

# PP 1 Processing claims for refugee protection in Canada

## PP 1 - Processing claims for refugee protection in Canada

### Contents

PP 1 - Processing claims for refugee protection in Canada .....	1
1. What is this chapter about.....	5
2. Program objectives .....	5
3. Act and Regulations .....	5
3.1. Forms required.....	8
3.2. Business Process Maps.....	10
4. Instruments and delegations .....	10
5. Departmental Policy .....	10
5.1. Obligations on part of Canada .....	10
5.2. Who may make a refugee claim .....	10
5.3. When and where a refugee claim may be made .....	10
5.4. How a refugee claim is made.....	10
5.5. Burden of proof .....	11
5.6. Processing fees.....	11
5.7. Three day eligibility decision once a claim has been made before an officer.....	11
5.8. Eligibility of claim for referral to the RPD .....	11
5.9. Role of the United Nations High Commissioner for Refugees (UNHCR) .....	14
5.10. UNHCR requests .....	15
5.11. Protocol for UNHCR field visits .....	15
5.12. Interactions between UNHCR and refugee claimants .....	15
5.13. Follow up to UNHCR visit.....	16
5.14. The Agreement between Canada and the United States for Cooperation in the Examination of Refugee Status Claims by Nationals of Third Countries .....	16
5.15. Where the Agreement applies .....	16
5.16. Where the Agreement <i>does not</i> apply .....	17
5.17. Threshold of proof for determination of eligibility for an exception to STCA.....	17
5.18. Dispute Resolution .....	17
5.19. Judicial review of a decision.....	17
5.20. Information sharing .....	17
6. Definitions.....	18
6.1. Definitions specific to the Safe Third Country Agreement .....	20
7. Procedures: Overview of steps in taking a refugee claim .....	22
8. Procedures – The refugee claim .....	22
8.1. Claims made at inland offices .....	22
8.2. Claims made at ports of entry .....	23
Detention .....	23
Direct Back.....	24
9. Procedures: Preliminary steps in receiving a refugee claim .....	24
9.1. Step 1 - Determine the claimant's language abilities and the need for an interpreter .....	24
9.2. Step 2 – Determine if claimant will be represented .....	25
9.3. Step 3 - Review FOSS, CAIPS, NCMS .....	25
9.4. Step 4 - Review CPIC (Canadian Police Information Centre) and NCIC (National Crime Information Centre).....	26
9.5. Step 5 – Liaise with visa office abroad.....	26
TRV details available.....	26
TRV details not available .....	26
9.6. Step 6 – Fingerprint and photograph the claimant.....	27

# PP 1 Processing claims for refugee protection in Canada

When fingerprint search results are received from the RCMP, update FOSS by entering the FPS number.....	27
Vulnerable claimants and minors .....	27
9.7. Step 7 - Conduct search and seize applicable documents (if required) .....	27
9.8. Step 8 - Create a paper file and complete electronic files .....	28
10. Procedures: Admissibility and eligibility assessments, A44 report and review by Minister's delegate (Steps 9-12).....	28
10.1. Step 9 Admissibility assessment.....	28
10.2. Step 10 Prepare Section A44 (1) report.....	29
10.3. Step 11 Review of the 44 report by the Minister's Delegate (MD):.....	29
10.4. Step 12 Eligibility determination .....	29
11. Step 13 Finalize case.....	30
11.1. Process once admissibility and eligibility decisions have been made .....	30
11.2. Additional steps for eligible decisions .....	30
11.3. Additional steps for ineligible decisions .....	31
11.4. A claim is <i>deemed</i> referred to the RPD .....	31
11.5. Impose conditions .....	32
11.6. Documents to be given to the claimant.....	32
11.7. Counselling the claimant.....	32
12. Step 13 - Finalize the process by completing electronic databases.....	32
12.1. Enter data into the Support System for Intelligence (SSI) .....	33
12.2. Refer a claim to the CBSA Interventions unit, if necessary .....	33
13. Procedures: Special claimant types .....	33
13.1. Holders of Temporary Resident status (TRV).....	33
13.2. Holders of Temporary Resident Permits (TRP) .....	34
13.3. Claimants eligible for sponsorship by family members in Canada .....	34
13.4. Foreign representatives .....	34
13.5. Claims made during the course of other immigration proceedings.....	35
13.6. Claims made during an admissibility hearing.....	36
13.7. Guidelines for interviewing refugee claimants .....	36
14. Procedures: Withdrawal of a refugee claim .....	37
14.1. Withdrawal: how to proceed.....	37
15. Procedures: Pre-Removal Risk Assessment (PRRA) .....	38
15.1. Inland claims .....	38
15.2. Ports of entry.....	38
15.3. Deferral of removal for persons entitled to apply for PRRA at a POE .....	39
16. Procedures – Refugee Claim Suspension .....	39
16.1. When suspension is necessary.....	39
16.2. Suspension of eligibility consideration <i>before</i> the claim is referred to the RPD .....	39
16.3. Resumption of the eligibility consideration process (for cases that were suspended <i>before</i> the claim was referred to the RPD) .....	40
16.4. Suspension of the claim <i>after</i> it has been referred to the RPD.....	40
16.5. Resumption of RPD proceedings (for cases that were suspended <i>after</i> the claim was referred to the RPD).....	40
17. Procedures: Redetermination of eligibility.....	41
17.1. Notice of ineligible claim under section A104 (Redetermination of eligibility).....	41
17.2. How to do a redetermination .....	41
Opportunity to respond.....	42
18. Procedures: Extradition.....	42
18.1. Suspension if proceeding under the <i>Extradition Act</i> .....	42
18.2. Continuation if discharged under the <i>Extradition Act</i> .....	42
18.3. Rejection if under the <i>Extradition Act</i> .....	43
18.4. Final decision .....	43
19. Guidelines - Vulnerable Persons .....	43
19.1. Identification of vulnerable persons .....	43

# PP 1 Processing claims for refugee protection in Canada

19.2.	The refugee eligibility examination – vulnerable persons .....	44
19.3.	Fingerprinting and photographing vulnerable persons .....	44
19.4.	Detention of vulnerable persons .....	44
20.	Guidelines – Minor Children .....	44
20.1.	Capacity to make a claim .....	44
20.2.	Definitions of child .....	45
	Children between the ages of 16 and 18.....	45
20.3.	Legislation on minor children .....	45
20.4.	What officers should know about claimants who are minor children .....	45
	Considerations: .....	46
20.5.	Determining whether a child is at risk .....	46
20.6.	Presence; Absence of Parents, other Adults .....	47
20.7.	Child soldiers.....	49
20.8.	Fingerprinting and photographing minor children .....	49
20.9.	Refugee eligibility examination – minor children.....	49
20.10.	Minor Children and the Safe Third Country Agreement (STCA).....	50
20.11.	Refugee Protection Claimant Document (RPCD) .....	50
20.12.	Referring unaccompanied minors to the Immigration Division .....	50
20.13.	Detention of minor children .....	50
20.14.	Enter information into the database (FOSS/NCMS) .....	50
20.15.	CSIS Security Screening of minors.....	50
20.16.	Notifying child welfare authorities: formal reporting requirements .....	51
20.17.	Provincial definitions of a minor .....	51
20.18.	Privacy and referrals to child welfare authorities .....	52
20.19.	Reception: Regional agreements and informal arrangements .....	52
21.	Procedures: Administrative Issues.....	52
21.1.	Medical Examination .....	52
21.2.	Interim Federal Health Program (IFHP) .....	53
21.3.	Interim Federal Health (IFHP) Certificate and the Refugee Protection Claimant Document....	54
21.4.	Study permits .....	54
21.5.	Work permits .....	54
21.6.	Replacement of lost, stolen or destroyed Refugee Protection Claimant Document or Interim Federal Health Certificate.....	55
	Interim Federal Health Certificate.....	55
21.7.	Referrals from social services agencies .....	55
22.	Procedures: Safe Third Country Agreement - Exemptions to the STCA.....	56
22.1.	American citizens and habitual residents of the U.S.A. who are not citizens of any country (Article 2 of the Agreement and R159.2 & R159.3).....	56
	What does “stateless” mean? .....	56
	Principles for establishing statelessness and country of former habitual residence:.....	56
22.2.	Airport arrivals (Article 5(b) (i) and 5(b) (ii) of the Agreement) R159.4 (2) .....	57
22.3.	Irregular arrivals (non-designated POEs, port runners, and after hour arrivals).....	57
23.	Exceptions to the Safe third country Agreement.....	57
23.1.	Claimants who have family members in Canada (R159.5 (a) to (d)).....	58
23.2.	Proof of family relationship.....	58
23.3.	Persons identified as a family member in Canada .....	59
23.4.	Unaccompanied minors (Article 4(2) (c) of the Agreement) [R159.5 e] .....	59
23.5.	Claimants who hold valid Canadian visas or travel documents (Articles 4(2) (d) (i) and 4(2) (d) (ii) of the Agreement) (R159.5 f) .....	59
23.6.	Visa exemptions (R159.5 g) .....	60
23.7.	Public interest (Article 6 of the Agreement) .....	60
23.8.	Persons returning to Canada after being denied admission to the U.S.A. R159.5 (h) .....	60
23.9.	Sample questions related to Safe Third Country exemptions and exceptions .....	60
24.	Procedures: Ineligible claims under the STCA .....	61

## PP 1 Processing claims for refugee protection in Canada

24.1.	Return to the United States of ineligible refugee claimant pursuant to A101 (1) (e) .....	61
24.2.	Removal procedures .....	61
24.3.	Escorts during removal .....	62
24.4.	Information-sharing with the United States .....	62
24.5.	Reporting requirements.....	63
25.	Procedures: Safe Third Country Agreement - Other .....	63
25.1.	FOSS Records for STCA .....	63
26.	Procedures: Review Mechanisms for Safe Third Country .....	63
26.1.	Reconsideration of positive determination that an exception applies .....	63
Appendix	A Safe Third Country Agreement: Statement of Principles.....	64
Appendix	B - Sample letter .....	65
Appendix	C – Sample letter .....	66
Appendix	D – Sample Letter .....	67
Appendix	E – Sample Letter .....	68
Appendix	F - Sample letter.....	69
Appendix	G- Sample letter .....	70
Appendix	H- Sample letter .....	71
Appendix	I - Sample letter .....	72
Appendix	J - Sample letter .....	73
Appendix	K- Sample letter .....	74
Appendix	L Information pamphlet for eligible refugee claimants .....	75
Appendix	M Contact information for UNHCR offices in Canada.....	76
Appendix	N FOSS HELP .....	77
Appendix	O - Digital Fingerprinting .....	80

## PP 1 Processing claims for refugee protection in Canada

---

### 1. What is this chapter about

This chapter focuses on claims for refugee protection in Canada (“refugee claims”), made at ports of entry and inland offices. This is referred to as the “front-end process” in which eligibility of the refugee claim is determined and screening of the claimant is initiated.

---

### 2. Program objectives

Refugee claim intake is a key part of meeting the Immigration and Refugee Protection Act objective of granting fair consideration to those who come to Canada seeking refugee protection. The intake procedures meet the additional objectives of fulfilling Canada’s legal obligations with respect to refugee claimants; protecting the health and safety of Canadians; and promoting international justice and security.

Intake is the first step in the in-Canada refugee claim process. A key component of this process is determination of whether or not the claim is eligible for referral to the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada (IRB). Through its screening provisions, the intake process maintains the integrity of the refugee protection system by denying access to protection to foreign nationals who are inadmissible for reasons of security, serious criminality, international or human rights violations, or participation in organized crime.

To meet the objectives of the intake process, information and evidence must be collected from all claimants, to enable officers to determine:

- Whether a person may make a refugee claim in Canada as per [A99\(3\)](#);
  - Admissibility to Canada as per [A34](#) to [A41](#); and
  - Eligibility of the refugee claim for referral to the Refugee Protection Division of the Immigration and Refugee Board as per [A101](#).
- 

### 3. Act and Regulations

Citizenship and Immigration Canada (CIC) and the Canada Border Services Agency (CBSA) officers should be familiar with the legislative and regulatory authorities in the *Immigration and Refugee Protection Act* (IRPA) and the *Regulations*. The following authorities relate to refugee claims in Canada:

For information about	Refer to:
“Board” (Immigration and Refugee Board)	<a href="#">A(2)(1)</a>
Foreign national	<a href="#">A(2)(1)</a>
Authority to proceed with an examination	<a href="#">A15(1)</a>
When a person makes an application	<a href="#">R28</a>
Obligation to appear for examination	<a href="#">A18(1)</a>
Obligation to answer truthfully	<a href="#">A16(1)</a>
Obligation to provide relevant evidence	<a href="#">A16(2)</a>
Evidence relating to identity	<a href="#">A16(3)</a>
Authorizing entry to complete examination or hearing	<a href="#">A23</a>

## PP 1 Processing claims for refugee protection in Canada

<b>For information about</b>	<b>Refer to:</b>
Minor children - studying in Canada	<a href="#">A30(2)</a>
Medical examination requirement	<a href="#">R30(1)(e)</a>
Inadmissibility on grounds of security	<a href="#">A34(1)</a>
Inadmissibility - violating human or international rights	<a href="#">A35(1)</a>
Inadmissibility - serious criminality	<a href="#">A36(1)</a>
Inadmissibility - criminality	<a href="#">A36(2)</a>
Inadmissibility - organized criminality	<a href="#">A37(1)</a>
Inadmissibility - health	<a href="#">A38(1)</a>
Inadmissibility - financial reasons	<a href="#">A39</a>
Inadmissibility - misrepresentation	<a href="#">A40(1)</a>
Inadmissibility - non-compliance with Act	<a href="#">A41</a>
Report on inadmissibility – preparation of report	<a href="#">A44(1)</a>
Referral to Immigration Division for admissibility hearing; or removal order	<a href="#">A44(2)</a>
Imposing conditions	<a href="#">A44(3)</a>
Enforceable removal order	<a href="#">A48(1)</a> <a href="#">A48(2)</a>
Removal order in force – refugee claimants	<a href="#">A49(2)</a>
Arrest and detention without warrant [CBSA for action]	<a href="#">A55(2)</a>
Detention on entry	<a href="#">A55(3)</a>
Conferral of refugee protection	<a href="#">A95(1)</a>
Protected person	<a href="#">A95(2)</a>
Convention refugee	<a href="#">A96</a>
Person in need of protection	<a href="#">A97</a>
Exclusion from refugee protection	<a href="#">A98</a>
Claim for refugee protection	<a href="#">A99(1)</a>
Claim inside Canada	<a href="#">A99(3)</a>

## PP 1 Processing claims for refugee protection in Canada

<b>For information about</b>	<b>Refer to:</b>
Referral of refugee claim to the Refugee Protection Division	<a href="#">A100(1)</a>
Suspension of claim before referral to the Refugee Protection Division	<a href="#">A100(2)</a>
Consideration of claim by the Refugee Protection Division	<a href="#">A100(3)</a>
Burden of proving that a refugee claim is eligible	<a href="#">A100(4)</a>
Refugee claim ineligibility	<a href="#">A101(1)</a>
Requirements for a claim to be ineligible due to serious criminality	<a href="#">A101(2)</a>
Suspension of claim after referral to the Refugee Protection Division	<a href="#">A103(1)</a>
Resumption of RPD or Refugee Appeal Division proceedings	<a href="#">A103(2)</a>
Redetermination of eligibility	<a href="#">A104(1)</a>
Effect of redetermination	<a href="#">A104(2)</a>
Seizure	<a href="#">A140(1)</a>
Direct back to the United States	<a href="#">R41</a>
Working day - definition	<a href="#">R159</a>
Work permits	<a href="#">R200</a> ; <a href="#">R206</a>
Study permit - application after entry	<a href="#">R215(1)(d)</a>
Study permit – issuance following an examination	<a href="#">R216</a>
Applicable removal order – refugee claim eligible or no eligibility determination made	<a href="#">R228(3)</a> ; <a href="#">R229(2)</a>
Unaccompanied minor	<a href="#">R228(4)</a>

## PP 1 Processing claims for refugee protection in Canada

### 3.1. Forms required

All CIC forms can be found at the following website:

<http://cicintranet.ci.gc.ca/connexion/tools-outils/form/index-eng.aspx>

All CBSA forms can be found at the following website:

[http://atlas/toolkit-outils/forms\\_formulaires\\_e.asp](http://atlas/toolkit-outils/forms_formulaires_e.asp)

The following forms relate to claiming refugee protection in Canada:

Form title	Form number	Purpose
Full Document Entry – Generic (FOSS)	IMM 1442B  IMM 5292B	IMM1442B: A generic form used for all secure documents (Refugee Protection Claimant Document, Interim Federal Health Certificate, visitor record, work or study permits, temporary resident permit).  IMM5292B: A generic form for non-secure documents (A44 report, eligibility decisions in respect of ineligible claims where the claimant is not eligible for a PRRA)
Claim for Refugee Protection in Canada	IMM 5611	A form used to obtain all basic information from claimants in order to complete the refugee intake. It includes information for the Front-End Security Screening (FESS) and Support System for Intelligence (SSI)
Declaration	IMM 1392B (used when officer decides it is necessary)	Signed statement given by person concerned declaring information given is the truth.
Medical Report – Section A Client Identification and Summary	IMM 1017 (for claimant to take to a Designated Medical Practitioner/Examiner)	Used for the immigration medical examination.
Acknowledgement of Conditions	IMM 1262	Acknowledgement of the conditions imposed on the claimant.
Interpreter Declaration	IMM 1265	Interpreters declaration of accurate interpretation.
Entry for Further Examination or Admissibility Hearing	BSF536	To allow the entry to Canada of a foreign national awaiting further examination.
Notice of Seizure	IMM 5265B	To notify a person that their possessions have been seized pursuant to R253 (1) (b).
Search	BSF 667 (used by CBSA officers only)	To record search details including the type of search, authorization, officers involved and search results.
Personal Service Contract (Interpreters)	IMM 2048B	Personal Service Contract between CIC or CBSA and an interpreter.
Referral to Refugee Protection Division	IMM 5243B	To transmit information manually to the IRB when FOSS is unavailable



## PP 1 Processing claims for refugee protection in Canada

Form title	Form number	Purpose
Notification to the Person Concerned by an Immigration Officer	BSF529	Used in cases of re-determination of eligibility, when FOSS is unavailable.
Use of a Representative/ Release of Information	IMM 5476	Used when the claimant is assisted by an authorized immigration representative.
Withdrawal of a Claim for Refugee Protection prior to Referral to RPD	IMM 5317B	Used when a claimant withdraws their claim before it has been referred to the IRB.
Notification to RPD, RAD and Person Concerned - Suspension	BSF528	To provide notification that eligibility consideration has been suspended.
Voluntary Departure – Confirmation	IMM 5021B	Confirmation by port of departure of voluntary departure from Canada. Copy for file.
Order for Detention	IMM 0421B	When detaining a person under the IRPA. The original is given to the authority responsible for detaining the person, and a copy is placed on the claimant's file.
Request for Admissibility Hearing / Detention Review pursuant to the Immigration Division Rules	BSF 524 (formerly IMM 5245B)	When an admissibility hearing is scheduled, or when a detention review is required. Officer must fax a copy to the regional CBSA Immigration and Detention Unit, as well as to the IRB.
Notice of Admissibility Hearing	BSF 525	Indicates the place, date, and time of an admissibility hearing.
Notification of the Return of a Non-Resident Alien Under the Terms of the Agreement Between Canada and the United States for Cooperation in the Examination of Refugee Status Claims by Nationals of Third Countries	IMM 5569	To notify the U.S.A. Department of Homeland Security when a person will be returned to the United States under the Safe Third Country Agreement.
Notice to Transporter	BSF 502	To notify a transportation company that an improperly documented person came to Canada on that carrier.

