to enter Canada following an examination under R39(a).

If the person is detained and comes within the terms of the Reciprocal Arrangement, completing the removal arrangements is the first priority. Officers must adhere to the notice and consent requirements of the Reciprocal Arrangement. If formal consent is required for the return of a deportee, officers must make the request in writing within the applicable time frame and receive it back in writing. Officers must apply for consent in these cases as expeditiously as possible.

35.5. Persons ordered removed while serving prison terms

If the consent or notice provisions of the Reciprocal Arrangement apply to an inmate of a penitentiary, jail, reformatory or prison who have been ordered removed from Canada, officers must request a letter of consent or provide notice to the U.S. immigration attaché. Such notice or consent must be within one year after the removal order has come into force under A49(1) or A49(2), or within one year of the final decision rendered in an appeal or other legal proceeding initiated by the person concerned against the removal order. A request for consent or notice of the person's eventual removal should indicate that the enforcement of the removal order is stayed pursuant to A50(b) pending the completion of the sentence.

36. Procedure: Removal to the United States under the Reciprocal Arrangement for port-of-entry cases

- This section contains detailed information about removal to the United States under the Reciprocal Arrangement for port-of-entry cases.

36.1. Removal with letters of consent

To get a letter of consent before removal to the U.S. of certain permanent resident aliens of the U.S. and non-resident aliens of the U.S., officers should follow the procedures under the Reciprocal Arrangement with letters of consent (see section 35.2 above).

Note: The officer must give top priority to requesting a letter of consent in a detained case.

36.2. Notice to the U.S. regarding aliens if a permit to enter or remain in Canada is issued

For the purposes of the Reciprocal Arrangement, issuing a permit to enter or remain in Canada under A24, in circumstances warranting special consideration, is equivalent to the discretionary grant of parole provided for in U.S. immigration law for emergency reasons or for reasons deemed strictly in the public interest.

If an alien seeks to enter Canada directly from the U.S. and an officer finds them to be inadmissible, it may nonetheless be desirable to allow the foreign national forward on humanitarian or compassionate grounds or for reasons of national interest.

Issuing a permit to enter or remain in Canada, in the appropriate circumstances, ensures that Canada's interests are protected should there be any doubt that the foreign national concerned will voluntarily leave Canada. In order for the CBSA to remove this person back to the United States, the officer is responsible for:

- providing the official in charge of the opposite U.S. port with a written notice of the facts and circumstances surrounding the issuing of the permit using a *Notice of Issuance of Permit* [IMM 1443B]. This is to be done immediately after the permit is issued; and

- providing verbal notice of the alien's return to the official in charge of the U.S. port opposite the Canadian port of entry or the U.S. Immigration Attaché, whichever is appropriate, within one year of the cancellation or the expiry of the permit, or from the date of a final order of deportation (removal order has come into force under A49(1) or A49(2)), whichever is later.

36.3. Persons issued a direction to leave or a direction to return to the U.S. after applying for entry at a Canadian POE

The provisions of the Reciprocal Arrangement concerning letters of consent and giving notice do not apply if a foreign national has been issued a direction to leave or a direction to return to the U.S. after seeking entry at a Canadian POE. In these cases, the officer should return the foreign national as soon as is practicable to the place from which they came to Canada.

In these cases, the foreign national will have:

- a copy of the *Direction to Leave Canada* [IMM 1217B] because an officer is unable to examine the person under R40(1); or,

- a copy of the *Direction to Return to the U.S.* [IMM 1237B] under R41 because an officer is not available to complete an examination, the PSEP Minister is not available to review an A44(2) report, or an admissibility hearing cannot be held.

37. Procedure: Removal to the United States under the Reciprocal Arrangement for variable cases

This section contains detailed information about removal to the United States under the Reciprocal Arrangement for variable cases.

37.1. Notice to the U.S. in cases involving medical care or treatment

The officer must provide advance written notice of the return of any removal case to the U.S. if the officer has evidence to suggest that medical attention is required because of a mental or physical condition.