## PP 1 Processing claims for refugee protection in Canada

---

### 3.2. Business Process Maps

Business Process Map #27 (Refugee Claim Processing in Canada) is the primary refugee claim intake map. Business Process Map #24 (Redetermination of Refugee Eligibility) is also relevant.

For access to the business process maps, refer to:

[http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/maps-cartes/srd27\\_e.pdf](http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/maps-cartes/srd27_e.pdf)

[http://www.ci.gc.ca/Manuals/Documents/PDF/maps-cartes/srd24\\_e.pdf](http://www.ci.gc.ca/Manuals/Documents/PDF/maps-cartes/srd24_e.pdf)

---

## 4. Instruments and delegations

The Ministers of Citizenship and Immigration (C&I) and Public Safety (PS) can designate persons or classes of persons to carry out any purpose or provision cited in the IRPA. These designated authorities are known as delegations and stem from A6 (1) and A6 (2). As a result of these delegations, officers are empowered to carry out certain provisions, legislative or regulatory, on behalf of the Minister.

For specific delegations and designations, refer to [IL 3](#).

---

## 5. Departmental Policy

### 5.1. Obligations on part of Canada

Canada is signatory to the 1951 United Nations *Convention Relating to the Status of Refugees* and the 1967 Protocol; and as a result is required to protect refugees on its territory. In addition, Canada is a signatory to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The obligations that flow from these instruments are reflected in [A3\(2\)](#) of IRPA.

Refugee claimants are afforded the constitutional guarantees available to all persons in Canada under the Canadian Charter of Rights and Freedoms.

---

### 5.2. Who may make a refugee claim

Foreign nationals and permanent residents who are not subject to a removal order may make a refugee claim in Canada. This includes a claim made at an admissibility hearing prior to the issuance of a removal order.

As a matter of policy, Canadian citizens may not make a refugee claim, as they already enjoy the protection of Canadian citizenship and the right to enter and remain in Canada.

---

### 5.3. When and where a refugee claim may be made

A refugee claim may be made at a Canadian port of entry or at an inland CIC or CBSA office, at any time during the administrative or admissibility hearing process, provided a removal order has not been issued. See [Section 13.6, Claims made during an admissibility hearing](#).

---

### 5.4. How a refugee claim is made

All refugee claims must be made in person to a CIC or CBSA officer designated to receive refugee claims. A refugee claim is made when a person expresses to a CIC or CBSA officer the need for Canada's protection. The claimant will not necessarily use words like 'refugee' or 'persecution.' If the official to whom a claim is made is not delegated to receive refugee claims, the claimant must be referred to a delegated officer as soon as practicable.

## PP 1 Processing claims for refugee protection in Canada

Refugee claims may not be made by mail.

---

### 5.5. Burden of proof

The burden of proving that the claim is eligible for referral to the IRB rests with the claimant.

---

### 5.6. Processing fees

There are no processing fees for claims for refugee protection in Canada. As well, as per [R299 \(2\) \(a\)](#) and [R300 \(2\) \(a\)](#) claimants are not required to pay the fees normally charged for work and study permits.

There is no fee for the replacement of a lost, stolen or destroyed Refugee Protection Claimant Document (RPCD).

---

### 5.7. Three day eligibility decision once a claim has been made before an officer

A refugee claim must be made to an officer ([A99 \(3\)](#)). Once a claim is made to an officer, the eligibility decision must be made within three (3) working days. If eligible, the claim must be referred to the RPD. If a claim is not referred within the 3-day period, it is *deemed* referred on the fourth day ([A100 \(3\)](#)), [R159](#) specifies for the purposes of [A100 \(1\)](#) and [A100 \(3\)](#) the following:

- A working day does not include Saturdays and holidays. As per the *Interpretation Act* [A35 (1)], Sunday is considered a holiday.
- A day that is not a working day is not included in the calculation of the three-day period.

**Example:** A claim is received on Friday, June 28. Monday is a statutory holiday (July 1) so the first working day after receipt of the claim is Tuesday, July 2. The three-working-day period ends on July 4<sup>th</sup>. Therefore, the claim would be deemed referred by July 5th.

At ports of entry, contact is normally first made with an officer. In these cases, eligibility must be decided within 3 working days of first contact.

At inland offices, a claimant may first meet with a clerk. In such cases the refugee claim is not received as it was *not made to an officer* and the 3-working-day-period is not triggered. In such cases, clerical staff will schedule an appointment for the refugee eligibility examination with an officer as soon as practicable. NHQ OMC will monitor to ensure that appointments are scheduled in a timely manner.

---

### 5.8. Eligibility of claim for referral to the RPD

For refugee protection-related regulations pertaining to the transition from the 1976 *Immigration Act* to the *Immigration and Refugee Protection Act (2001)*, see Division 5 of the transitional regulations, which commences at [R338](#).

See also [section 10.4, Step 12 - Eligibility determination](#).

A claim is not eligible to be referred to the RPD if the claimant is described in any of the following subsections of the Act:

Ineligibility	Meaning
<a href="#">A101 (1) (a)</a> refugee protection has been conferred on the claimant under this Act.	<ul style="list-style-type: none"><li>• A person who has already become a protected person in Canada is <i>not</i> eligible to make a refugee claim, as s/he already enjoys refugee protection in Canada. This includes: a person who became a protected person pursuant to <a href="#">A95 (1) (a)</a> (resettlement cases), <a href="#">A95 (1) (b)</a> (refugees in Canada) and <a href="#">A95 (1) (c)</a> (Pre-Removal Risk Assessment).</li></ul>
<a href="#">A101 (1) (b)</a> a claim for refugee protection by	<ul style="list-style-type: none"><li>• This provision prevents a person from making multiple refugee claims, whether their previous claim was made under the IRPA</li></ul>

## PP 1 Processing claims for refugee protection in Canada

Ineligibility	Meaning
<p><b>the claimant has been rejected by the Board</b></p>	<p>or previous immigration legislation (<a href="#">R339</a>). This includes claims that were vacated or ceased by the RPD (or the Convention Refugee Determination Division under the former Act); and claims that were rejected by the Minister under the former Act.</p> <ul style="list-style-type: none"> <li>Note: a claimant who was refused resettlement to Canada at a Canadian visa office is <i>not</i> ineligible under <a href="#">A101 (1) (b)</a>, as their refugee protection concerns were not heard by the IRB.</li> </ul>
<p><b><a href="#">A101 (1) (c)</a> a prior claim by the claimant was determined to be ineligible to be referred to the Refugee Protection Division, or to have been withdrawn or abandoned</b></p>	<ul style="list-style-type: none"> <li>A person with previous ineligible claims or with a claim that was determined by the RPD to have been withdrawn or abandoned, is barred from a subsequent referral to the RPD, even if the circumstances with respect to their ineligibility have changed. If the person left Canada and six months or more have passed since their departure, the person may be entitled to apply for a PRRA.</li> </ul>
<p><b><a href="#">A101 (1) (d)</a> the claimant has been recognized as a Convention refugee by a country other than Canada and can be sent or returned to that country</b></p>	<ul style="list-style-type: none"> <li>Two part test both of which must be met: <ul style="list-style-type: none"> <li>Whether the claimant has been recognized as a Convention refugee by a country other than Canada; and</li> <li>Whether the claimant can return to that country.</li> </ul> </li> <li>A person who has been recognized as a Convention refugee by a country other than Canada, and can be returned to that country, is not eligible for determination by the RPD.</li> <li>The words "can be returned to that country" refer to whether that jurisdiction will readmit the person. If the country will not re-admit the claimant, then <a href="#">101(1)(d)</a> does not apply.</li> <li><a href="#">101(1)(d)</a> does not apply to a person who has become a citizen of the country that recognized them as a Convention refugee.</li> <li>The officer must be satisfied that the person in question has been recognized as a refugee under the 1951 Convention or the 1967 Protocol. A person may be in possession of an identity or travel document stating that they had been granted refugee protection in the issuing country. The person's status may, equally, be confirmed by the person's own statements. Some countries grant protection from <i>refoulement</i> or deportation on grounds that are not related to the requirements of the refugee Convention. An example of this would be protection pursuant to Article 3 of the <i>Convention against Torture</i>, which is not the same as protection under the 1951 Convention.</li> </ul> <p style="text-align: center;">If the country that granted protection has not signed either the 1951 Convention or the 1967 Protocol, the claim may be determined <i>eligible</i> for referral to the RPD.  <a href="http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf">http://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf</a></p> <ul style="list-style-type: none"> <li>If a person who has been recognized as a Convention refugee</li> </ul>

## PP 1 Processing claims for refugee protection in Canada

Ineligibility	Meaning
	<p>states that the concerned country will not re-admit them, the officer must confirm this with officials of that country.</p> <ul style="list-style-type: none"> <li>Persons who have “Withholding of Removal” status in the U.S.A are considered to have been recognized as a Convention refugee for the purposes of paragraph <a href="#">101 (1) (d)</a>. However, not all persons with this status are readmitted to the U.S.A once they have left. Officers must confirm with officials that the person will be readmitted.</li> <li>A person whose claim is determined ineligible under <a href="#">A101(1)(d)</a> may be entitled to a risk assessment under <a href="#">115(1)</a> of the IRPA. For details on <a href="#">A115 (1)</a>, refer to <a href="#">PP3</a>.</li> </ul>
<p><a href="#">A101 (1) (e)</a> the claimant came directly or indirectly to Canada from a country designated by the regulations, other than a country of their nationality or former habitual residence</p>	<p>The Agreement between Canada and the United States for Cooperation in the Examination of Refugee Status Claims by Nationals of Third Countries is commonly known as the Safe Third Country Agreement (STCA) or ‘Agreement’ and can be found at: <a href="http://www.cic.gc.ca/english/departement/laws-policy/safe-third.asp">http://www.cic.gc.ca/english/departement/laws-policy/safe-third.asp</a></p> <ul style="list-style-type: none"> <li>The U.S.A. is the only country that has been designated by the regulations as a safe third country, under <a href="#">R159.3</a>.</li> <li>A claimant who arrives at a land border POE from the U.S.A may not be eligible for referral to the IRB under <a href="#">A 101 (1) (e)</a>.</li> <li>There are exemptions and exceptions to the STCA that permit some claimants to make a refugee claim in Canada even if they did come from the U.S.A. For more information on the STCA, refer to <a href="#">R159.1</a> to <a href="#">R159.7</a> and <a href="#">Sections 5.14-5.20</a> and <a href="#">section 22, Procedures Safe third country agreement</a>.</li> </ul>
<p><a href="#">A101(1) (f)</a> the claimant has been determined to be inadmissible on grounds of security, violating human or international rights, serious criminality or organized criminality</p>	<ul style="list-style-type: none"> <li>Under the terms of the 1951 Convention, a country need not provide protection if the claimant poses a danger to security, violated human or international rights, or committed a serious non-political crime outside the country of refuge prior to their admission to that country as a refugee.</li> <li>While a person found inadmissible on grounds of participation in organized crime is ineligible, the provisions defining organized crime ensure that a person who has merely used the services of such organizations to come to Canada (e.g. used a people smuggler), remain <i>eligible</i> to have their claim referred to the RPD.</li> <li>When a person appears to be inadmissible under <a href="#">A34, A35, A36 (1) (b) or A37</a>, the officer cannot determine eligibility until the person’s admissibility has been determined conclusively by the Immigration Division of the IRB. In many cases, this admissibility hearing will not be concluded prior to expiration of the 3-working-day timeframe. In these instances, the officer must <i>suspend</i> consideration of eligibility [<a href="#">A100(2)</a>].</li> <li>See <a href="#">Section 16, Procedures, Refugee claim suspension</a>.</li> </ul>

## PP 1 Processing claims for refugee protection in Canada

Ineligibility	Meaning
<p><b><u>101 (2)</u> With respect to inadmissibility due to serious criminality, a claim is not ineligible unless:</b></p> <p><b><u>101 (2) (a)</u></b> (a) in the case of inadmissibility by reason of a conviction in Canada, the conviction is for an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years and for which a sentence of at least two years</p> <p><b><u>101(2)(b)</u></b> in the case of inadmissibility by reason of a conviction outside Canada, the Minister is of the opinion that the person is a danger to the public in Canada and the conviction is for an offence 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.ars was imposed; or</p>	<ul style="list-style-type: none"> <li>• Refugee claims of persons inadmissible due to convictions in Canada are not ineligible unless the offence is punishable by a maximum prison term of at least 10 years and a sentence of at least 2 years was imposed.</li> <li>• Refugee claims of persons inadmissible due to convictions outside Canada are not ineligible unless the Minister is of the opinion that the person is a danger to the public.</li> </ul>

### 5.9. Role of the United Nations High Commissioner for Refugees (UNHCR)

Canada is a signatory to the 1951 Convention and as a result the UNHCR monitors its compliance with the Convention and provides guidance on its implementation (Article 35 of the Convention). Accordingly, Canada cooperates to the extent possible with UNHCR's requests for access to processes involving claimants, including at POE's, CICs, the IRB, detention facilities etc.

For more information on UNHCR's role, refer to:  
<http://www.unhcr.org/pages/49c3646c104.html>

## PP 1 Processing claims for refugee protection in Canada

---

### 5.10. UNHCR requests

The UNHCR may ask to visit a CIC or CBSA office or an immigration detention facility for the purpose of observing refugee eligibility examinations or to interview a claimant. In addition, representatives of the UNHCR may act as observers at RPD Hearings.

All requests for visits to a port of entry, detention facility or an inland CIC or CBSA office should be made in writing to the manager of the local office with a copy to the relevant NHQ. In the case of a visit to a CIC office UNHCR must copy Operational Management and Coordination (OMC) at NHQ at [omc-goc-immigration@cic.gc.ca](mailto:omc-goc-immigration@cic.gc.ca) or if the visit is to a CBSA office, send a fax to the CBSA Operations Branch at 613-941-5691. Written requests from the UNHCR to conduct a site visit must be received a minimum of 48 hours in advance. Requests submitted less than 48 hours in advance will be granted in exceptional circumstances only.

The request should include the following information:

- site(s) and purpose of the visit;
- the duration of the visit;
- the full names, titles and responsibilities of the UNHCR staff on the delegation;
- which person on the delegation is leading the team; and
- whether they have any special needs or requests.

The local CIC or CBSA office will evaluate the request in consultation with NHQ, make a decision and advise UNHCR as quickly as possible.

---

### 5.11. Protocol for UNHCR field visits

The following guidelines should be followed during UNHCR visits:

- The UNHCR may be given full access to tour immigration detention facilities and interview areas.
- CIC or CBSA will designate a representative to assist the UNHCR during site visits and to respond to questions.
- While UNHCR representatives are on site, a CIC or CBSA official should be present except when a confidential interview between the UNHCR and a refugee claimant is requested.
- UNHCR representatives are not permitted to participate or observe body searches and pat downs. They may observe luggage searches if a CBSA officer determines that there are no safety or security concerns.
- A maximum of two representatives from the UNHCR may observe an eligibility examination and they should provide a business card to the claimant. The UNHCR representatives should not ask questions or make comments during the examination.
- UNHCR representatives should not be granted access to computer databases or programs.

If serious issues arise during the UNHCR site visit and the visit has to be terminated, the local CIC or CBSA office should advise the leader of the UNHCR delegation of the reasons and notify CIC OMC at NHQ and CBSA NHQ Operations Branch (if the issues occurred in the CBSA office).

---

### 5.12. Interactions between UNHCR and refugee claimants

If a UNHCR representative asks to observe an examination, either of a specific claimant or for a random case, the officer should explain to the claimant:

## PP 1 Processing claims for refugee protection in Canada

- the role of the UNCHR (make it clear that they *do not* work for the Canadian Government);
- that the claimant may have a private interview with the UNHCR;
- that the claimant has the right to refuse to allow the UNHCR to observe the examination.

---

### 5.13. Follow up to UNHCR visit

UNHCR normally reports to CIC and CBSA NHQ officials on their field visits. However, if concerns are raised during the course of a UNHCR visit, the local office or POE should advise CIC NHQ OMC and CBSA Operations Branch at NHQ, as appropriate.

If UNHCR reports that a claimant has alleged abusive treatment by either the CIC or CBSA, a manager of the local office, CIC NHQ OMC and CBSA Operations Branch at NHQ (if the complaint is made against a CBSA officer) should be notified immediately and the complaint should be investigated by the manager of the local office. The results of the investigation should be communicated to CIC NHQ OMC and CBSA NHQ Operations Branch (if the complaint is made against a CBSA officer).

---

### 5.14. The Agreement between Canada and the United States for Cooperation in the Examination of Refugee Status Claims by Nationals of Third Countries

See also [sections 22-26, Procedures: Safe Third Country Agreement](#).

Paragraph [101\(1\) \(e\)](#) of the IRPA stipulates that a claim is ineligible to be referred to the RPD if the claimant came directly or indirectly to Canada from a country designated by the regulations, other than a country of their nationality or their former habitual residence.

Canada entered into such an agreement with the United States that came into effect on 29<sup>th</sup> December 2004. It is referred to as the Safe Third Country Agreement (STCA).

The Agreement allows for the return to the U.S.A. of persons who arrive in Canada, from the U.S.A., and who seek refugee protection, unless the person can satisfy an officer, on a balance of probabilities, that an exception to the Agreement applies and vice versa.

The Agreement does *not* apply to claimants who are citizens or habitual residents of the U.S.A. and who are not citizens of any country [stateless persons - Article 2 of the Agreement], therefore, such claims cannot be determined ineligible under [A101 \(1\) \(e\)](#).

There are also a number of exceptions to the Agreement including those with close family members in Canada, minors, holders of valid Temporary Resident Visas (TRVs), persons who do not require a TRV (but do require a visa for the U.S.A.) and public interest cases (e.g. persons charged with or convicted of an offence that is punishable with the death penalty, either in the U.S.A or in a third country). Details of the exceptions can be found in [section 22](#).

Neither Canada or the U.S.A. is required to accept the return of a refugee claimant until a final eligibility decision has been made [Article 3.1 of the Agreement].

For the text of the Agreement, refer to: <http://www.cic.gc.ca/english/department/laws-policy/safe-third.asp>

---

### 5.15. Where the Agreement applies

As per ([R159.4](#)) the Agreement applies to:

- Land border ports of entry where the person arrives from the U.S.A. (includes arrivals by car, train, bus, foot or other means not excluded by the Agreement);
- Arrivals by train where the passengers are either examined at the border, or inland when the location has been designated as a port of entry for the purpose of conducting the examination of persons seeking to enter Canada; and
- Airports, when the person has not had a refugee claim determined in the U.S.A., has been ordered removed from that country, and while in transit through Canada, makes a refugee claim to a Canadian officer.



## PP 1 Processing claims for refugee protection in Canada

---

### 5.16. Where the Agreement *does not* apply

---

As per ([R159.4](#)) the Agreement *does not* apply to:

- A location that is not a designated Port of Entry such as a point of entry to Canada between designated ports of entry;
- A Port of Entry that is a marine port, including a ferry landing;
- Airports (see [5.15, Where the Agreement applies](#), for the exception); and
- Claims made at inland offices.

---

### 5.17. Threshold of proof for determination of eligibility for an exception to STCA

“Balance of probabilities” is the civil standard of proof used in administrative tribunals, unless otherwise specified. It means that the evidence presented must show that the facts as alleged are more probable than not. Accordingly, a party having the burden of proof by a balance of probabilities must be able to persuade, by the evidence, that a claim or a fact is more probably true than not true and that the evidence presented must favour or outweigh opposing evidence.

“Balance of probabilities” is a higher standard of proof than “reasonable grounds to believe,” but is lower than the criminal standard of “beyond a reasonable doubt” used in criminal proceedings.

See STCA [Statement of Principles Principle 3 - \(Appendix A\)](#).

---

### 5.18. Dispute Resolution

The STCA establishes the foundation of a dispute resolution mechanism respecting the interpretation and implementation of the terms of this Agreement. This is not an appeal process for refugee claimants whose claims were determined ineligible under the Agreement.

For the purpose of resolving a dispute over the interpretation of the Agreement, each government may ask the other to review a case if there appears to be a systemic problem with the way the Agreement is being implemented.

CBSA managers are encouraged to resolve issues concerning the application of the Agreement with their U.S.A. counterparts at the local level. If, however a resolution is not reached, or trends and policy application become problematic, guidance should be sought from Refugees Branch, through CIC-OMC.

If it is evident to NHQ that the Agreement is not being implemented in the spirit in which it was intended, the Director, Asylum Division, Refugee Affairs Branch will prepare a written report outlining specific concerns and send it to the Director of Asylum in the U.S.A. Conversely, any report received by the Director, Asylum Division, Refugee Affairs Branch, from the Director of Asylum in the U.S.A. will be investigated thoroughly and expeditiously.

The Directors may attempt to resolve the issues via teleconference. However, both parties may agree to face-to-face meetings of designated officials.

Given the seriousness of any breaches of the articles of the Agreement, Canadian and U.S.A., Directors will be asked to respond to reports within thirty (30) days.

---

### 5.19. Judicial review of a decision

The formal recourse mechanism for refugee claimants who are not satisfied with the decision on their eligibility is to file a request for leave to seek judicial review with the Federal Court of Canada.

---

### 5.20. Information sharing

The Statement of Mutual Understanding on Information Sharing with the U.S. Immigration and Naturalization Service and the U.S. State Department, was created in 1999 and renewed in 2003. The Arrangement permits the exchange of information, including pro-active sharing, on a case-by-case basis. It includes provisions for incorporating annexes for systematic information

## PP 1 Processing claims for refugee protection in Canada

exchanges. For detailed instructions on the arrangement which permits the exchange of information between Canada and the United States, refer to the Information Sharing Manual:

[http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/IN/in1\\_e.pdf](http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/IN/in1_e.pdf).

See also [section 9.4, Review CPIC and NCIC](#) and [section 24.4, Information sharing with the United States](#).

### 6. Definitions

Term	Definition
Canadian Police Information Centre (CPIC)	Computerized information system to provide all Canadian law enforcement agencies with information on crimes and criminals.
Child in need of protection	In the context of child welfare, a child in need of protection is a child, as determined in the respective provincial jurisdiction, who may be at risk of abuse or has been abandoned, deserted or neglected, and includes children who are suspected to have been smuggled and trafficked
Claimant	A person who claims refugee protection in Canada.
Representative	Any person who represents a party in a proceeding, whether they are paid or not. (See ICCRC below).
Client Identification Number (CID)	A number assigned through FOSS when a file is created.
Convention Against Torture (CAT)	Means the <i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> , signed in New York on December, 1984 within the meaning of Article 1 of the Convention Against Torture.
Country of former habitual residence	The term implies a situation where a stateless person was admitted to a given country with a view to continuing residence of some duration, without necessitating a minimum period of residence. Former habitual residence is only relevant when a claimant is stateless. It is parallel to the phrase "country of nationality" for claimants who have a nationality.
Country of last permanent residence (CLPR)	When a person was legally admitted to permanently live in a country. This does not include, for example, countries in which the claimant was a foreign student, temporary worker or without status.
Immigration Consultants of Canada Regulatory Council (ICCRC)	The ICCRC is responsible for regulating the activities of immigration consultants who are members and who provide immigration advice for a fee.
Refugee Protection Division (RPD)	The Refugee Protection Division of the IRB hears eligible refugee claims and determines whether there is a need for refugee protection. Refer to the IRB website at: <a href="http://www.cisr.gc.ca/eng/tribunal/rpdspr/pages/index.aspx">http://www.cisr.gc.ca/eng/tribunal/rpdspr/pages/index.aspx</a>
Front-End Security Screening (FESS)	The FESS module provides FOSS users with the ability to enter, modify, delete, and query entries for the purpose of initiating security screening of refugee claimants. Refer to the FESS User Guide at: <a href="http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/front_end_security.doc">http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/front_end_security.doc</a>
Foreign national (FN)	A person who is not a Canadian citizen or a permanent resident. Includes a stateless person.
Field Operations Support System (FOSS)	FOSS is a CIC database. It supports the process for determining eligibility and referring claimants to the IRB. Refer to FOSS User Guide at: <a href="http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/user_usager/index-">http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/user_usager/index-</a>

## PP 1 Processing claims for refugee protection in Canada

Term	Definition
	<a href="#">eng.aspx</a>
National Case Management System (NCMS)	A CBSA electronic tracking system. NCMS delivers critical case-tracking support to enforcement personnel, including refugee processing, detentions, removals, hearings and war crimes.
National Crime Information Centre (NCIC)	NCIC is a United States computerized index of criminal justice information (e.g.- criminal record history information, fugitives, stolen properties, missing persons).  NCIC is accessed via CPIC.
Pre-Removal Risk Assessment	An assessment of risk of return offered to most persons facing removal from Canada. Refer to sections <a href="#">112 to 114</a> of the IRPA and <a href="#">PP3 Manual</a> .
Refugee Convention	The <i>1951 Convention Relating to the Status of Refugees</i> , signed in Geneva on July 28, 1951, and the 1967 Protocol to the Convention, signed in New York on January 1, 1967.
Refugee Protection Claimant Document (RPCD)	Document printed on the controlled IMM 1442B form, that identifies the person as a client of Canada's refugee protection system. An RPCD is issued to persons whose claims are eligible for referral to the IRB; or ineligible, in the case of a person who may be entitled to apply for PRRA. If applicable, the RPCD will indicate that the person is eligible for coverage under the Interim Federal Health Program. The RPCD is also used by clients to support applications for certain provincial benefits.
Safe Third Country Agreement (STCA)	Agreement between the Government of Canada and the Government of the United States of America for cooperation in the examination of refugee status claims from nationals of third countries, signed on December 5, 2002, and in force as of December 29, 2004. Refer to <a href="#">sections 5.14-5.20</a> of this chapter for information on the STCA.
Separated child	Refers to a child under the age of 18 who is separated from both parents, or from their legal guardian, but not necessarily from other relatives. A separated child may therefore include a child accompanied by adult family members other than their parents.
Support System for Intelligence (SSI)	SSI is a CBSA database with the following primary roles: to track improperly-documented arrivals and irregular migrants at major Canadian airports, seaports, land borders and inland offices and to monitor the movement of improperly-documented travelers intercepted abroad; <ul style="list-style-type: none"> <li>• to report all carrier violations to the CBSA Transportation Unit at NHQ for the assessment of administrative fees against transportation companies for improperly-documented arrivals at airports and marine ports; and</li> <li>• to produce reports and statistics on irregular movements. These reports are monitored by the appropriate user groups: CBSA national and regional intelligence units, overseas missions, CBSA Transportation Unit, the RCMP, and transportation companies.</li> </ul>
Temporary Suspension of Removals (TSR)	Imposed by the Minister of Public Safety, a TSR halts removal to a country or a place where there is a generalized risk to the entire population, such as war, civil unrest or environmental disaster. Individuals who are unsuccessful in their refugee claim or inadmissible for most other reasons, and who under normal circumstances would be subject to removal, are allowed to stay in Canada temporarily.
Tribunal Officer	Officer whose responsibilities include reviewing case files, and conducting research and interviews for the Immigration and Refugee Board. The officer attends hearings and presents evidence and submissions to the panel when refugee claims are heard. See <a href="#">Rule 16</a> of the Refugee Protection Division Rules.
Unaccompanied Minor	A child under the age of 18 who does not have their parents or legal guardian present at the time they make a refugee claim in Canada.
United Nations High	Mandated to lead and coordinate international action for the world-wide protection of

## PP 1 Processing claims for refugee protection in Canada

Term	Definition
Commissioner for Refugees (UNHCR)	refugees and the resolution of refugee problems. UNHCR's primary purpose is to safeguard the rights and well-being of refugees and stateless persons.
Vienna Convention on Consular Relations (VCCR)	Multilateral treaty to codify consular practices that developed through <a href="#">customary international law</a> , numerous bilateral treaties, and a number of regional treaties. Article 36 of the VCCR requires that foreign nationals who are arrested or detained be given notice "without delay" of their right to have their embassy or consulate notified of that arrest. For more information, refer to ENF7, <a href="#">Sections 16.2, 16.3, Procedure following arrest and detention</a> and <a href="#">17.3, Notice of rights conferred by the Vienna Convention</a> .

### 6.1. Definitions specific to the Safe Third Country Agreement

These definitions apply to [A101 \(1\) \(e\)](#) of the IRPA:

Term	Definition
Anchor relative	A family member of the person seeking refugee protection, who is in Canada and who qualifies under the definition of family member pursuant to the Agreement (for the definition of "family member", see below).
Arrival at a land border port of entry	Generally includes persons entering or attempting to enter the country through a port of entry (whether or not they present themselves for inspection); and persons apprehended or continuously observed crossing the land border by a port official within the physical boundaries of the port or in the immediate vicinity of the port. Includes persons who "run the port" after having ignored Primary Inspection Line instruction to report for Secondary Examination.
Country of former habitual residence	Relates to stateless persons. It is parallel to the phrase "country of nationality" for claimants who have a nationality
Country of last presence	That country, being either Canada or the U.S.A., in which the refugee claimant was physically present immediately prior to making a refugee claim at a land border port of entry.
Designated country	<a href="#">R159.3</a> states that the U.S.A. is designated under paragraph <a href="#">102(1)(a)</a> of the Act as a country that complies with Article 33 of the Refugee Convention and Article 3 of the Convention Against Torture, and is a designated country for the purpose of the application of paragraph <a href="#">101(1)(e)</a> of the Act
Family member	Includes spouse, sons, daughters, parents, legal guardians, siblings, grandparents, grandchildren, aunts, uncles, nieces, and nephews (does not include in-laws). Canada recognizes common-law and same-sex spouses for the definition of family member in application of the Agreement. See also <a href="#">section 23.1, Claimants who have family members in Canada</a> .
Legal guardian	For a claimant who has not attained the age of 18 years, legal guardian means a person who has custody of the claimant or who is empowered to act on the claimant's behalf by virtue of a court order or written agreement.
Refugee status claim	A request from a person to the government of either Canada or the U.S.A. for protection consistent with the 1951 Convention Relating to the Status of Refugees or its Protocol, the Convention against Torture or other protection grounds in accordance with the respective laws of each country
Refugee status claimant	Any person who makes a refugee claim in either Canada or the United States
Refugee status determination system	The sum of laws and administrative and judicial practices employed by each party's national government for the purpose of adjudicating refugee status claims.
Stateless	The condition of not having a country of nationality, which must be beyond the power of the person to control. The status of statelessness is not one that is optional for a person; in other words, one cannot "choose" to be stateless. The

## PP 1 Processing claims for refugee protection in Canada

<b>Term</b>	<b>Definition</b>
	UNHCR defines a "stateless person" as a person who is not considered to be a national of any State under the operation of its law.
Unaccompanied minor	A claimant who has not yet reached the age of 18 and is not accompanied by their mother, father or legal guardian and has neither a spouse nor common-law partner and does not have a mother, father or a legal guardian in Canada or the U.S.A.
United States	Means the United States of America, but does not include Puerto Rico, the Virgin Islands, Guam or any other possession or territory of the USA.

---

## PP 1 Processing claims for refugee protection in Canada

---

### 7. Procedures: Overview of steps in taking a refugee claim

All claimants must undergo front-end processing, which entails collection of personal information about the claimant, a determination of the eligibility of the claim to be referred to the IRB and the initiation of medical, criminal and security screening of the claimant. This includes :

Step	Description
Step 1	Determine the claimant's language abilities and the need for an interpreter
Step 2	Determine if claimant intends to use a representative
Step 3	Review FOSS, CAIPS, NCMS, GCMS
Step 4	Review CPIC and NCIC
Step 5	Liaise with visa offices abroad
Step 6	Fingerprint and photograph the claimant
Step 7	Conduct search and seize applicable documents (if required)
Step 8	Create a paper file and complete electronic files
Step 9	Conduct admissibility assessment
Step 10	Prepare A 44 report
Step 11	Review of 44 report by Minister's delegate
Step 12	Conduct eligibility assessment
Step 13	Finalize case

### 8. Procedures – The refugee claim

Refugee claims may be made at a port of entry or at an inland office. In some cases, due to high refugee claim volumes or other considerations, it will not be possible to complete front-end processing at the time the claim is made. In these situations, inland offices and ports of entry have various tools at their disposal.

#### 8.1. Claims made at inland offices

At inland offices, clerical staff may schedule an appointment for the refugee eligibility examination with an officer. In this situation the claimant returns at a later date. See also [Section 5.7, Three day eligibility](#).

In such cases a FOSS name query (NQ) should be done to determine whether the person is an existing client. If so, the existing CID must be used. Then an NCB in FOSS must be created to indicate that an examination has been scheduled.

Before obtaining the information below, clerical staff should ask the claimant for any travel and/or identification documentation in their possession. This documentation may, for example, include a passport, national identity card, birth certificate, or driver's license. Three (3) certified true copies of the documentation should be made: copies for the file, the RPD and the claimant.

**The following documents should be provided to the claimant at the time the appointment is made:**

- ◆ [IMM 5611](#) (Claim for Refugee Protection in Canada), with the instruction guide;
- ◆ [IMM 1017E](#) (Medical Report), with instructions to visit a Designated Medical Practitioner/Examiner;
- ◆ C-216R form for fingerprinting if the local office does not have access to Livescan;

## PP 1 Processing claims for refugee protection in Canada

- ◆ An Interim Federal Health Program (IFHP) Certificate issued on the IMM 1442B, with one-month validity (or until the scheduled interview examination, not exceeding eight weeks). See also [section 21.2 Interim Federal Health Program](#). Once the client receives their Refugee Protection Claimant Document, the IFHP Certificate should be placed in the client's file.

The claimant should be advised that when they return for their refugee eligibility examination, they must provide the following:

- ◆ Completed IMM 5611, which will be signed in front of the officer;
- ◆ All identity documents;
- ◆ Eight passport sized photographs;
- ◆ A copy of their fingerprints (again, if the office does not have Livescan access); and
- ◆ Evidence that the medical examination has been done.

See also [21.1, Medical examinations](#).

If a claimant does not show up for their scheduled eligibility examination, officers should attempt to contact the client and set up another appointment. If the client cannot be contacted or fails to show for the subsequent appointment, check FOSS for details of immigration history or any NCBs. Officers must put an NCB (general remark) in FOSS indicating that the claimant did not show for the eligibility examination. Depending on the circumstances of the case, the file may be transferred to the CBSA for possible enforcement action.

---

### 8.2. Claims made at ports of entry

At ports of entry, front-end processing should normally be completed for all claimants at the initial interview including an assessment as to whether the provisions of the STCA apply. When it is not possible to complete the front-end processing at a port of entry, officers should consider the following options:

#### Detention

[A55 \(3\) \(a\)](#) provides that a permanent resident or a foreign national may, on entry into Canada, be detained if an officer considers it necessary to do so for the examination to be completed.

For information on detention, refer to [ENF 20](#).

Persons being detained for examination must be informed of the reason for detention and of their right to counsel and their rights under the Vienna Convention.

See also [ENF 7, Sections 16.2, 16.3, Procedure following arrest and detention](#) and [17.3, Notice of rights conferred by the Vienna Convention](#).

#### Entry to Complete Examination

Further to [Section A23](#), an officer may authorize a person to enter Canada for the purpose of further examination. The decision to grant an adjournment rests with the officer. A claimant may also request adjournment so that they may obtain additional information/documentation to support the eligibility of their claim.