- For U.S. citizens: The written notice of the return of the person being removed must include:

- ♦ a written opinion of a competent authority (such as a medical doctor or an official of a medical institution) confirming the need for care or treatment;
- ♦ a description of the facts and circumstances of the case; and
- ♦ the deportee's travel arrangements. The officer must supply this information as soon as possible if they are not able to do so when giving notice.

- For permanent resident aliens: At the same time as the officer requests a letter of consent from the U.S., they must provide the same advance written notice and information as for U.S. citizens. A deportee's mental or physical condition will not affect the grant of consent.
- For non-resident aliens: The same request, notice and information are required as for permanent resident aliens. The officer must also meet the terms of part III.2 of the Reciprocal Arrangement in Appendix A.

If a deportee who is a citizen or national of the U.S. requires institutional care or treatment because of a mental or physical condition, or if the officer cannot satisfactorily establish evidence of citizenship or nationality through the documentation listed above, the officer must send a written notice of the deportee's removal to the immigration attaché at the U.S. embassy in Ottawa.

37.2. Official records and privacy consideration

Under the *Privacy Act* the officer may provide information from the CBSA's files to U.S. authorities:

- to establish that a deportee is returnable under the terms of the Reciprocal Arrangement;
- to ensure that appropriate arrangements for reception are made for deportees requiring medical care;
- to find out whether the deportee is wanted by U.S. law-enforcement authorities; and
- to assist port-of-entry procedures if safety and security factors may be indicated.

The Department of Homeland Security (DHS) may provide information from its files to Canadian government offices for the first three of these four purposes. In cases involving criminality (such as deportees wanted by Canadian police authorities), U.S. authorities will communicate directly with the RCMP.

Officers may furnish U.S. authorities with fingerprints and photographs obtained under A16 only when identity is in doubt.

37.3. Removal orders appealed or other legal proceedings begun

The Reciprocal Arrangement defines a "final order of removal" in part 10 of Appendix A. If a person under a removal order begins an appeal or other court action, officers have one year from the conclusion of all legal proceedings to comply with the notice or consent requirements of the Arrangement. It is important to ensure that officers obtain consent within one year after the removal order has come into force under A49(1) or A49(2). Close monitoring of all appeal cases and cases involving incarceration is essential so that officers can obtain consent to remove within the appropriate time.

37.4. Persons being extradited from Canada to the U.S.

Persons extradited to the U.S. from Canada clearly come within the terms of the Reciprocal Arrangement since these persons (other than U.S. citizens or nationals) are granted parole into the U.S.

Since citizens or nationals of the U.S. can be returned to the U.S. without written consent, officers should confirm that no appeals have been filed against the extradition.

37.5. Notification of persons being removed for criminal or drug offences

Officers notify the missions abroad of persons being removed from Canada to any country for criminal or drug convictions. In U.S. cases, officers should also notify the U.S. immigration attaché in Ottawa and the receiving USDHS authorities.

Officers should ensure that the U.S. immigration attaché is notified of all persons being removed to the U.S., and the reason they have been found to be in contravention of A34, A35, A36(1), A36(2) and A37.

37.6. Request for confirmation of vital statistics in the U.S.

The U.S. Immigration Attaché has provided a list of state vital statistics offices for the 50 states and the District of Columbia. A list of state vital statistics offices is available at http://www.co.benton.or.us/records/vitalstats.htm. Officers should find this Web site useful for verifying the birth records of foreign nationals being removed who are U.S. citizens.

An officer must make all requests in the most expedient manner, such as priority post, facsimile, e-mail and so forth.

For New York City, the request must be in the following form:

> I have been authorized by (*name)* to obtain confirmation of the birth of (*name)* on (*date)* at New York City in (*borough)*, son of (*father's name)* and (*mother's name)*. Please confirm birth particulars as soon as possible, by courier, facsimile, telegram or whatever is local office procedure.

Officers should send the request to:

Director of Vital Records,
NY City Department of Health,
125 Worth Street, Room 133,
New York City, N.Y. 10031.

For foreign nationals under a removal order who were born in Georgia, officers should make the request, including all relevant information, through the Immigration Section of the Canadian Consulate General in New York City. The consulate will inform the officer of the findings of the search made by the Georgia Department of Human Resources. If the officer needs a birth certificate, the same procedure should be followed; the consulate will obtain the document and send it to the officer. The consulate will cover all costs.

Some states have specific requirements for confirmation of birth particulars, and several charge fees.

For the following states, officers should make the requests through the responsible Canadian consulate:

- Connecticut: requires a written government request and the written consent of the individual concerned;
- Iowa: send requests through the Buffalo office;
- Nebraska: fee, billed to the Buffalo office;

- New Hampshire: fee;
- Oklahoma: requires a letter of authority from the foreign national concerned and particulars of the foreign national's parents, including the mother's maiden name; fee;
- Texas: keeps statistics by county and requires the consent of the foreign national concerned for every county except Dallas; fee;
- Wisconsin: fee, billed to the Buffalo office.

If the officer encounters problems in verifying births in a particular state, they should contact the immigration section of the responsible Canadian consulate, which will then contact the vital statistics department with the request, guarantee payment of any fee, and return the information to the officer.

When the officer sends a request through a consulate, the officer must provide the office's financial code so that the consulate can recover any expenses incurred.

If a state refuses to release birth information because the foreign national concerned will not consent to its release, and all other methods have failed, the officer may have to contact the U.S. immigration attaché.

If the officer has asked the U.S. immigration attaché or USDHS to confirm or secure vital statistics for foreign nationals under a removal order, and the officer has then been able to get the information from another source, they must inform the attaché or USDHS immediately.

37.7. Removal via the U.S. to other countries

Escorted persons: Officers require the consent of the U.S. Immigration Attaché in Ottawa to remove a person under escort via the U.S. to a third country. On arrival at the U.S. POE, the escort officer must:

- get a US 1-94 form from the U.S. examining officer;
- have the form signed by the master of the vehicle by which the person's departure from the U.S. is effected;
- return the signed form to the U.S. port of issue; and
- sign the *Certificate of Departure* [IMM 0056B] after the departure has been verified.

Unless the officer makes other arrangements with the US DHS, it is the CBSA's responsibility to arrange for an escort for the removal via the U.S. of a foreign national deported after admission to Canada, if the foreign national must disembark in the U.S. en route to a third country. This provision applies even if the airline does not require the foreign national under a removal order to be escorted.

Removal by air: If officers remove a person from Canada on an aircraft that merely calls for servicing at a U.S. airport and then continues to its destination in a third country, officers do not need to provide an escort through the U.S. Officers must give advance notice by facsimile or telex to the US DHS officer where the aircraft lands regarding the expected date and time of arrival and departure, so that the person does not disembark and the US DHS can verify departure. Depending on local office procedures, officers may also inform the U.S. Immigration Attaché.

Removal on ships calling at U.S. ports: An escort is not necessary when officers are removing a person from Canada to a third country on a ship that may call at a U.S. port before proceeding abroad. If officers know the port of call, officers must inform the US DHS officer in charge or the

US DHS regional director. The ship's master is responsible for safeguarding the person and informing the US DHS officer in charge that the person is on board.

This procedure does not affect the Reciprocal Arrangement provision to escort persons under a removal order who are brought into either country in transit for embarkation on a ship.

37.8. Managing the envelope containing removal documents

When the officer is turning the foreign national over to the US DHS, the officer should give the *Envelope: Removal Documents* [IMM 1226] and contents to the immigration officer at the U.S. POE.