An officer should not agree to a request for an adjournment unless the following conditions are met:

- The officer is satisfied that the information is pertinent to the eligibility decision;
- The officer would not otherwise be able to conclude that the refugee claim is eligible;

## PP 1 Processing claims for refugee protection in Canada

- There are strong indications that the claimant can easily obtain additional evidence during the adjournment; and
- The claimant has not yet had a reasonable chance to obtain such evidence.

When authorizing entry under A23, the officer must impose the conditions outlined at [R43](#). They may also require the payment of a deposit or the posting of a guarantee [\[R45\]](#).

The "Entry for Further Examination or Admission Hearing" ([BSF536](#)) form should be completed and issued to the claimant.

An adjournment does not affect the 3 working day period within which eligibility must be determined. Therefore, the examination must be scheduled to take place within the 3-day period and will normally take place at the POE.

### Direct Back

In certain, highly exceptional circumstances at land ports of entry, an examination appointment may be scheduled and the refugee claimant directed back to the U.S.A.

The direct back process does *not* affect the 3-working-day period within which the eligibility determination must be made. As such, the examination must be scheduled to take place within the 3-day period.

For information about direct back, refer to ENF 4 *Port of entry examinations*, [sections 18.3, Direct back](#) and [18.4, Direct back and refugee claimants arriving at the land ports of entry from the United States](#).

---

## 9. Procedures: Preliminary steps in receiving a refugee claim

The following are the first steps in taking a refugee claim. At this stage, most of the steps are administrative.

---

### 9.1. Step 1 - Determine the claimant's language abilities and the need for an interpreter

Claimants have a right to communicate with Canadian government officials in either of Canada's official languages. If a claimant is unable to understand and communicate fully in English or French, CIC or CBSA will provide an interpreter. The final decision as to whether an interpreter is required rests with the officer.

If an interpreter is required but one is not available at the time of the refugee eligibility examination, the officer may adjourn the examination until an interpreter is available. The examination must be re-scheduled to take place within 3 working days. For information on adjournment of an examination, refer to [section 8.2, Claims made at ports of entry: Entry to complete examination](#).

Family members are not permitted to act as interpreters at a refugee eligibility examination.

When an interpreter is used, the officer, interpreter and claimant must sign an IMM1265 (Interpreter Declaration), which indicates that the verbal exchange between the officer, claimant and interpreter and/or forms were accurately interpreted and understood. The signed IMM1265 must be attached to the file.

For access to the IMM1265, refer to:

<http://cicintranet/CICExplore/francais/form/imm1000/IMM1265b.pdf>



## PP 1 Processing claims for refugee protection in Canada

For an up-to-date list of interpreters, refer to:

[http://cicintranet.ci.gc.ca/interpreters-interpretes/list\\_e.asp](http://cicintranet.ci.gc.ca/interpreters-interpretes/list_e.asp)

For operational instructions and guidelines for the use of interpreters, refer to:

[ENF 4, paragraph 8.5.](#); and

<http://cicintranet/cicexplore/english/guides/administration/sa/7.htm>

---

### 9.2. Step 2 – Determine if claimant will be represented

Claimants may have a representative present at the eligibility interview. However, in most circumstances, an interview should not be delayed to allow for a representative to attend. Representatives may not speak on a claimant's behalf or interfere with the interview proceedings.

There are two types of representatives; paid and unpaid. To be an authorized representative the individual must be:

- A lawyer who is a member in good standing of a Canadian provincial or territorial law society;
- An immigration consultant who is a member in good standing of the Immigration Consultants of Canada Regulatory Council (ICRC); or
- A notary who is a member in good standing of the *Chambre des notaires du Québec*.

Unpaid representatives may include:

- An NGO representative, community worker or religious organization;
- family; or
- friends.

In the case of claimants who are minors or, in the opinion of an officer, unable to understand the proceedings (for reasons other than language), an unpaid representative may be invited to attend the interview.

If a representative is present during the interview, the [IMM5476](#) (Use of a Representative/Release of Information) must be completed, signed and attached to file.

For more information on representatives see [IP9](#).

---

### 9.3. Step 3 - Review FOSS, CAIPS, NCMS

A query is done to determine if the person:

- Is an existing claimant;
- has other immigration applications; or
- is subject to enforcement action such as an outstanding warrant.

A copy of any hit list or claimant history screens should be put on file. Officers should also ensure that new information such as addresses and aliases are entered in FOSS.

**Example:** if the claimant has a genuine passport, the name entered in FOSS must match the one on the passport. If the claimant is using a name that is different from what appears on the passport, indicate that name as an alias and attach any document with that name to the file.

For detailed instructions on how to conduct a query in FOSS, refer to the FOSS User Guide:

[http://www.ci.gc.ca/cicexplore/english/systmguides/foss\\_ssobl/irpa030703.doc](http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/irpa030703.doc)

## PP 1 Processing claims for refugee protection in Canada

---

### 9.4. Step 4 - Review CPIC (Canadian Police Information Centre) and NCIC (National Crime Information Centre)

For instructions on how to perform a name query, refer to the CPIC Reference Manual:  
[http://www.ci.gc.ca/cicexplore/english/systmguides/cpic/CPIC\\_ref.pdf](http://www.ci.gc.ca/cicexplore/english/systmguides/cpic/CPIC_ref.pdf)

NCIC is accessed through CPIC. See also [section 5.20, Information sharing](#).

Any printouts should be classified "Protected B" and user identification should be blacked out for any CPIC/NCIC printouts that are retained. CPIC or NCIC printouts that are relevant to the case should be placed on the file

The standard of proof in a determination of criminal inadmissibility is "reasonable grounds to believe."

For details, refer to [ENF13 CPIC access and warrant management \(CBSA\)](#) or [AD13, CPIC and Interpol procedures for CIC](#).

---

### 9.5. Step 5 – Liaise with visa office abroad

If the claimant holds a TRV or if the claimant applied overseas for a visa, a request should be sent to the mission for copies of the application and case notes. Visa office notes can also be accessed through various systems by CICs.

In the case of a request to a visa office in the claimant's country of nationality or of habitual residence, the information must be transmitted by Entrust encrypted e-mail or secure fax. The information exchanged must never reveal the claimant's identity or the fact that he/she has made a refugee claim. This includes communications with the Hong Kong visa office regarding refugee claimants from the People's Republic of China. The exchange of non-classified messages to and from the claimant's country of origin could result in reprisals against the claimant or their family or associates.

In most cases, when a request is sent to a visa office outside the claimant's country of nationality or of habitual residence, it may be sent by unclassified email or by fax. However, in some cases, due to a claimant's particular circumstances, officers may determine that it is warranted to classify documents in order to protect the claimant.

#### **TRV details available**

When a temporary resident visa (TRV) is present in the claimant's passport, messages to visa offices to request case notes should be formatted as follows:

- State number and date of visa issuance as well as the file number of the visa office which appears in black on the 6<sup>th</sup> printed line of the visa, on the right. It starts with a V (visitor), S (student) or W (worker).

#### **TRV details not available**

When details of the application abroad are not available the POE or CIC should:

provide the name, date and place of birth, CLPR and date of refugee claim of the person. The message should request that the reply be sent by Entrust encrypted e-mail or secure fax and if applicable, provide the secure fax number of the POE or CIC. The visa office should respond with the details of any overseas application and, if applicable, send a copy of the application by fax to the office that requested the information.

## PP 1 Processing claims for refugee protection in Canada

---

### 9.6. Step 6 – Fingerprint and photograph the claimant

Authority to fingerprint and photograph claimants who are under examination is provided in [A16](#). Guidelines require that all claimants 14 years of age and older must provide fingerprints. The digital method of fingerprinting should be used.

Inland offices that do not have the capacity to do digital fingerprints on site should send claimants to approved service providers for fingerprinting. A draft referral letter and a list of service providers can be found in [Appendix O](#). Depending on the type of search requested, the RCMP has committed to respond within a specific time frame.

If digital fingerprinting is not available, the ink and roll method may be used. However, processing of the search by the RCMP may take longer.

All claimants must be photographed. Inland offices without camera equipment should request that the claimant provide 8 passport-sized photographs.

**When fingerprint search results are received from the RCMP, update FOSS by entering the FPS number.**

#### Vulnerable claimants and minors

Vulnerable persons and minors may not be comfortable with the process of being fingerprinted and photographed. Religious and cultural sensitivities should be considered when taking photographs. Officers should make accommodations to the greatest extent possible.

**Example:** Women who cover their face and/or head for religious or cultural reasons should be given the option of having their photograph taken by a female officer.

Officers should explain the fingerprinting and photography procedures to children. Fingerprinting and photography of children should be done in the presence of their parents/legal guardians, when possible. A child who is not comfortable being photographed alone may be photographed with a parent or legal guardian.

For detailed information on fingerprinting, refer to ENF 12, Section 12, *Fingerprinting*:

[http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/enf/enf12\\_e.pdf](http://cicintranet.ci.gc.ca/Manuals/Documents/PDF/enf/enf12_e.pdf)

For additional information on photographing, refer to ENF12, Section 13 at:

[http://www.ci.gc.ca/Manuals/Documents/PDF/enf/enf12\\_e.pdf](http://www.ci.gc.ca/Manuals/Documents/PDF/enf/enf12_e.pdf)

---

### 9.7. Step 7 - Conduct search and seize applicable documents (if required)

All passports and travel documents must be seized and a certified true copy of *genuine* passports and travel documents provided to the claimant. Other significant documents such as birth and baptismal certificates, and other identity documents, may also be seized and a certified true copy provided to the claimant. Documents, such as a driver's license, may be seized if:

- It was fraudulently or improperly obtained or used; or
- the seizure is necessary to prevent fraudulent or improper use; or,
- It is required to carry out the purposes of the IRPA as per [A140](#).

Make three copies of all documentation seized and provide a copy to the Immigration and Refugee Board (see [section 11.2, Additional steps for eligible decisions](#)).

Ensure that the IMM5242 (Search Form) and/or the IMM5265B (Notice of Seizure) is completed and signed, and a copy given to the claimant.

## PP 1 Processing claims for refugee protection in Canada

---

**Note:** CIC officers do not have ministerial delegation to conduct searches. If a CIC officer determines that a search is warranted, they may ask CBSA to do it.

---

For more information on search and seizure, refer to [ENF12: Search, seizure, fingerprinting and photographing](#).

---

### 9.8. Step 8 - Create a paper file and complete electronic files

To create the paper file and complete electronic files, officers should:

- Ensure the IMM5611 is complete and signed by the claimant;
- Include officer's notes, if applicable;
- include three certified true copies of the claimant's identity documents;
- Include (8) eight passport-size photographs of the claimant;
- Include a copy of the fingerprint record if completed through Livescan;
- Obtain the name and address of counsel, if applicable;
- Include all relevant correspondence related to the applicant;
- In the case of a claimant who has a TRV, attach to the file a copy of the e-mail to the visa office requesting their file.
- FOSS updates: Complete the Record of Refugee Claim (RR screen) if it has not already been created because of a previous input of an NCB;
- Enter the IMM5611 and completion of FESS information input into FOSS; and
- Input information in SSI within 48 hours for all transportation liability cases and within 30 days for all others.

---

## 10. Procedures: Admissibility and eligibility assessments, A44 report and review by Minister's delegate (Steps 9-12)

Officers must make admissibility and eligibility decisions for each individual claimant, even when a claim is made along with members of their family. This means that all claimants, accompanying family members and minors must be issued individual A44 Reports, Refugee Protection Claimant Documents (RPCD), departure orders, etc. Personal information for each person must be entered in FOSS using a unique FOSS client ID.

---

### 10.1. Step 9 Admissibility assessment

Admissibility criteria ensure that serious criminals, terrorists, human rights violators and security risks do not have access to the refugee determination system and are removed from Canada.

The purpose of assessing admissibility is to screen claimants who are inadmissible to Canada for any of the reasons specified in the IRPA ([A34](#) to [A42](#)). This assessment is conducted as part of the immigration examination after the refugee claim is received by a delegated officer.

Most refugee claimants are inadmissible by virtue of the fact that they want to remain in Canada permanently, but do not have a permanent resident visa [[A41\(a\)](#), coupled with [A20\(1\)\(a\)](#)].

For more information on assessing admissibility, refer to [ENF1 Inadmissibility](#).

## PP 1 Processing claims for refugee protection in Canada

To determine admissibility, officers will:

- Check FOSS, CAIPS, GCMS, CPIC etc.
  - Review the IMM 5611 and obtain any missing information
  - Interview the claimant.
- 

### 10.2. Step 10 Prepare Section A44 (1) report

See also section [10.1, Admissibility assessment](#).

If the claimant is inadmissible, prepare and review the A44(1) report. Accompanying family members who are inadmissible must also be reported. All inadmissibilities, should be included in the report. For detailed instructions on writing the A44(1) report, refer to [ENF 5, Section 11 Writing an A44\(1\) report](#).

Review the report to ensure that it is complete and all information is correct. The A44(1) report must be printed and copies 1 to 3 of the document distributed according to local procedures.

For information on FOSS coding for the A44 report see [Coding Manual, FOSS Help](#).

---

### 10.3. Step 11 Review of the 44 report by the Minister's Delegate (MD):

A44(1) requires that inadmissibility reports be transmitted to the Minister of Public Safety. Under the provisions of [A6\(2\)](#), an officer or a manager may be delegated to act for the Minister.

The MD's role is to determine if the A44 report is well-founded. Upon receipt of an A44(1) report, the Minister's delegate may, if of the opinion that the report is well-founded, refer the report to the Immigration Division for an admissibility hearing; or in specific circumstances, issue a removal order. In some cases, the MD may find it necessary to interview the claimant.

[R228\(4\)](#) stipulates that if an officer is of the opinion that an A44(1) report is well founded, and the case involves a person who may not have the capacity to understand the process, the report must be referred to the ID of the IRB for an admissibility hearing. The ID will designate a representative to act on behalf of the claimant. See [section 20, Guidelines - minor children](#) and [section 19, Guidelines - vulnerable persons](#).

For more information on a designated representative, refer to ENF 6 *Review of reports under A44(1)*, Section 7, [Unaccompanied minors and person unable to appreciate the nature of the proceedings](#).

---

### 10.4. Step 12 Eligibility determination

The purpose of the eligibility determination is to disqualify persons whose refugee claims are not eligible for referral to the RPD. The claimant must prove that their claim is eligible to be referred to the RPD.

For the purpose of an eligibility determination, the refugee claimant may make a claim against just one country, even if s/he has multiple nationalities. The RPD will assess the merits of the claim against each country of nationality. Refugee claim eligibility is determined during the course of the eligibility examination. Officers should:

- Conduct a thorough review of the IMM 5611;
- assess whether the claimant is ineligible under [101\(1\)\(e\)](#), the Safe Third Country Agreement (STCA); and

## PP 1 Processing claims for refugee protection in Canada

- Review possible grounds for ineligibility found in section [5.8, Eligibility of claim for referral to the RPD](#).

In the absence of evidence that the person is ineligible, resolve eligibility in favour of the claimant. If eligibility cannot be determined because the claimant may be inadmissible due to serious criminality, security, human/international rights violations or organized criminality, and as a result an A44 report is referred to the Immigration Division for an admissibility hearing, suspend the consideration on eligibility as per [A100\(2\)](#). If the claim has already been referred to RPD, suspend under [A103\(1\)](#). See [section 16, Refugee claim suspension](#)

---

### 11. Step 13 Finalize case

---

#### 11.1. Process once admissibility and eligibility decisions have been made

Once decisions on eligibility and admissibility are made, the following steps must be taken for both eligible and ineligible cases:

- Provide eligibility decision (IMM 5292) to the claimant, advising them of the reason for ineligibility (if applicable);
- Enter information in the Eligibility Results and Referral (ER) FOSS screen;
- Enter information in the Record of Refugee (RR) screen;
- All applicable ineligibility grounds should be recorded in FOSS (if there is more than one ground, enter additional grounds as an NCB).
- Photocopy all documents, providing copies to the claimant and placing copies on file;
- Input information into SSI and transfer information to CSIS for security screening;
- Review the A44(1) Report; and
- Counsel the claimant about implications of the eligibility decision.

---

**Note:** If a FOSS screen allows for entry of only one ground, the most important ground should be entered. [A101\(1\)\(e\)](#) (Safe third country), if applicable, always takes precedence. Any additional grounds will be entered in an NCB.

---

---

#### 11.2. Additional steps for eligible decisions

In the case of claims determined eligible or deemed referred to the RPD the Refugee Protection Claimant Document (RPCD) is printed on a generic secure document (IMM1442), which constitutes the decision in writing. Additional steps are as follows:

- Generate the RPCD and attach the claimant's photograph to the client's copy. Include IFHP eligibility if applicable;
- Generate the Notice to Appear (Automatically generated on IMM 5292 when RPCD is printed.)
- Generate the Departure Order (on IMM 5292)
- Prepare Acknowledgement of Conditions (IMM1262);
- Initiate security screening;
- provide forms for medical examination;

## PP 1 Processing claims for refugee protection in Canada

- Give Personal Information Form (PIF) and PIF guide to claimant.

For eligible cases send only the following to the RPD:

- Original Notice to Appear with the claimant's photograph;
- Copy of IMM5611 signed by the claimant and officer;
- Copy of all identity and travel documents, including those seized;
- Copy of officer notes, if applicable; and
- Copy of visa office file, if applicable.

For more information, please refer to Schedule 2 of the Refugee Protection Division Rules at:

<http://www.gazette.gc.ca/rp-pr/p1/2011/2011-07-02/html/reg2-eng.html>

---

### 11.3. Additional steps for ineligible decisions

For ineligible cases do the following:

- assess the likelihood that the person will ultimately be entitled to a Pre-removal Risk Assessment (PRRA). See [section 15, Pre-removal risk assessment](#).
- print the eligibility decision on a generic non-secured document (IMM5292);
- Initiate security screening (except for cases that are found ineligible [A101\(1\)\(e\)](#)( STCA);
- Determine whether the claimant should be released or detained; If released, the officer may consider imposing conditions that include a requirement for the claimant to report, at a specific time and place, at which time the claimant will be told whether or not they are entitled to a PRRA; and
- Forward the file to the local CBSA office, if applicable.

When a claim is ineligible [A101\(1\)\(e\)](#) (safe third country), the removal order comes into force the same day as per [A49\(2\)\(a\)](#), even if the claim is also ineligible on other grounds.

Ineligible claimants are not entitled to Interim Federal Health Program (IFHP) benefits. See [IR3: Medical, section 4.2 Eligibility for the IFHP](#).