Appendix A Reciprocal arrangement between the Canada Employment and Immigration Commission and the United States Immigration and Naturalization Service, Department of Justice, for the exchange of deportees between the United States of America and Canada

1. Requests and notifications:

To provide for the orderly and expeditious return of deportees under this Arrangement between the Immigration Services of Canada and the United States, the Service of the deporting country will transmit to the administrative head of the other Service, or a designated representative, the following:

a) A notice of return or a request for consent to return the deportee as specified in Parts II and III of this Arrangement containing such identifying and biographical information as may be necessary to establish that the deportee is returnable under the terms of this Arrangement;

b) Advance notice accompanied by a written opinion of a competent authority confirming the need for institutional care or treatment should the deporting Service possess evidence to suggest that any deportee requires such care or treatment because of a mental or physical condition. The deporting Service will, at the same time as notice is given or consent is sought, provide the receiving Service with advance written notice of the facts and circumstances of the case. A copy of the written opinion regarding institutional care or treatment will accompany the advance notice. At the same time, or as soon as is administratively possible thereafter, the deporting Service will notify the receiving Service of the deportee's travel arrangements;

c) In the case of a deportee who is of interest to law enforcement authorities in the receiving country, advance notice of the facts and circumstances of the case, including travel arrangements, to facilitate procedures at the port of entry;

d) A written notice of the facts and circumstances of a denial of admission and parole or issuance of a minister's permit, whenever an individual is paroled or allowed, pursuant to a minister's permit, into the deporting country for legal proceedings or for humanitarian reasons or to permit the individual to apply for relief under the immigration laws of the deporting country. Such notice will be given immediately after denial of admission and parole or issuance of minister's permit to the immigration official in charge of the port of entry opposite the port of entry where parole was granted or where the minister's permit was issued.

e) A written notice of the facts and circumstances relating to an alien authorized by the Immigration Appeal Board to return to Canada from the United States for the purpose of appearing before the Board for the hearing of the appeal from the removal order issued to that alien. Such notice will be made immediately upon the arrival of the individual in Canada, to the immigration official in charge of the opposite port of entry.

2. Notice of return of citizens, nationals or aliens:

2.1 Citizens or Nationals

Deportees who are citizens or nationals of Canada or the United States will be received by their country of citizenship or nationality under the terms of this Arrangement.

Before a citizen or national is returned to Canada or the United States, verbal notice will be given in those cases where:

a) Citizenship or nationality in the receiving country can be satisfactorily established by presentation of a birth or baptismal certificate, a certificate of naturalization or citizenship, a valid or expired passport, or other verifiable evidence of citizenship or nationality; and

b) The deportee does not require institutional care or treatment because of a mental or physical condition. In the case of a citizen or national deportee who requires institutional care or treatment because of a mental or physical condition, written notice will be given to the receiving country.

2.2 Aliens

Aliens of the receiving country, who proceeded directly from the receiving country to the deporting country and were paroled or allowed under the authority of a minister's permit into the deporting country, will be permitted to return to the receiving country under the terms of this Arrangement provided verbal notice is given to the receiving country within one year of revocation or expiration of such parole or minister's permit or from the date of a final order of deportation (removal order has come into force under A49(1) or A49(2)), whichever is the later.

An alien, as described in Part III, paragraph 2., authorized by the Immigration Appeal Board to return to Canada from the United States for the purpose of appearing before the Board for the hearing of the appeal from the removal order issued to that alien will be permitted to return to the United States provided:

a) the alien met the requirements of Part III, paragraphs 2a. and b. at the time the removal order was made; and

b) verbal notice is given to the United States Immigration and Naturalization Service upon the alien's departure from Canada at the conclusion of the hearing.