---

### 11.4. A claim is *deemed* referred to the RPD

Further to [A100 \(3\)](#), if an officer does not make an eligibility decision within the 3-day-period, the claim will be deemed referred to the Board. See [section 5.7, Three day eligibility](#).

In the case of a deemed referral:

- ◆ an officer must enter in FOSS (Eligibility Results (ER) screen) that the Eligibility Decision is "deemed." The officer then electronically refers the claim to the RPD ("Print Final" or "Send Referral" option in FOSS).
- ◆ the officer should make an eligibility decision even if the case is deemed referred, and if necessary, follow procedures for redetermination found in [section 17, Redetermination of eligibility](#).

See also [section 11.2, Additional steps for eligible decisions](#).

## PP 1 Processing claims for refugee protection in Canada

### 11.5. Impose conditions

Conditions must be imposed on all claimants. These conditions are outlined in the [IMM1262](#) (Acknowledgment of Conditions) and should be explained to the claimant by the officer. The IMM1262 must be signed by both the officer and the claimant.

### 11.6. Documents to be given to the claimant

The following documents should be provided to the claimant after their eligibility examination:

Document	Details of the document
A44 (1) Report	The claimant receives a copy of the A 44(1) Report which outlines their inadmissibility.
<a href="#">IMM5611</a> Claim for Refugee Protection in Canada	Provide claimants with a signed copy of IMM5611.
Identity documents	Provide claimants with certified true copies of all genuine identity documents that were seized.
Notice of Seizure ( <a href="#">IMM5265B</a> )	Provide claimants with a copy of IMM5265B which lists any documents seized by the officer.
Search Form (IMM5242B)	If applicable, provide claimants with a signed copy of the IMM5242B.
Officer interview notes (If applicable)	Provide with a copy of any notes to file made during the examination.
Contact information for non-governmental organization(NGOs) and the office of United Nations High Commissioner for Refugees (UNHCR)	Provide claimants with a list of NGO's in their area as well as contact information for the office of the UNHCR. (see <a href="#">Appendix M</a> )
Refugee Protection Claimant Document (RPCD) IMM 1442	Provide claimants with their RPCD
<a href="#">IMM 1017</a> Medical report form (if not already issued)	Instructions to visit a Designated Medical Practitioner/Examiner
Removal order ( <a href="#">IMM 5292</a> )	Provide claimants with a copy of the removal order
Acknowledgement of conditions ( <a href="#">IMM 1262</a> )	Give copy of IMM1262 to claimants
Interpreter declaration ( <a href="#">IMM 1265</a> )	Copy of interpreters declaration of accurate interpretation.
Counselling pamphlet for eligible claimants	<a href="#">Appendix L</a>

### 11.7. Counselling the claimant

Claimants found eligible to have their claim referred to the RPD, should be counselled with respect to the information and requirements contained in the documents. A counselling pamphlet that may be given to claimants can be found in [Appendix L](#).

## 12. Step 13 - Finalize the process by completing electronic databases

Enter data into the Front-End Refugee Security Screening (FESS) module of FOSS (see [Appendix N](#) for FOSS Help).

Background information on all claimants (18 years and older) must be transmitted to CSIS for security screening. When warranted, an officer may refer a person younger than 18 years of age to CSIS for security screening.



## PP 1 Processing claims for refugee protection in Canada

For detailed instructions on how to enter data in the FESS module, refer to the FESS Guide at: [http://www.ci.gc.ca/cicexplore/english/systmguides/foss\\_ssobl/front\\_end\\_security.doc](http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/front_end_security.doc)

---

### 12.1. Enter data into the Support System for Intelligence (SSI)

Officers must complete entries in SSI for all claimants, including cases involving transportation liabilities, and, accompanied and unaccompanied minors. In cases involving transportation liabilities, SSI entries must be completed within 48 hours. The officers must also complete a [BSF502](#) (Notice to Transporters). For all other cases that involve no transportation liability, officers have 30 days to complete the SSI.

For more information on processing transportation liability cases, refer to [ENF15: Obligations of transporters](#).

For detailed instructions on how to enter data in SSI, refer to: <http://ssi.ci.gc.ca/ssiprod/logon.htm>

---

### 12.2. Refer a claim to the CBSA Interventions unit, if necessary

The [ENF 24: Ministerial interventions](#) details three intervention priorities for refugee claimant files:

- ◆ Cases involving possible inadmissibility on grounds of security [exclusion under I (F) (a), (b) or (c)] of the 1951 Convention, or criminality issues, are the highest priority.
- ◆ cases in which the outcome would have a significant impact on the integrity of the program.
- ◆ credibility cases that involve program integrity considerations but have less of an impact on the program as a whole.

See [section 5.4, Priorities and strategies for hearings at the Refugee Protection Division \(RPD\) Table 3 of ENF 24](#) for further information on CBSA priorities.

CIC and CBSA officers must identify potential priority cases and ensure that the information they collect is transferred to hearings officers. Hearings officers will determine whether intervention is required. Transmission of information between the various partners is based on local procedures existing between CIC and the CBSA and within CBSA. For further details on interventions, refer to [ENF 24: Ministerial interventions](#).

---

## 13. Procedures: Special claimant types

---

### 13.1. Holders of Temporary Resident status (TRV)

A person with a valid temporary resident status (visitor, worker or international student) may make a refugee claim. Such claimants may retain their visitor record or work permit or study permit. Work and study permits remain valid until they expire, or until any removal order made against the permit holder comes into force.

As with other refugee claimants, TRV-holders may be considered inadmissible for seeking to remain in Canada permanently, while not in possession of a permanent resident visa, [[A41\(a\)](#) plus [A20\(1\)\(a\)](#)].

## PP 1 Processing claims for refugee protection in Canada

---

### 13.2. Holders of Temporary Resident Permits (TRP)

In the case of a claimant with a valid TRP, the officer should determine whether the claim is eligible for referral to the RPD. As long as the permit remains valid, it is not necessary to prepare an A44 report or a removal order. However, when the permit expires, the A 44 report and removal order should be written and given to the claimant.

---

### 13.3. Claimants eligible for sponsorship by family members in Canada

A claimant may have a family member in Canada who is eligible to sponsor them. Officers may notify claimants of the option of sponsorship.

Initiation of a sponsorship does not prevent a person from making or proceeding with a refugee claim. A claim may be withdrawn if the claimant ultimately benefits from a successful sponsorship.

If a claimant who is notified of a sponsorship option expresses the desire to proceed only with the sponsorship before front-end screening is concluded, withdrawal procedures for the refugee claim should be followed. The claimant should be counselled about the consequences of withdrawal of the claim. See [section 14, Procedures: Withdrawal of a refugee claim](#).

---

### 13.4. Foreign representatives

Foreign representatives include the following:

- Diplomatic agent (diplomat);
- Consular officer (career);
- International civil servant [representative of the United Nations or any of its agencies; an international or intergovernmental organization of which Canada is a member; or personnel of other offices accredited by the Department of Foreign Affairs and International Trade (DFAIT)];
- Member of the administrative and technical staff of a foreign country or an international organization. Member of the service staff of an Embassy or Consulate; and
- Employee of a foreign representative (e.g. private servant).

Foreign representatives are accredited by DFAIT, in the form of a counterfoil in the individual's passport or official travel document. This will show the letter J (official), C (consular),

I (international organization) or D (diplomat). Family members of foreign representatives have the same counterfoil as the head of the family.

---

**Note:** Under Subsection 3(2) of the *Citizenship Act*, children of foreign representatives under accreditation by the Protocol Office, even if born in Canada, are not entitled to Canadian citizenship. The only exceptions are the Taiwan Economic and Cultural Office, TECO (Ottawa, Toronto and Vancouver) and the Palestinian General Delegation (Ottawa).

---

For more information on who is, and who is not a foreign representative, refer to FW1, *Temporary foreign workers guidelines*, sections [5.3 Work without a work permit R186\(b\)—Foreign representatives](#) and [5.4 Work without a work permit R186\(c\)—Family members of foreign representatives](#).

When someone identifies themselves as a foreign representative and makes a refugee claim, the following steps should be followed:

## PP 1 Processing claims for refugee protection in Canada

- Seize the diplomatic and/or personal passport(s) or other document with the counterfoil and the accreditation card. If this card has already been returned to the Protocol Office (DFAIT), the claimant should have a receipt and the business card of the protocol officer. Provide the claimant with certified true copies of all seized documents. The identity card must be returned to DFAIT. It is not necessary to return the passport(s). If the claimant indicates that a document has been lost or stolen, instruct them to obtain a police report and provide the officer with a copy.
- The claimant's foreign accreditation must be cancelled before the eligibility of the claim can be assessed. The refugee claimant may contact the Protocol office at DFAIT directly or provide written authorization to CIC/CBSA to do so. The three-day timeline for assessment of the eligibility of the refugee protection claim still applies.
- Request that the claimant complete a statutory declaration ([IMM1392B](#)). It should include the identity of the person, their position and which government or agency they served and the fact that they wish to relinquish their accredited status. The declaration may include information about the claim, if the claimant wishes. The declaration must be sent to DFAIT. DFAIT will not share information given by the CIC or CBSA officer with the country in which the claimant has nationality.
- Inform DFAIT of the name of the claimant and the date of their eligibility interview. If the claimant does not appear for their eligibility interview, inform DFAIT.

During working hours, contact DFAIT at:

Immigration Liaison Officer

Protocol Office

Department of Foreign Affairs and International Trade

Lester B. Pearson Building

125 Sussex Drive

Ottawa K1A 0G2

(613) 992-0889 (phone)

(613) 943-1075 (fax)

After working hours, contact the DFAIT Emergency Operations Centre at (613) 996-8885.

---

### 13.5. Claims made during the course of other immigration proceedings

When a person makes a refugee claim while their case is being dealt with as part of another immigration matter, the proceedings should be adjourned, and the claimant referred to an officer delegated to process refugee claims.

<p><b>Example:</b> If a claimant, as part of or as a result of a negative Humanitarian and Compassionate (H&amp;C) decision (before a removal order is issued), expresses the intent to make a refugee claim, the officer will refer the claimant to an officer designated to receive claims.</p>
---

Officers should proceed as follows:

- if appropriate, advise the claimant that the immigration matter that was being considered is adjourned pending the outcome of the refugee eligibility examination;
- contact the responsible CIC or CBSA inland office that accepts claims for refugee protection and arrange an appointment for the claimant within three working days (to avoid deemed referral);
- Give the claimant the [IMM5611](#) (Claim for Refugee Protection in Canada) and its instruction guide to complete, and advise the claimant that they will be required to appear at the

## PP 1 Processing claims for refugee protection in Canada

designated inland office for a refugee eligibility examination and that the filled out [IMM5611](#) will be required at that time;

- Advise the claimant that enforcement action may result if they fail to report for their refugee eligibility examination; and
- Place a non-computer based (NCB) entry in FOSS detailing the actions taken.

---

### 13.6. Claims made during an admissibility hearing

If a person makes a refugee claim during an admissibility hearing (before a removal order is issued), the member will take note of the intent, and proceed with the hearing including issuance of the removal order, if appropriate. A removal order issued to a refugee claimant is conditional [[A49\(2\)](#)]. Following the hearing, the person should be referred to a CBSA officer designated to receive refugee claims.

---

### 13.7. Guidelines for interviewing refugee claimants

Officers should confirm the information the claimant has provided on their [IMM5611](#). During the interview, officers:

- are under a duty to act impartially;
- should not evaluate the credibility of the refugee claim. Assessment of the merits of a refugee claim, including credibility, is the responsibility of the IRB;
- should keep in mind that claimants may:
  - ◆ have travelled long distances and may be exhausted;
  - ◆ fear government officials;
  - ◆ suffer from post-traumatic stress;
  - ◆ not trust an interpreter;
  - ◆ have a medical condition, or mental or psychological incapacity that has an impact on the interview;
  - ◆ have young children who provide a distraction during the interview; or
  - ◆ be reluctant to discuss some things in front of a spouse or other family members.

If an admissibility hearing will be held, or in the case of detention, inform the claimant that they may retain and instruct counsel.

Officers should also:

- keep questions short and clear;
- when appropriate, interview spouses separately;
- alternate between open and closed questions;
- give encouragement to show that they are listening;
- clarify any discrepancies; (make sure to document any discrepancies that the applicant cannot explain);
- pay careful attention to details;
- be positive in their approach; and

## PP 1 Processing claims for refugee protection in Canada

- be mindful not to lead the applicant by suggestion or otherwise circumscribe the interview.

### 14. Procedures: Withdrawal of a refugee claim

At any point prior to the referral of a claim to the Refugee Protection Division (RPD), or the determination that the claim is not eligible for referral, the client may inform the officer that they no longer wish to pursue the claim. Such a discontinuation is not considered a withdrawal for the purposes of paragraph [A101\(1\)\(c\)](#) of IRPA. This means that if the person concerned makes a refugee claim at a later date, it cannot be determined ineligible under [A101\(1\)\(c\)](#).

#### 14.1. Withdrawal: how to proceed

If...	Then....
A claimant requests a withdrawal before referral to the RPD	<ul style="list-style-type: none"> <li>• A refugee claim at a later date would not be found ineligible under <a href="#">A101(1)(c)</a>.</li> <li>• Complete form <a href="#">IMM 5317B</a>, "Withdrawal of a Claim for Refugee Protection prior to Referral to the RPD";</li> <li>• Explain the contents of the form and ensure person understands the statement and that the refugee claim will not be heard and they will have to leave Canada;</li> <li>• Attach a photo and seal with a port stamp;</li> <li>• Give claimant a copy; and</li> <li>• In the RR screen of FOSS, enter '3 – withdrawn' in the 'otherwise concluded reason' field.</li> <li>• <b>Note:</b> If the person still wants to enter Canada, admissibility of the person must be assessed.</li> <li>• If the person is at a POE and is not seeking to enter Canada, the officer may allow the person to leave as per <a href="#">R42(1)</a>.</li> <li>• When a removal order is made (whether at a port of entry or inland), it comes into force as per <a href="#">A49(1)</a>.</li> <li>• If the person is in status, they may remain in Canada until that status expires.</li> </ul>
A claimant requests withdrawal after claim found ineligible	<ul style="list-style-type: none"> <li>• the officer may <i>not</i> reconsider the eligibility decision;</li> <li>• any future claims would be ineligible <a href="#">101(1)(c)</a>;</li> <li>• any removal order comes into force in accordance with paragraph <a href="#">49(2) (a) or (b)</a>.</li> </ul>
Claimant requests withdrawal <i>after</i> referral to the RPD	<ul style="list-style-type: none"> <li>• the claimant should inform the RPD, either in writing or orally at a proceeding of the RPD;</li> <li>• Any future claims would be ineligible</li> </ul>

## PP 1 Processing claims for refugee protection in Canada

If...	Then....
	<p><a href="#">101(1)(c)</a>, including when a withdrawal is communicated to the IRB through an intermediary e.g. CBSA officer.</p> <p><b>Note</b> : A person whose claim is considered withdrawn by the RPD may apply to the RPD to have their claim reinstated.</p>

---

### 15. Procedures: Pre-Removal Risk Assessment (PRRA)

Persons whose refugee claims are ineligible for referral to the RPD, and persons who are subject to a removal order and as a result may not make a refugee claim, may be entitled to have a risk assessment through a Pre-removal Risk Assessment (PRRA).

---

**Note:** Persons whose refugee claims are ineligible under subsection [A101\(1\)\(e\)](#) (STCA) are not entitled to apply for a PRRA.

---

#### 15.1. Inland claims

For inland cases, the person's file must be referred to the CBSA for an assessment of removal-readiness and entitlement of the person to apply for PRRA.

Provide the person with the *Advance Information Regarding the Pre-Removal Risk Assessment* form: <http://cicintranet.ci.gc.ca/connexion/tools-outils/form/prra-erar/index-eng.aspx>

---

#### 15.2. Ports of entry

At ports of entry, the procedure varies depending on whether the person's removal order is in force.

When the removal order is not yet in force officers should:

- Send the file to inland CBSA, where an assessment of entitlement to apply for PRRA will be done (once the removal order is in force and the person is removal-ready);
- provide the person with the *Advance Information Regarding the Pre-Removal Risk Assessment* form: <http://cicintranet.ci.gc.ca/connexion/tools-outils/form/prra-erar/index-eng.aspx>

When the removal order is in force and the person is removal-ready, officers must:

- assess whether the person is entitled to apply for a PRRA. For information on determination of entitlement to apply, refer to [ENF 10 Removals, section 18, Procedure: Pre-Removal Risk Assessment \(PRRA.\)](#)

If the person is:

- not entitled to a PRRA, the removal order may be enforced.
- entitled to apply for a PRRA, they must be given the PRRA application kit: <http://www.ci.gc.ca/CICExplore/english/form/imm5500/IMM5503E.pdf>

If the person is entitled to a PRRA, the application and any written submissions must be completed and submitted at the port of entry.

## PP 1 Processing claims for refugee protection in Canada

---

### 15.3. Deferral of removal for persons entitled to apply for PRRA at a POE

PRRA applications made at a port of entry do not result in a stay of removal ([R166](#)). However, officers have the discretion to administratively defer removal. Officers should consider whether there may be genuine protection concerns or whether the person is applying simply as a means to gain access to Canada. Objective factors to consider include whether the applicant:

- expressed the need for protection upon arrival at the port of entry, or only after becoming subject to a removal order;
- has indicated more than one nationality;
- has permanent residence in a country other than the country where they claim fear of persecution, of torture, or of cruel and unusual treatment or punishment;
- faces criminal prosecution that could result in the death penalty.

When deciding whether to defer removal, officers may also consider published RPD acceptance rates. The applicant should be given the benefit of the doubt.

When a Port of Entry PRRA applicant is admitted to pursue their PRRA application, the person must, in addition to the application kit, be given the PRRA Notification form:

<http://cicintranet.ci.gc.ca/connexion/tools-outils/form/prra-erar/index-eng.aspx>

For more information on PRRA, refer to PP3 [Pre-removal risk assessment](#) and [ENF10 Removals](#).

---

## 16. Procedures – Refugee Claim Suspension

Subsection [100\(2\)\(a\)](#) of the IRPA calls for suspension of refugee claim proceedings in certain circumstances.

See also [section 18, Extradition](#).

---

### 16.1. When suspension is necessary

When an A44 report is referred to the Immigration Division for an admissibility hearing, and the inadmissibility would render the claim ineligible, the officer must suspend his or her consideration of eligibility of the refugee claim. If the claim has been referred to the RPD, the officer must notify the RPD so that it may suspend consideration of the claim. In the case of possible inadmissibility stemming from a criminal conviction outside Canada [\[A36\(1\)\(b\)\]](#), officers should suspend the claim only when a danger opinion is being sought. Without a danger opinion, the eligibility of the person's refugee claim will be unaffected, even if the person is ultimately determined to be inadmissible.

When a claimant is charged with an offense punishable by a maximum prison term of 10 years or more, the officer should suspend the claim and wait for the court decision (and not speculate as to the outcome).

For more information, refer to [ENF 28, Ministerial Opinions on Danger to the Public and to the Security of Canada](#).

---

### 16.2. Suspension of eligibility consideration *before* the claim is referred to the RPD

If it is determined within the three working-day-period that suspension is necessary, the officer:

- Enters the “suspension” action in the Record of Refugee Claim (RR) screen of FOSS to ensure that the claim does not become deemed referred to the RPD;

Notifies the claimant in writing of the suspension (refer to [Appendix B](#)); and

## PP 1 Processing claims for refugee protection in Canada

- Enters an NCB (general remark) in FOSS, that the claimant is *not* eligible for a work or study permit.

There is no need to notify the RPD of the decision to suspend eligibility consideration because at this stage, the RPD is not aware that the refugee claim exists.

For more information refer to [ENF 28 Ministerial Opinions on Danger to the Public and to the Security of Canada](#).

---

### 16.3. Resumption of the eligibility consideration process (for cases that were suspended *before* the claim was referred to the RPD)

Once the ID has made an admissibility determination, or the court has reached its verdict (and no appeal is pending), the officer must resume consideration of eligibility.

It may be necessary to request that the claimant appear in order to complete the eligibility and examination process (refer to [Appendix C](#)).

To finalize processing, complete the Eligibility Results (ER) screen in FOSS, and follow the procedures in [section 11, Finalize case](#).

---

### 16.4. Suspension of the claim *after* it has been referred to the RPD

[A103\(1\)\(a\)](#) provides for suspension of a refugee claim *after* it has been referred to the RPD.

Suspension is invoked on the same grounds and with the same considerations as above. The key difference is that the officer must notify the RPD of the situation so that they may suspend their consideration of the claim.

If it is determined, after the claim has been referred to the RPD, that suspension is necessary, the officer:

- Completes the [BSF528](#) (Notification to the Refugee Protection Division and the Person Concerned by an Immigration Officer Pursuant to Subsection 103(1) of the *Immigration and Refugee Protection Act* of the Suspension of Consideration of Claim' Pursuant to Subsection [103\(2\)](#) of the *Immigration and Refugee Protection Act*);
- Provides the claimant and RPD with a copy of the [BSF528](#), and places a copy on file;
- Completes the "Notification to RPD to Suspend" (NS) screen in FOSS.

---

### 16.5. Resumption of RPD proceedings (for cases that were suspended *after* the claim was referred to the RPD)

Upon learning the outcome of the admissibility hearing or trial, the officer must decide whether redetermination of eligibility is warranted, and notify the RPD of the decision so that the RPD may either resume or terminate its proceedings. This is done by entering the eligibility decision in the 'Notification to RPD – Subsequent Eligibility Decision/Re-determination of Eligibility' (SE) screen of FOSS.

The officer must also notify the claimant, in writing, of the decision. (see [Appendix D](#)).



## PP 1 Processing claims for refugee protection in Canada

### 17. Procedures: Redetermination of eligibility

#### 17.1. Notice of ineligible claim under section A104 (Redetermination of eligibility)

With respect to a refugee claim that was determined to be eligible, an officer may come across information that leads them to conclude that:

- The claim should not have been determined eligible; or
- The claim is no longer eligible.

In such cases a redetermination should be done on the case. The following table explains the consequences of a redetermination of eligibility:

If...	Then...
<ul style="list-style-type: none"> <li>• Claim is before the RPD and is ineligible for any of the grounds in <a href="#">A101(1)</a>; or</li> <li>• Claim was referred to the RPD as a result of misrepresentation or withholding material facts relevant to the claim and claim was not otherwise eligible for referral to the RPD</li> </ul>	RPD will stop hearing the claim
<ul style="list-style-type: none"> <li>• Claim before the RPD and claimant previously made a refugee claim</li> </ul>	RPD will stop hearing the claim
<ul style="list-style-type: none"> <li>• RPD decision already made on the claim and the claimant previously made a refugee claim</li> </ul>	The RPD decision on the first claim is considered valid. Other decisions are nullified.

#### 17.2. How to do a redetermination

When ineligibility is very clear it may not be necessary to provide the claimant with a further opportunity to respond to evidence about which they were aware. Therefore the eligibility decision may be redetermined and the client notified of the decision. Examples of situations in which an opportunity to respond is not normally required (and suggested sample letters):

Reason for ineligibility	Sample letter	Notes
The claimant is inadmissible due to serious criminality [and meets the conditions of <a href="#">A101(2)</a> ], and as a result the claim is ineligible under <a href="#">A101(1)(f)</a> .	<a href="#">Appendix G</a>	The sample outlines documentation that should accompany the letter.
The claimant has a previous RPD decision (positive [ <a href="#">A101(1)(a)</a> ], negative, abandoned or withdrawn [ <a href="#">A101(1)(b)</a> ]) or a previous ineligibility determination [ <a href="#">A101 (1) (c)</a> ].	<a href="#">Appendix E</a>	The officer should include a copy of the RPD decision or confirmation from RCMP fingerprint matches.
The claimant is inadmissible for reasons of security, organized criminality or human/international rights violations.	See <a href="#">Appendix H</a>	

## PP 1 Processing claims for refugee protection in Canada

### Opportunity to respond

When there is evidence of misrepresentation or ineligibility that was not considered at the time of the initial eligibility determination, but the evidence is not conclusive, the claimant should be interviewed and given an opportunity to respond to the evidence. Sample letters for use in these situations include:

- [Appendix F](#) - Refugee protection was conferred by another country
- [Appendix G](#) – Serious criminality
- [Appendix H](#) – Security, violations of human or international rights, organized crime
- [Appendix I](#) - Misrepresentation
- [Appendix M](#) - Multiple claims

When redetermining eligibility, officers should:

- Send a letter to the claimant (see above appendices) with relevant evidence advising that the eligibility decision may be or has been redetermined and if applicable, advise of a date to report for an interview;
- Hold the interview, if applicable;
- Render a decision based on evidence and submissions;
- Enter the redetermination decision, date and reason in FOSS “Notification to RPD – Subsequent Eligibility Decision” (SE screen in FOSS);
- Once the SE screen is complete, choose Print Final [or Send Notification Only (SN)] option which notifies the RPD to terminate the hearing;
- Complete, copy and distribute to the claimant and file, the RPD and the [BSF529](#) form (Notification to the Person Concerned by and Immigration Officer Pursuant to Paragraph [104\(1\) \(a\), \(b\), \(c\), or \(d\).](#))

---

**Note:** For a multiple claim case, the SE screen need not be completed. Officers should enter the information on the “Notification to the RPD – Multiple Claims” (MC) screen, and transmit it to the RPD. This notifies the RPD to nullify any decisions except the decision with respect to the original claim.

---

## 18. Procedures: Extradition

For all cases involving extradition, the regional justice liaison officer (JLO) of CIC or CBSA must be contacted.

---

### 18.1. Suspension if proceeding under the *Extradition Act*

In the case of a claimant facing extradition for an offence that is equivalent to an offence under Canadian law that is punishable under an Act of Parliament by a maximum term of imprisonment of at least 10 years, section [A105\(1\)](#) of the IRPA requires that the RPD suspend proceedings until a final decision under the *Extradition Act* has been made. See [section 16, Suspension](#).

---

### 18.2. Continuation if discharged under the *Extradition Act*

According to [A105\(2\)](#), if the claimant is not extradited the hearing of the refugee claim may continue.

## PP 1 Processing claims for refugee protection in Canada

---

### 18.3. Rejection if under the *Extradition Act*

Under [A105 \(3\)](#), if the person is ordered extradited and the offence is punishable under an Act of Parliament by a maximum prison term of at least 10 years, the order of extradition is deemed to be a rejection of the refugee claim.

---

### 18.4. Final decision

As per [105 \(4\)](#), the rejection of a claim referred to in A105(3) may not be appealed, and is not subject to judicial review except to the extent that a judicial review of the order of surrender is provided for under the *Extradition Act*.

---

## 19. Guidelines - Vulnerable Persons

The purpose of these guidelines is to provide information to support identification of vulnerable claimants in order to provide priority processing and to ensure special accommodation, when appropriate, during front-end processing.

In the context of these guidelines, a vulnerable person is a person who has significant difficulties coping with the refugee eligibility examination, due to a specific condition or circumstance.

An officer's decision to give special accommodation to persons due to their specific condition or circumstance at the eligibility interview does not bind the IRB to a determination that the person is vulnerable within the meaning of its *Guideline on Procedures with Respect to Vulnerable Persons Appearing before the Immigration and Refugee Board of Canada*. The provision of such accommodation does not constitute any implicit or explicit opinion with respect to the merits of the claim. Although the IRB is not bound by the officers' decisions, officers should ensure that the notes, clearly describing the claimant's particular condition and circumstance, are shared with the IRB.

---

### 19.1. Identification of vulnerable persons

The following are some examples of persons who may be identified as vulnerable:

- Elderly;
- individuals with physical disabilities or injuries;
- pregnant women;
- Unaccompanied minor children (see [section 20, Guidelines, minor children](#)); or

The following are examples of persons who may display less obvious symptoms of a vulnerability, which may not become apparent until the eligibility examination:

- Victims of gender-based violence may become distressed during the eligibility examination. They may also show signs of distress at the prospect of being interviewed by an officer of the opposite sex;
- Victims of trauma may have difficulty coping with the interview because it is conducted by a person in uniform or because they are confined in a closed room with the interviewer;
- Children, including those who are victims of abuse, may fear persons in authority and may be intimidated by the questions that are being asked by officials.

## PP 1 Processing claims for refugee protection in Canada

---

**Note:** Individuals react to violence and trauma in various ways, and not all victims of violence and/or trauma exhibit identical or even similar symptoms. While some individuals may show signs of distress, including anxiety, irritability, nervousness, agitation, anger and aggressiveness, others may be easily intimidated and have difficulty communicating.

---

### 19.2. The refugee eligibility examination – vulnerable persons

When processing a claim from a vulnerable person, officers should identify any special requirements that the person may have. During the eligibility examination, officers should provide, whenever possible, special accommodation such as:

- conducting interviews as soon as practicable to reduce stress;
- ensuring a vulnerable person's physical comfort (provision of food, drink, place to rest etc.) to the extent possible and allowing for frequent breaks, if necessary;
- being sensitive to cultural and gender issues;
- Consideration as to whether a claimant may have difficulty discussing their claim in front of spouse or children. If so it may be warranted to interview family members separately.
- allow victims of sexual violence the option of choosing the gender of the interviewing officer (when practicable).

Like all claimants, vulnerable persons may have a support person present at the interview if they wish. Refer to [section 9.2](#), *Determine if the claimant will be represented*.

For detailed information on processing claims for refugee protection from children, refer to [section 20, Guidelines – Minor children](#).

---

### 19.3. Fingerprinting and photographing vulnerable persons

See [section 19.3, Fingerprints and photographs](#).

---

### 19.4. Detention of vulnerable persons

Officers should always consider alternatives to detention in the case of vulnerable persons. In the event that an officer does resort to detention in non-danger or non-security cases, detention should be for a short period of time only and primarily to support removal.

For information on alternatives to detention refer to [ENF 20 Detention, Section 5.11, Alternatives to detention](#).

---

## 20. Guidelines – Minor Children

The purpose of these guidelines is to support processing of refugee claims made by children, including guidance to officers with respect to the application of the best interests of the child principles and when a child should be referred to provincial child welfare authorities.

---

### 20.1. Capacity to make a claim

There is no minimum age for refugee claimants in Canada. As is the case for adults, children do not have to use the word 'refugee', or know the wording of [A96](#) or [A97](#) to make a refugee claim.

## PP 1 Processing claims for refugee protection in Canada

---

### 20.2. Definitions of child

The *United Nations Convention on the Rights of the Child* (CRC) defines a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.” In many federal government contexts, a child is a person under the age of eighteen. In Canada, individual provincial child welfare authorities define “child” for the purposes of each province. See [section 20.17, Provincial definitions of a minor](#).

#### Children between the ages of 16 and 18

Several provinces do not consider children between the ages of 16 and 17 to be within the jurisdiction of child protection agencies. This does not change the fact that they are considered to be children in the federal context and according to the CRC. For unaccompanied children who fall into this category, officers should refer to local procedures.

---

### 20.3. Legislation on minor children

The IRPA does not set out specific procedures or criteria for dealing with refugee claims from children. However, Paragraph 3(3) (f) requires that the IRPA be interpreted and applied in compliance with international human rights instruments, including the CRC.

The CRC recognizes the obligation of a government to take measures to ensure that a child seeking refugee protection receives appropriate protection. Canada has signed and ratified this Convention. The text is found at

[http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/8f61367a61fee1cec1256d12003031a5/\\$FILE/G0340678.pdf](http://www.unhcr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/8f61367a61fee1cec1256d12003031a5/$FILE/G0340678.pdf)

Article 3(1) of the CRC, notes that the “best interest of the child” should be a primary consideration in all actions concerning children. This principle has been recognized by the international community as a fundamental human right of a child.

These guidelines take into account the 1999 Supreme Court of Canada (SCC) decision on *Baker v. Canada*, [1999], which noted that the principles that are reflected in international human rights law may serve as an aid in interpreting domestic law.

In *Legault v. Canada (Minister of Citizenship and Immigration)*, leave to appeal to the Supreme Court of Canada refused, 21/11/02, the Federal Court of Appeal noted that the interests of children must be examined with care and weighed with other factors. The “best interests” principle is but one of many factors to be considered when making a decision. There is no presumption that the “best interest of the child” must prevail over other important considerations.

---

### 20.4. What officers should know about claimants who are minor children

In addition to a determination of the admissibility and eligibility, officers must determine if a child claimant should be referred to provincial child welfare authorities.

The needs of children differ from those of adults and this must be reflected in the approach to the examination. Children may manifest fears differently than adults: they may not be able to articulate their fears in the same way, and they may not present their claims for refugee protection as adults would. Also, children may have been trafficked, smuggled or abducted.

For more information on such situations, refer to [ENF 21 Recovering missing, abducted and exploited children](#) and [IP1, Section 16, Procedure: Victims of human trafficking](#).

---

**Note:** with respect to cases involving foreign nationals, the ENF primarily deals with visitors to Canada. Refugee claimants are seeking to remain in Canada permanently and as a result there are critical distinctions to be made. See section 20.5, *Determining whether a child is at risk*, below.

---

## PP 1 Processing claims for refugee protection in Canada

### Considerations:

- be mindful of children’s special requirements;
- determine the accuracy of claimed adult-child relationship(s);
- evaluate each case on its own merits, taking into consideration the above factors;
- in accordance with Article 12 of the CRC, children should be given an opportunity to express their views and wishes.

### 20.5. Determining whether a child is at risk

See [section 6, Definitions](#) for definitions of unaccompanied minor and separated child.

When a child is unaccompanied, or is accompanied or being met by persons without legal custody or guardianship, the child is considered to be at risk. However, children accompanied by one parent may be at risk, as well.

Refugee claimants are seeking to remain in Canada permanently. As such, unless a child is with both parents, a sole custodial parent or his or her legal guardian, the case should be referred to the Our Missing Children program as a protective measure (see [ENF 21 Recovering missing, abducted and exploited children, section 7, Our missing children program](#)).

It is also recommended that officers check the following websites before an examination of children who may be at risk:

[http://www.missingkids.com/missingkids/servlet/PublicHomeServlet?LanguageCountry=en\\_US](http://www.missingkids.com/missingkids/servlet/PublicHomeServlet?LanguageCountry=en_US)

<http://www.rcmp-grc.gc.ca/omc-ned/index-accueil-eng.htm>

Indicator	Details
Indicators that a child may be at risk	<ul style="list-style-type: none"> <li>• Accompanying adults’ display of unwarranted hostility to being questioned;</li> <li>• Responding to questions with what appear to be prepared answers;</li> <li>• Undue hesitation when answering questions;</li> <li>• Attempts by the adult to answer for or block questioning of the child;</li> <li>• Suspicious identity or proof-of-relationship documentation;</li> <li>• Overreaction by adults to the child’s answers;</li> <li>• Signs of physical abuse such as bruising, poor hygiene or malnourishment; Nervousness or fear on the part of the child;</li> <li>• Vague reasons for the absence of one or both parents; or</li> <li>• Child does not respond to questions or often replies “I don’t know.”</li> </ul>
Indicators that the child may be unaccompanied	<ul style="list-style-type: none"> <li>• The most obvious indicator is that the child is alone;</li> <li>• The presence of adults does not necessarily mean that the child is accompanied, as the adult who is present may not be a parent or legal guardian. The adult must be able to demonstrate that they are a family member of the minor child; and</li> <li>• Suspicious identity and/or proof of relationship documentation.</li> </ul>

## PP 1 Processing claims for refugee protection in Canada

---

### 20.6. Presence; Absence of Parents, other Adults

The following table lists a number of possible situations of adult accompaniment, and the appropriate course of action. Unless the officer is satisfied that the child is accompanied by persons with rightful custody or guardianship they should:

- Contact the local/provincial child protection authorities, who will assess the situation and may take custody of the child; and

Refer the case to the Our Missing Children program (see [ENF 21 Recovering missing, abducted and exploited children, section 7, Our missing children program](#)).