3. Consent to return aliens

Any of the classes of aliens hereinafter defined, even though such persons would be subject to deportation by the receiving country, will be permitted to return to Canada or the United States under the terms of this Arrangement provided:

The alien was admitted to the receiving country for permanent residence and:

- The alien has not abandoned such residence by residing in a third country; and
- The alien proceeded directly from the receiving country to the deporting country and was not admitted for permanent residence at that time; and
- Formal request is made for consent to return the alien within one year from the date of a final order of deportation (removal order has come into force under A49(1) or A49(2)); and
- The alien came into the deporting country on or subsequent to August 1, 1949; or

The alien was not admitted to the receiving country for permanent residence but:

- The alien was denied admission at a port of entry and was ordered removed from the deporting country; and
- The alien proceeded directly from the receiving country to the deporting country; and
- Formal request for consent to return the alien is made within one year from the date of a final order of removal (removal order has come into force under A49(1) or A49(2)).

Before a deportee described in paragraphs 1 or 2 above is returned to Canada or the United States, a letter consenting to such return will first be obtained from the receiving Service.

A deportee described in paragraph 2 above will be permitted to return to the United States or Canada under the terms of this Arrangement, provided appropriate arrangements are made in the

receiving country for a deportee who requires medical evaluation or institutional care or treatment. The receiving Service will undertake to arrange appropriate reception as expeditiously as possible.

4. Transportation and subsistence

The deporting Service will furnish a deportee with transportation and subsistence to the port of entry of the receiving country closest to the port of exit of the deporting country. Where, however, a deportee does not have sufficient funds to travel to the deportee's last place of residence in the receiving country at the person's own expense, the deporting country will furnish transportation and subsistence to the last place of residence. In exceptional and meritorious cases, deportation and subsistence may be provided to such other place as is acceptable to the deporting Service, provided the receiving Service has no objection to the substitution.

Where a transportation company is liable to carry the deportee, the deportee will be carried to such place as is required by law.

5. Voluntary departure

The return of persons granted voluntary departure as defined in Part X of this Arrangement is not governed by Parts II or III of this Arrangement. Whenever possible, however, such a person will be required to enter the receiving country at the port of entry which is nearest to the place of final destination in the receiving country.

6. Ports of entry

Any deportee returned as provided for in Parts II and III of this Arrangement will be presented to any of the ports of entry listed hereunder for examination or inspection:

Canada	**United States**
Aldergrove, British Columbia	Alcan, Alaska
Armstrong, Quebec	Baltimore/Washington International Airport
Beaver Creek, Yukon Territory	Baltimore, Maryland
Blackpool, Quebec	Bangor, Maine
Calgary International Airport, Calgary, Alberta	Bar Harbor, Maine
Cornwall, Ontario	Blaine, Washington
Coutts, Alberta	Boston, Massachusetts
Douglas, British Columbia	Calais, Maine
Edmonton International Airport, Edmonton, Alberta	Calgary International Airport (Pre-Flight Inspection)
Edmundston, New Brunswick	Champlain, New York
Emerson, Manitoba	Cleveland Airport, Cleveland, Ohio
Fort Erie, Ontario	Derby Line, Vermont
Fort Frances, Ontario	Detroit, Michigan
Fredericton Airport, Fredericton, New Brunswick	Eastport, Idaho
Halifax International Airport, Halifax, Nova Scotia	Edmonton International Airport (Pre-Flight Inspection)
Hamilton Civic Airport	Frontier, Washington
Hamilton, Ontario	Highgate Springs, Vermont
Highwater, Quebec	Houlton, Maine
Huntingdon, British Columbia	International Falls, Minnesota
Kingsgate, British Columbia	Ketchikan, Alaska
Lansdowne, Ontario	Lynden, Washington
London Airport, London, Ontario	Madawaska, Maine

Mississauga, Ontario - Pearson International Airport, Terminals 1 and 2	Massena, New York
Montreal International Airport, Dorval, Quebec	Minneapolis, Minnesota
Montreal International Airport, Mirabel, Quebec	Montreal International Airport, Dorval, Quebec (Pre-Flight Inspection)
Niagara Falls, Ontario	New York, New York
North Portal, Saskatchewan	Niagara Falls, New York
Osoyoos, British Columbia	North Troy, Vermont
Ottawa International Airport, Ottawa, Ontario	Norton, Vermont
Phillipsburg, Quebec	Noyes, Minnesota
Prescott, Ontario	Ogdensburg, New York
Prince Rupert, British Columbia	Oroville, Washington
Quebec International Airport, Quebec City, Quebec	Pittsburgh, Pennsylvania
Regina Airport	Port Angeles, Washington
Regina, Saskatchewan	Port Huron, Michigan
Rock Island, Quebec	Portal, North Dakota
Saint John Municipal Airport, Saint John, New Brunswick	Portland, Maine
St. Leonard, New Brunswick	Raymond, Montana
St. Stephen, New Brunswick	Sault Ste. Marie, Michigan
Sarnia, Ontario	Seattle, Washington
Saskatoon Airport, Saskatoon, Saskatchewan	Sumas, Washington
Sault Ste. Marie, Ontario	Sweetgrass, Montana
Stanhope, Quebec	Thousand Island Bridge, New York
Thunder Bay, Ontario	Toronto, Ontario, Canada - Pearson International Airport, Mississauga, Ontario (Pre-Flight Inspection) (Formerly Toronto International Airport)
Vancouver International Airport, Vancouver, British Columbia	Van Buren, Maine
Victoria, British Columbia	Vancouver International Airport (Pre-Flight Inspection)
Windsor, Ontario	Washington, District of Columbia (Dulles International Airport)
Winnipeg International Airport, Winnipeg, Manitoba	Winnipeg International Airport (Pre-Flight Inspection)
Woodstock, New Brunswick	
Yarmouth, Nova Scotia	

7. Official records and privacy consideration

The United States Immigration and Naturalization Service may use the information supplied by the Immigration Service of Canada for the purpose of ascertaining whether the deportee is wanted by U.S. law enforcement authorities; it may further provide to such authorities information supplied by the Immigration Service of Canada pursuant to this Arrangement for the said purpose and to facilitate the apprehension of the deportee by proper law enforcement authorities.

The United States Immigration and Naturalization Service will not use or disclose information supplied by the Immigration Service of Canada for a purpose or to an authority other than specified in this Arrangement without the written consent of the Immigration Service of Canada.

8. Consultation and amendment provisions

The Parties agree to discuss matters which are the subject of this Arrangement and to make any amendments considered appropriate. Any disputes or issues of interpretation will be resolved by mutual agreement of the Parties.

9. Termination provision

This Arrangement remains in full force and effect unless terminated in writing. This Arrangement may be terminated by either Party by giving written notice to the other Party at least one year prior to such termination.

10. Definitions

The following terms are defined for the purposes of this Arrangement only, and like terms have a like meaning:

	Canada	**United States**
Admission	Lawful permission to come into Canada as a visitor or to establish permanent residence	Lawful permission for an alien to enter the United States
Alien	Any person who is not a Canadian citizen	Any person who is not a citizen or national of the United States
Deportee	Any of the persons described in parts II and III of this Arrangement	Any of the persons described in parts II and III of this Arrangement
Entry	Lawful permission to come into Canada as a visitor. Visitor means a person who is lawfully in Canada, or seeks to come into Canada for a temporary purpose, other than a Canadian citizen, a permanent resident, a person in possession of a minister's permit, or an immigrant authorized to come into Canada pursuant to paragraph 14(2)(b), 23(1)(b), or 32(3)(b) of the *Immigration Act, 1976*, as amended.	Any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that departure to a foreign port or place or to an outlying possession was not voluntary: Provided, that no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception
Exclusion	A formal determination of inadmissibility.	A formal determination of inadmissibility.
Final Order of Removal	A signed exclusion order or deportation order not stayed pursuant to the *Immigration Act, 1976*, as amended.	A signed exclusion order or deportation order ready for execution and unimpeded by legal challenge
Legal Proceedings	All proceedings authorized or sanctioned by law and brought or instituted in a court of record or administrative tribunal for the recognition of a right or an enforcement	All proceedings authorized or sanctioned by law and brought or instituted in a court of record or administrative tribunal for the recognition of a right or an enforcement