## PP 1 Processing claims for refugee protection in Canada

Child protection authorities should be contacted in any case in which there are signs of abuse or neglect. The following table provides some possible situations and recommended procedures:

Situation	Examples	Procedures and considerations
Child is accompanied by: <ul style="list-style-type: none"> <li>• Both parents;</li> <li>• The sole custodial parent; or</li> <li>• His/her legal guardian(s)</li> </ul>	N/A	Treat the child as a dependant and proceed as per normal procedures.
Child is accompanied by one parent	N/A	Determine whether the parent has sole custody and/or the child's birth certificate indicates that father is "unknown". If neither is the case, officers should contact the Our Missing Children" program (see <a href="#">ENF21, section 7</a> ).
Child is accompanied by adults other than parents/legal guardians	Includes any adults whether they are related to the child or not	Determine the relationship between the adult and the child and request documentation authorizing the adult to care for the child. If there is doubt about whether it is appropriate for the child to remain with the adult, contact the local child protection agency. If appropriate, refer the case to Our Missing Children (see <a href="#">ENF21, Section 7</a> )
No adult present		All children (under age 18) who are without a caregiver should be considered abandoned and must be referred to the appropriate child protection agency without delay.
A child is being met by an adult in Canada.	The adult may be a parent, legal guardian, or any other.	Officers should establish whether the person meeting the child is a parent or legal guardian, or has written consent from the parents/legal guardian to pick up the child. The officer should question the adult about arrangements or plans.  If the adult is not a parent or legal guardian, or does not have what the officer considers to be genuine consent from the parents to pick up the child: the officer must contact Our Missing Children, and refer the child to the local child protection agency.  <b>If the adult is a parent or legal guardian, or has parental consent to pick up the child:</b> prior to releasing the child to his/her custody, the officer must document the identity of the adult and his/her relationship to the child.



## PP 1 Processing claims for refugee protection in Canada

---

### 20.7. Child soldiers

If it appears that the claimant may be or has been a child soldier, officers are required to send the name, FOSS ID, date of birth and any other information deemed to be relevant to the National War Crimes Unit.

The e-mail address for the National War Crimes Unit is:

[Nat\\_War\\_Crimes@cbsa-asfc.gc.ca](mailto:Nat_War_Crimes@cbsa-asfc.gc.ca)

---

### 20.8. Fingerprinting and photographing minor children

See section [9.6, Fingerprints and photographs](#).

For additional information, refer to [ENF 12 Search, seizure, fingerprinting and photographing, sections 13.3, Photographing minors](#).

---

### 20.9. Refugee eligibility examination – minor children

Generally, children should not be separated from their parents or legal guardian during the eligibility examination, unless the officer determines that it is necessary. If it is necessary, the case notes should explain the reasons for the decision.

In the case of an unaccompanied child there must be a process of gathering information in order to determine eligibility. Ideally there should be an adult to support or represent the child during the interview. In the absence of parents or a legal guardian, a child welfare worker and/or authorized representative (lawyer, consultant) may attend the interview. Other considerations for interviewing a child include:

- Children who have been victims of sexual violence, abuse or prostitution, may feel more comfortable in the presence of interviewers and interpreters of the same gender.
- Use an icebreaker to make the child feel at ease.
- Officers should use plain language when speaking to a child and should adopt a relaxed, non-threatening posture and tone of voice.
- Officers should explain the purpose of the interview and the role of the interpreter in simple terms.
- Officer should be conscious of cultural and gender issues that may affect communication, including both verbal and non-verbal signals.
- the attention span of children is shorter than that of adults and allowance should be made for breaks, if necessary. Some signs that a child may need a break include, but are not limited to, restlessness, hyperactivity, lack of concentration, crying, pouting, excessive laughter, acute distress, drawn out silences and a number of “I don’t know/I don’t remember” responses.
- Officers should use age-appropriate vocabulary and encourage children to indicate if they do not understand a question.
- Initial questions should concern collecting personal information such as, confirming the child’s name, age and previous place of residence.
- Officers should use open-ended questions to avoid yes-no answers and to encourage the child to provide narrative answers. (For example: “Tell me about your family,” “tell me how you got to Canada,” or “tell me how you came to be separated from your parents...”)
- Ensure that the child understands what has been said by using comprehension-checking techniques. For example, ask the child to repeat in their own words what has been explained to them.

## PP 1 Processing claims for refugee protection in Canada

---

### 20.10. Minor Children and the Safe Third Country Agreement (STCA)

There may be situations where children are eligible for an exception, or, if they are born in the U.S.A., exempted from the application of the STCA, but the parent(s) may not fit an exception under the STCA. In these cases, see [section 22, Procedures: STCA](#) for processing instructions.

---

### 20.11. Refugee Protection Claimant Document (RPCD)

When officers make an eligibility decision, they issue the RPCD, as notification of eligibility determination results. The officer and the claimant, as well as the parent/legal guardian, when present, must sign this document. Accompanying parents/legal guardians must print their name, sign the document and indicate their relationship to the child in brackets on the RPCD. Children between the ages of 14 and 18 must also sign the RPCD. Claimants under the age of 14 are not required to sign the RPCD.

---

### 20.12. Referring unaccompanied minors to the Immigration Division

[R228\(4\)](#) stipulates that if an officer believes that an A44(1) report is well founded and the case involves a minor child who is not accompanied by a parent or adult who is legally responsible for them, the report *must* be referred to the ID of the IRB for an admissibility hearing. The ID will designate a representative to act on behalf of the child.

For more information, refer to [ENF 6 Review of reports under A41, Section 7, Procedure: Unaccompanied minors and persons unable to appreciate the nature of the proceedings](#).

---

### 20.13. Detention of minor children

[A60](#) stipulates that a minor child should not be detained except as a last resort, taking into account other applicable criteria including the best interests of the child. Every alternative should be explored. A minor child should not be detained in adult correctional facilities.

See [ENF 20 Detention, section 5.10, Detention of minor children](#).

---

### 20.14. Enter information into the database (FOSS/NCMS)

Children accompanied by both parents should be entered as dependents, as well as those who:

- Are accompanied by one parent, and the officer is satisfied that they have sole custody of the child; and
- Are travelling with their mother, and the child's birth certificate lists the father as "unknown".

Unaccompanied minors should be entered as principal applicants, as well as children who:

- Are accompanied by one parent, and the officer is not satisfied that the parent has sole custody of the child; and
  - Are accompanied by an adult other than their parents or legal guardian
- 

### 20.15. CSIS Security Screening of minors

When warranted, an officer may refer a person younger than 18 years of age to CSIS for security screening.

Refer to the FESS Guide at:

[http://www.ci.gc.ca/cicexplore/english/systmguides/foss\\_ssobl/front\\_end\\_security.doc](http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/front_end_security.doc)

---

## PP 1 Processing claims for refugee protection in Canada

### 20.16. Notifying child welfare authorities: formal reporting requirements

In all cases in which officers suspect that there may be a risk to the welfare of a minor child, whether the child is unaccompanied or not, provincial child protection authorities should be contacted. Provincial authorities have jurisdiction with respect to child welfare issues and they will investigate and take any action with respect to child protection issues.

If a local child protection agency refuses to become involved, officers should request that the refusal be put in writing and sent to them. Each office should maintain a record of contact and outcome with the local child welfare authorities.

See also section 20.17, *Provincial definitions of a minor*.

### 20.17. Provincial definitions of a minor

In Canada, the definition of a minor child varies according to province as indicated in the table below. Province	Definition of minor child	Definition of minor for child protection purposes
<b>British Columbia</b> <a href="http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96007_01">http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96007_01</a>	Person under 19 years	Same
<b>Alberta</b> <a href="http://justice.alberta.ca/programs_services/families/mep/MEP_Infosheets/WhenaChildTurns18.aspx/DispForm.aspx?ID=34">http://justice.alberta.ca/programs_services/families/mep/MEP_Infosheets/WhenaChildTurns18.aspx/DispForm.aspx?ID=34</a>	Person under 18 years	Same
<b>Saskatchewan</b> <a href="http://www.canlii.org/en/sk/laws/stat/ss-1989-90-c-c-7.2/latest/ss-1989-90-c-c-7.2.html">http://www.canlii.org/en/sk/laws/stat/ss-1989-90-c-c-7.2/latest/ss-1989-90-c-c-7.2.html</a>	Unmarried person under 16 years	Same
<b>Manitoba</b> <a href="http://www.canlii.org/en/mb/laws/stat/ccsm-c-c80/latest/ccsm-c-c80.html">http://www.canlii.org/en/mb/laws/stat/ccsm-c-c80/latest/ccsm-c-c80.html</a>	Person under 18 years	Same
<b>Ontario</b> <a href="http://www.canlii.org/en/on/laws/stat/rso-1990-c-c11/latest/rso-1990-c-c11.html">http://www.canlii.org/en/on/laws/stat/rso-1990-c-c11/latest/rso-1990-c-c11.html</a>	Person under 18 years	“child” means a person under the age of 16
<b>Quebec</b> <a href="http://www.canlii.org/qc/laws/sta/p-34.1/20070307/whole.html">http://www.canlii.org/qc/laws/sta/p-34.1/20070307/whole.html</a>	Person under 18 years	Same
<b>Nova Scotia</b> <a href="http://www.canlii.org/en/ns/laws/stat/sns-1990-c-5/latest/sns-1990-c-5.html">http://www.canlii.org/en/ns/laws/stat/sns-1990-c-5/latest/sns-1990-c-5.html</a>	Person under 19 years	“child” means a person under the age of 16
<b>New Brunswick</b> <a href="http://www.canlii.org/en/nb/laws/stat/snb-1980-c-f-2.2/latest/snb-1980-c-f-2.2.html">http://www.canlii.org/en/nb/laws/stat/snb-1980-c-f-2.2/latest/snb-1980-c-f-2.2.html</a>	Person under 19 years	“child” means a person under the age of 16
<b>Newfoundland</b> <a href="http://www.canlii.org/en/nl/laws/stat/snl-1998-c-c-12.1/latest/snl-1998-c-c-12.1.html">http://www.canlii.org/en/nl/laws/stat/snl-1998-c-c-12.1/latest/snl-1998-c-c-12.1.html</a>	Person under 16 years (youth defined as a person who is 16 years or older, but under the age of 18)	Same

## PP 1 Processing claims for refugee protection in Canada

In Canada, the definition of a minor child varies according to province as indicated in the table below. Province	Definition of minor child	Definition of minor for child protection purposes
<b>Prince Edward Island</b> <a href="http://www.canlii.org/en/pe/laws/stat/rspei-1988-c-c-5.1/latest/rspei-1988-c-c-5.1.html">http://www.canlii.org/en/pe/laws/stat/rspei-1988-c-c-5.1/latest/rspei-1988-c-c-5.1.html</a>	Person under 18 years	Same
<b>Northwest Territories</b> <a href="http://www.canlii.org/en/nt/laws/stat/snwt-1997-c-13/latest/snwt-1997-c-13.html">http://www.canlii.org/en/nt/laws/stat/snwt-1997-c-13/latest/snwt-1997-c-13.html</a>	Person under 19 years	“child” means a person under the age of 16
<b>Yukon</b> <a href="http://www.canlii.org/en/yk/laws/stat/sy-2008-c-1/latest/sy-2008-c-1.html">http://www.canlii.org/en/yk/laws/stat/sy-2008-c-1/latest/sy-2008-c-1.html</a>	Person under 19 years	“child” means a person under the age of 16
<b>Nunavut</b> <a href="http://www.canlii.org/en/nu/laws/stat/snwt-nu-1997-c-13/latest/snwt-nu-1997-c-13.html">http://www.canlii.org/en/nu/laws/stat/snwt-nu-1997-c-13/latest/snwt-nu-1997-c-13.html</a>	Person under 19 years	“child” means a person under the age of 16

### 20.18. Privacy and referrals to child welfare authorities

Subject to any other Act of Parliament, Paragraph 8(2) (a) of the *Privacy Act* states that personal information under the control of a government institution may be disclosed, on a case-by-case basis, to a third party for a use consistent for which it was collected, as long as there is a reasonable and direct connection to the original purpose for which the information was obtained. It is reasonable to expect that the authorities in a country of refuge would share information for the purpose of ensuring the safety of a child and providing assistance by referral to the appropriate agencies, such as child welfare authorities.

Only the minimum amount of information required should be disclosed in order to achieve the purpose, which in this context is the protection of a child. When an officer concludes that a child may be in need of protection, personal information regarding the child may be disclosed to the responsible child protection agency under Paragraph 8(2) (a) of the *Privacy Act*.

### 20.19. Reception: Regional agreements and informal arrangements

Some CIC/CBSA regions/offices have negotiated arrangements or procedures that cover the responsibilities of CIC/CBSA, as well as child protection authorities and/or other agencies with respect to the reception and care of separated (unaccompanied) children. Local arrangements and procedures should be on file at Regional Headquarters.

## 21. Procedures: Administrative Issues

### 21.1. Medical Examination

As per [R30\(1\)\(e\)](#), all refugee claimants in Canada must submit to a medical examination. The cost of the medical examination is covered by the Interim Federal Health Program (IFHP). All claimants are assessed by a Designated Medical Practitioner/Examiner (DMP/Examiner) and must be provided with a list of local DMP's. Medical screening must be completed within 30 days from the date the claim was received.

## PP 1 Processing claims for refugee protection in Canada

Under the following conditions, a repeat medical is not required for an in-Canada refugee claim:

- They have had an immigration medical examination and the results are still valid; and
- The result is M1, M2 or M3 unless the M3 is notated “only acceptable as visitor”.

---

### 21.2. Interim Federal Health Program (IFHP)

Once a person is found eligible to make a refugee claim the officer will determine whether the claimant is eligible for the IFHP coverage.

The IFHP is a Federal Government program that covers in-Canada health care costs for eligible refugee claimants who are unable to pay for expenses related to certain health care services, and who are not covered by a private or public health care plan.

---

**Note:** Dependents in Canada who are *not* included in the principal applicant’s refugee claim and who have *not* made their own refugee claim, are *not* entitled to IFHP benefits.

---

To determine whether a claimant qualifies for the IFHP coverage, the officer must assess whether the claimant is in a position to pay for health care or is eligible for private or public health insurance. The following questions should be asked to assist in the determination:

- Do you have financial resources or insurance to cover any health care expenses for you and your family while in Canada?
- Are you employed?
- Do you have a valid provincial/ territorial health card?
- Have you applied for but not yet received provincial/ territorial health insurance?

If it is determined that the claimant is in need of coverage and the officer is satisfied that the claimant qualifies, IFHP coverage may be granted. The rationale for the decision must be documented in FOSS, via an NCB.

For an overview of the benefits of the IFHP and detailed procedures for determination of whether claimants qualify for IFHP, refer to [IR3](#).

## PP 1 Processing claims for refugee protection in Canada

---

### 21.3. Interim Federal Health (IFHP) Certificate and the Refugee Protection Claimant Document

If the claimant is found eligible for IFHP, issue the appropriate document. There are two documents that can be used to indicate eligibility for the IFHP:

Type of document	Inland	POE
IFHP certificate (IMM 1442)	<ul style="list-style-type: none"><li>• Before the eligibility decision is made</li><li>• Valid for 30 days or until date of eligibility interview</li><li>• Certificate <i>must</i> be signed by a CIC/CBSA officer and by the claimant, after the claimant's photograph is affixed</li></ul>	<ul style="list-style-type: none"><li>• Not normally used at POE</li></ul>
Refugee Protection Claimant Document (RPCD)	<ul style="list-style-type: none"><li>• After a positive eligibility determination;</li><li>• Valid for two years from date of issuance.</li></ul>	<ul style="list-style-type: none"><li>• After a positive eligibility determination;</li><li>• Valid for two years from date of issuance.</li></ul>

Whether issuing the IMM1442B at inland offices or ports of entry, the statement "eligible for IFHP" will appear in the relevant module in FOSS. After determining whether the claimant is eligible for medical coverage under the IFHP, the officer enters "Y" in the "eligible for IFHP" field. This document is given to the claimant along with a list of benefits under the IFHP.

---

### 21.4. Study permits

[R215](#) states that foreign nationals may apply for a study permit after entering Canada if they are subject to an unenforceable removal order. [R215](#) also applies to refugee claimants and their accompanying family members.

Minor children of claimants do not require a study permit as per [A30 \(2\)](#).

For information about issuance of study permits, refer to [OP 12 Students](#).

---

### 21.5. Work permits

[R206](#) allows for issuance of a work permit to persons whose refugee claims are eligible for referral to the RPD or who are subject to an unenforceable removal order. This is the case provided:

- the claimant has no other means of support;
- fingerprints and photographs have been done; and
- results of the immigration medical examination for the claimant and any dependents are on file.

Family members in Canada may apply for a work permit if they are described in [R199](#).

See also [FW1: Temporary foreign worker guidelines, section 5.40, Self support R206](#).

## PP 1 Processing claims for refugee protection in Canada

---

### 21.6. Replacement of lost, stolen or destroyed Refugee Protection Claimant Document or Interim Federal Health Certificate

When a refugee claimant requests replacement of a Refugee Protection Claimant Document (RPCD) that has been lost, stolen or destroyed, a certified photocopy of the original RPCD on file may be provided. An RPCD may be reprinted only if a clerical error was made, or when a copy of the person's original RPCD is not on file.

The following procedures must be followed when a replacement RPCD is requested:

- The claimant must report in person;
- The claimant must provide two (2) recent passport-sized photographs;
- The officer must ensure that the person is who they claim to be, by comparing their appearance to the photographs, as well as the photographs in the person's file (when available);
- Check FOSS (ER or HC screen) to see whether the person is still a claimant and is eligible for IFHP coverage. Determine IFHP coverage type (indicated in Eligible Group code)
- Indicate on the photocopy: "This is a certified copy of the Refugee Protection Claimant Document" and if applicable, "IFHP eligibility issued to replace the original document. Health-care providers must verify the client's eligibility with the IFHP Claims Administrator before providing services by calling 1-888-614-1880 or at <https://provider.medavie.bluecross.ca>."
- Attach a new photograph, apply a new port stamp, indicate the date and, in the case of a reprinted RPCD, include new signatures.
- Ensure that the copy of the original RPCD is returned to the person's file (if applicable);
- Enter an NCB remark in FOSS with details concerning the lost/stolen/destroyed RPCD.

If a claimant claims that their RPCD was stolen, they should be counselled to file a police report.

There is no fee for replacement of a RPCD

#### Interim Federal Health Certificate

If a refugee claimant requests replacement of a lost/stolen/destroyed IFHP Certificate (IFHC) do the following:

- examine their existing RPCD;
- verify in FOSS the claimant's eligibility for IFHP coverage.
- If eligibility is confirmed and the existing RPCD was issued before 26 March 2011 – a new IFHP Certificate should be printed.
- If eligibility is confirmed and the existing RPCD was issued on/after 26 March 2011 – the lost/stolen/destroyed IFHP Certificate should not be replaced, as the RPCD provides sufficient confirmation of IFHP coverage.

If a refugee claimant lost both documents (RPCD and IFHC) and requests a replacement, issue a replacement RPCD only, which is sufficient for continued IFHP coverage.