	of a remedy.	of a remedy.
Minister's Permit/ Parole	A valid and subsisting written permit, issued at the discretion of the Minister of Employment and Immigration or a delegate, authorizing an inadmissible person to come into and remain in Canada.	An exercise of discretionary authority of the Attorney General to permit an inadmissible to come into the United States for emergent reasons, or for reasons deemed strictly in the public interest.
Permanent Resident/ Permanent Residence	A person lawfully admitted for permanent residence, who has not become a Canadian citizen and has not ceased to be a permanent resident.	The status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed
Removal Order	An exclusion order or a deportation order.	An exclusion order or a deportation order.
Voluntary Departure	Permission to depart Canada voluntarily granted to a person: a. Against whom a removal order has been made; or b. Who has been issued a departure notice; or c. Who has become the subject of a direction for inquiry or has been arrested for inquiry	Authorization for a person to depart the United States prior to the commencement of deportation proceedings or subsequent to a deportation hearing.

11. Effective date

This Arrangement will be effective on its signature by authorized representatives of the Parties. The present Arrangement will supersede the Arrangement for the Exchange of Deportees between Canada and the United States, of August 1, 1949.

Done in duplicate this 24th day of July A.D., 1987 at Williamsburg, Virginia, United States of America, in English and in French, each language version being equally authentic.

For the Canada Employment and Immigration Commission	**For the United States Immigration and Naturalization Service, Department of Justice**
James B. Bissett Executive Director, Immigration	Alan C. Nelson Commissioner

Appendix B The status of persons living in U.S. Territories and Protectorates

1. U.S. Citizens (non-voting) Guam

Northern Mariana Islands

Puerto Rico

Virgin Islands

2. U.S. Nationals American Samoa

Palau

3. Non-U.S. Citizens/Non-U.S. Nationals Marshall Islands

Micronesia

Appendix C NHQ Referral/Travel documents form

To: _____ **Fax #**:_____

Phone #: _____

From: _____ **Fax #**: _____

Phone #:_____

Name/FOSS ID: _____

DOB: ___/___/___ (dd/mm/yy) **Citizenship**: _____

Detained: _____(Yes) _____(No) **Date of detention**: ____/___/____(dd/mm/yy)

Fax/Phone/Name/Address of embassy/consulate contacted:

_____

_____

_____

Date applications submitted to embassy/consulate: ___/___/___(dd/mm/yy)

Follow-up date: ___/___/____(dd/mm/yy)

Comments:

_____

_____

_____

_____

_____

_____

Attachments required:

Copies of proof of citizenship (passport/birth certificate/passport application, etc.).

Copies of correspondence with embassy/consulate.

Criminal history (if applicable).

Copy of deportation order.

Appendix D-1 Letter of Convocation

http://www.ci.gc.ca/Manuals/Documents/Word/enf/enf10/enf10AppD1.doc

Appendix D-2 Letter of Convocation (previous PDRCC)

http://www.ci.gc.ca/Manuals/Documents/Word/enf/enf10/enf10AppD2.doc

Appendix E-1 Notification of PRRA for failed refugee protection claimants

http://www.ci.gc.ca/CICExplore/english/form/prra_erar/Noti_unsucc_claimant.doc

Appendix E-2 Notification of PRRA for non-refugee-protection claimants

http://www.ci.gc.ca/cicexplore/english/form/prra_erar/Noti_non_claimant.doc

Appendix F Statement of No Intention

http://cicintranet/cicexplore/english/form/prra_erar/StatementNoIntent.doc

Appendix G Letter to attend and pick up decision

http://www.ci.gc.ca/Manuals/Documents/Word/enf/enf10/enf10AppG.doc