---

### 21.7. Referrals from social services agencies

In large processing centres, inland CICs may receive referrals of refugee claimants from social service agencies.(e.g. Salvation Army). When possible, offices should deal with such claimants expeditiously so that they do not remain in shelters longer than necessary.

## PP 1 Processing claims for refugee protection in Canada

---

### 22. Procedures: Safe Third Country Agreement - Exemptions to the STCA

See [Policy section 5.14-5.19](#) for background information on the STCA.

---

#### 22.1. American citizens and habitual residents of the U.S.A. who are not citizens of any country (Article 2 of the Agreement and [R159.2 & R159.3](#))

American citizens regardless of where they reside and stateless persons if the U.S.A. is their country of former habitual residence, do not fall under the Agreement; therefore, their refugee claim cannot be determined ineligible under [A 101\(1\) \(e\)](#).

In order to establish whether a person is considered a former habitual resident of the U.S.A., two conditions must be met:

- The person should be stateless;
- The person must have established *de facto* residence in the U.S.A.

##### What does “stateless” mean?

The UNHCR defines a "stateless person" as a person who is not considered a national by any State under the operation of its law. It is the action of a government that makes a person stateless, not just a declaration of statelessness by the person. This view is supported by the Canadian courts in that the condition of not having a country of nationality must be one that is beyond the power of the person to control. In other words, one cannot "choose" to be stateless.

##### Principles for establishing statelessness and country of former habitual residence:

When assessing a claim of statelessness, it is important to ascertain that the statelessness has been imposed on the person as a result of the application of a state's laws which are beyond the power of the person to control and not just by the person's own claim; otherwise, a person could claim statelessness merely by renouncing their former citizenship.

The concept of “former habitual residence” is only relevant when the claimant is stateless, that is, the claimant does not have a country of nationality. The country of former habitual residence does not have to be the country where the claimant fears persecution. The term “former habitual residence” implies a situation where a stateless person took up residence in a given country without a requirement for a minimum period of residence. Furthermore, as supported in a number of decisions by the Federal Court, a country may be a country of former habitual residence even if the claimant is not legally able to return to that country.

Under the Agreement, stateless persons whose country of former habitual residence is the U.S.A. are exempted from the Agreement; as such, claims for refugee protection made by these individuals *cannot* be determined ineligible under [A101\(1\)\(e\)](#).

In order to assess whether the person is considered a former habitual resident of the U.S.A., officers should consider whether the claimant has established a significant period of *de facto* residence in the U.S.A. To assist in establishing a significant period of *de facto* residence in the US, officers may ask questions about the length of residency in the U.S.A. and where appropriate, request documents attesting to residency in the U.S.A. The following are some examples of documents that may assist to establish *de facto* residence in the U.S.A.:

- immigration status;
- driver's licence;
- social security card;
- bank cards and deposit books; and
- utility bills.



## PP 1 Processing claims for refugee protection in Canada

It is necessary to distinguish between individuals who were residents as opposed to others who merely transited through the U.S.

---

### 22.2. Airport arrivals (Article 5(b) (i) and 5(b) (ii) of the Agreement) [R159.4 \(2\)](#)

Normally claimants who arrive at an airport are exempt from the Agreement and are permitted to apply for refugee protection in Canada.

However, Article (5)(b)(i) states that any person being removed from the U.S.A. and who is in transit through Canada, who makes a refugee claim in Canada and whose refugee claim has been rejected by the U.S.A., will not have access to Canada's asylum system. In such a case the person should be allowed to continue en route to the country to which they are being removed.

If an individual is being removed from the U.S.A. and is in transit through Canada, but has *never* had a refugee claim determined in the U.S.A., Article 5(b)(ii) of the Agreement states that such individuals should be returned to the U.S.A. to have their refugee claim examined in that country.

---

### 22.3. Irregular arrivals (non-designated POEs, port runners, and after hour arrivals)

The Agreement is not applicable to claimants who enter between ports of entry ([R159.4](#)). A land border port of entry is any designated land port of entry as in Schedule 1 of the Regulations.

For the Ports of Entry list, refer to:

<http://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/page-106.html#h-149>

"Arrival" at a land border port of entry generally includes:

- Persons presenting themselves for inspection at a port of entry;
- Persons coming or attempting to come into the country through a port of entry (whether or not they present themselves for inspection); and
- Persons apprehended or continuously observed crossing the land border by a port official, within the physical boundaries of the port or in the immediate vicinity of the port.

---

**Note:** Occasionally a person may attempt to avoid examination at the POE. The Agreement is only applicable if port of entry officials observe or detect the person in the act of attempting to avoid examination and the person is apprehended immediately within the vicinity of the POE. If the person is apprehended inland at a later date, the person *cannot* be returned to the U.S.A. pursuant to the Agreement.

---

Exceptions under [R159.5](#) apply at land ports of entry only.

---

## 23. Exceptions to the Safe third country Agreement

In most cases a decision as to whether an exception applies to a case should be made on the day the refugee claim is made, or in the case of late arrivals, the next day.

Information on the threshold of proof required (balance of probabilities) for claimants to establish their eligibility for an exception to the Agreement can be found in section [5.17, Threshold of proof for determination of eligibility for an exception to STCA](#).

If a claim is not eligible for referral to the RPD because the STCA applies ([101\(1\)\(e\)](#)), and yet the claimant claims that they do fall under an exemption, officers must list all contradictions in the interview notes and, if applicable, explain lack of credibility in detail, including the lack of credibility of any claimed anchor relative.

The exceptions are detailed below.

## PP 1 Processing claims for refugee protection in Canada

---

### 23.1. Claimants who have family members in Canada ([R159.5 \(a\) to \(d\)](#))

Under Article 4(2) (a) and 4 (2)(b) of the Agreement, a family member of a claimant means one of the following:

- A spouse, son, daughter, parent, sibling, grandparent, grandchild, aunt, uncle, niece, or nephew. Under the STCA, in-laws are not considered family members ; and
- a legal guardian provided the claimant is under 18 years of age. A guardian is a person who has custody of the claimant or who is empowered to act on the claimant's behalf by virtue of a court order or written Agreement, or by operation of law.

A marriage that took place abroad must be valid both under the laws of the jurisdiction where it took place and under Canadian federal law. The onus is on the applicant to prove that their marriage is legal where it took place. Canada recognizes common-law and same-sex spouses as family members for purposes of the Agreement. The U.S.A. may not recognize common-law and same sex relationships for the purposes of the Agreement.

For more information about verification of marriages, common-law and same-sex spouses refer to [OP2: Processing members of the family class](#) and [IP8: Spouse and common-law partner in Canada class](#).

A claimant arriving from the U.S.A. qualifies for an exception and will not be returned to the U.S.A. if they have:

- A family member who is a Canadian citizen or a permanent resident under the Act and who is in Canada at the time the claim is made;
- A family member in Canada who is a protected person within the meaning of subsection [A95 \(2\)](#);
- A family member in Canada who is a person in favour of whom a removal order has been stayed in accordance with [Section R233](#) (H&C considerations);
- A family member 18 years of age or older who is physically in Canada, has made a refugee claim that has been referred to the RPD, and
  - ◆ the claim has not been rejected or declared abandoned or withdrawn;
  - ◆ the RPD proceedings have not been terminated under Subsection [A104 \(2\)](#); and
  - ◆ with respect to a positive RPD decision, the claim has not been nullified under [104\(2\)](#);
- A family member who is 18 years of age or older and holds a valid work or study permit (other than the holder of a permit that does not confer status), and who is in Canada at the time the refugee claim is made.

---

### 23.2. Proof of family relationship

When a claimant identifies a family member in Canada, the officer must be satisfied that the relationship is one that qualifies the claimant for an exception. The standard of proof is "balance of probabilities". See [section 5.17, Threshold of proof for determination of eligibility for an exception to STCA](#). The claimant is responsible to provide information to establish the relationship and status of the family member. However, in some cases written documentation, such as birth, marriage certificates etc. may not be available. In such cases, credible testimony may be sufficient provided the officer is satisfied with respect to the claimed relationship. If the testimony is not sufficient, officers should attempt to confirm family relationships and that the relative has the necessary status in Canada. This may be done by:

- contacting the claimed relative;
- review of documents provided by the claimant;

## PP 1 Processing claims for refugee protection in Canada

- FOSS checks;
- Review of files held by other CBSA offices;
- Review of IRB records;
- Checking city directories, telephone books, internet sites, etc.
- Statutory declarations (may be useful but are not required).

Any contradictions or inconsistencies that result in doubt about the claimed relationship should be documented in detail.

---

### 23.3. Persons identified as a family member in Canada

There is no support expected from the anchor relative. It is sufficient for the claimant to establish that a relative exists and that the relative has the required status in Canada. The anchor relative has no say in whether or not the claimant is allowed to enter Canada.

If the anchor relative has a FOSS ID officers should put a general information ("12") NCB in FOSS to indicate that this person was identified as an anchor relative. Officers should also read NCBs to determine if the anchor relative has been identified by other claimants. Multiple use of the same anchor relative could merit investigation.

---

### 23.4. Unaccompanied minors (Article 4(2) (c) of the Agreement) [\[R159.5 e\]](#)

An unaccompanied minor is eligible for an exception to the Agreement and should not be returned to the U.S.A.. For the purposes of the STCA an unaccompanied minor is eligible to make a refugee claim in Canada under circumstances in which the minor child:

- is under 18 years of age and is not accompanied by a mother, father or legal guardian, has neither a spouse nor a common-law partner; and
- does not have a mother or father or a legal guardian in Canada or the U.S.A.

Officers should obtain the names of both parents, check to see if either of the parents are in Canada and consider contacting American officials to determine if the parents are present in the U.S.A.

---

**Note:** There may be situations in which parent(s) do not fall under an exception under the STCA but their children do, or, if the child is born in the U.S.A., the child is exempted from the application of the STCA. In these cases, officers should counsel the parent(s) that, as custodian of the children, they may decide whether their children will pursue a claim in Canada, or whether the children will return to the U.S.A with the parent(s). If the parents decide to take their children and return to the U.S.A., refugee claims made by children in Canada, should be recorded in FOSS as "withdrawn" and "allowed to leave", while refugee claims of their parents should be recorded as *ineligible* under the STCA. If the parent(s) decide that their children will pursue their refugee claim in Canada; officers should refer refugee claims of children, if eligible, to the RPD, as well as to the ID.

---

For more information on refugee children refer to [section 20, Procedure – Minor Children](#).

---

### 23.5. Claimants who hold valid Canadian visas or travel documents (Articles 4(2) (d) (i) and 4(2) (d) (ii) of the Agreement) [\(R159.5 f\)](#)

A claimant arriving from the U.S.A. will not be returned to the U.S.A. if they are the holder of any of the following valid documents, excluding any document issued solely for the purpose of transit through Canada:

## PP 1 Processing claims for refugee protection in Canada

- A permanent resident visa or a temporary resident visa; a Temporary Resident Permit issued by the Canadian government or a Protected Person Status Document;
- Travel documents issued to permanent residents by the Canadian government; and
- Refugee travel papers issued by the Department of Foreign Affairs and International Trade (DFAIT).

---

### 23.6. Visa exemptions ([R159.5 g](#))

A person who does not require a visa to travel to Canada, but who required a visa to enter the U.S.A., meets an STCA exception.

For a current list of countries whose citizens require a visa to travel to Canada, refer to:

<http://www.cic.gc.ca/english/visit/visas.asp>

The U.S.A. has a Visa Waiver Program (USWVP) for certain countries. If the claimant does not require a visa to enter Canada or the U.S.A., the Agreement applies. For details, including the list of countries and updates on the Visa Waiver Program, refer to:

[http://travel.state.gov/visa/temp/without/without\\_1990.html#countries](http://travel.state.gov/visa/temp/without/without_1990.html#countries)

---

### 23.7. Public interest (Article 6 of the Agreement)

Article 6 of the Agreement provides that either Canada or the U.S.A. may decide to adjudicate any claim where to do so would be in the public interest.

Section [R159.6](#) states that a claimant will not be returned to the U.S.A., if the claimant:

- Has, in the U.S.A. or another country, been charged with or convicted of an offense that is punishable by the death penalty.

The burden of proof is on the claimant to prove that they would be subject to the death penalty.

Such claimants are still subject to the normal ineligibility criteria, including [A101\(1\)\(f\)](#).

---

### 23.8. Persons returning to Canada after being denied admission to the U.S.A. [R159.5 \(h\)](#)

A person who is immediately returned to Canada after having been denied entry by the U.S.A. qualifies for an exception to the Agreement. In this situation entry to Canada is permitted as per [R39 \(a\)](#) and the person is allowed to make a refugee claim.

---

### 23.9. Sample questions related to Safe Third Country exemptions and exceptions

Claimants may not be aware of the existence of exceptions to the Agreement. Officers should ask probing questions to ensure that claimants have an opportunity to explore all options. The questions below are examples only, and all areas of investigation must be explored.

Questions may include but are not limited to:

- Are you a permanent resident of Canada?
- Are you a citizen of the United States of America?
- Are you a citizen of any other country?
- Do you have a family member in Canada? If yes, what is the relationship?
- What is that family member's status in Canada?
- What is your age?

## PP 1 Processing claims for refugee protection in Canada

- Did you obtain a visa to enter Canada?
- What country did you travel from?
- Did you obtain a visa to enter the United States?
- In what country were you before arriving in the United States?
- Were you ever charged with or convicted of a crime in the United States or any other country?
- Questions for persons under 18 years of age who are not accompanied by a parent or legal guardian:
  - ◆ Where is your mother?
  - ◆ Where is your father?
  - ◆ Do you have a legal guardian?

The examining officer should take detailed notes of the review of each possible exception to the Agreement. This is especially important if the claimant claims to have a family member in Canada, but is unable to provide proof. The notes will be instrumental in proving that the exception was properly investigated and the eligibility decision well-founded.

---

### 24. Procedures: Ineligible claims under the STCA

When claimants are found *ineligible* under [101\(1\)\(e\)](#), it is necessary to:

- Have a completed and signed IMM5611;
- Issue the ineligibility document;
- Input data in SSI;
- Advise U.S.A. officials;
- Remove the person to U.S.A. (see [section 24.2, Removal procedures](#)).

---

#### 24.1. Return to the United States of ineligible refugee claimant pursuant to A101 (1) (e)

Foreign nationals whose refugee claims are ineligible pursuant to [A101\(1\)\(e\)](#) should be removed to the U.S.A. on the same day [[A49\(2\)\(a\)](#)]. They are *not* entitled to apply for a PRRA. There is no requirement for a passport or travel document. Under the Agreement, both countries have 90 days within which to return ineligible claimants.

---

#### 24.2. Removal procedures

Officers effecting removals to the U.S.A. must do the following:

- Advise the person that they will be returned to the U.S.A.;
- Fax Notification Form ([IMM5569](#)) entitled "*Notification of the return of a non-resident alien under the terms of the Agreement between Canada and the United States for Co-operation in the examination of refugee status claims by nationals of third countries*" to the designated U.S.A. official at the receiving port of entry. Then telephone to confirm that the person will be

## PP 1 Processing claims for refugee protection in Canada

returned. Both the fax and the phone call are a notification to the United States authorities rather than a request.

---

**Note:** The IMM 5569 provides personal information about the claimant, confirms that all possible exceptions were explored, and indicates why the person did not qualify for an exception.

---

- Seize any fraudulent documents;
- Take copies of all genuine documents and return the originals to the ineligible claimant if they are not being escorted back to the U.S.A.;
- Fax copies of any fraudulent documents to the U.S.A. officials;
- If the person will be escorted, the escort officer should keep the documents and give them to the U.S.A. officials;
- Complete statistical report for RHQ; and
- Enter records including IMM 0056 (Certificate of Departure) in FOSS.

To the person being returned to the U.S.A. give copies of the:

- Notification Form (IMM 5569);
- A44 (1) Report;
- negative eligibility decision;
- removal order.

---

**Note:** Ineligible claimants will usually be returned to the U.S.A. from the port of entry of arrival. However, both Canada and the U.S.A. may return ineligible claimants at ports other than the port of arrival, when a local agreement is in place.

---

---

### 24.3. Escorts during removal

In most cases, ineligible claimants will be returned to the U.S.A. unescorted. However, minor children or uncooperative and/or dangerous persons should be escorted. Officers at ports of entry will continue to determine the need for an escort based on the criteria outlined in [ENF 10, Section 23](#). An escort may also be advisable if there is a serious concern about the ineligible claimant destroying documents.

---

### 24.4. Information-sharing with the United States

As a result of a negative eligibility decision under the Agreement, it is necessary to share with U.S.A. officials certain biographical, personal information about the claimant at the time of removal. Information shared is subject to the *Privacy Act* and in accordance with the *Canada-US Statement of Mutual Understanding on Information Sharing 2003 (SMU)* and its *Asylum Annex*. The following information may be disclosed:

- Port and date of entry to Canada;
- Location of Canadian processing office;
- Surname and given name;
- Address;
- Sex;
- Date and place of birth;

## PP 1 Processing claims for refugee protection in Canada

- Exception(s) applied for; and
- Travel document or travel document number (genuine or fraudulent).

Information should be shared using the most secure and efficient method.

See also [section 5.20, Information sharing](#).

For more information on sharing information pursuant to the 2003 *Canada U.S.A. Statement of mutual understanding on information sharing*, refer to [IN2](#).

---

### 24.5. Reporting requirements

Each port must track Safe Third Country removals and prepare required statistical reports for national monitoring and evaluation of the Agreement.

---

## 25. Procedures: Safe Third Country Agreement - Other

---

### 25.1. FOSS Records for STCA

The "Eligibility Results and Referral" screen in the Refugee Monitoring Menu tracks Safe Third statistics).

Exception Requested (Yes/No) and Type

In all cases officers should enter information in the field "Exception Req. (Y/N)" to record whether or not the claimant requested an exception. Only in cases where the claimant is a U.S.A. citizen or former habitual resident of the U.S.A., may this field be left blank due to the fact that U.S.A. citizens and former habitual residents are exempted from application of the STCA.

The type of exception will be entered as a code which will record the category of the exception applied for. Up to 2 codes can be entered, each separated by a comma. In the case of a claimed exception because of an anchor relative, an NCB should be added in FOSS to indicate the exception used and details of the claimed relative. FOSS codings for STCA can be found at:

[http://cicintranet.ci.gc.ca/cicexplore/english/systmguides/foss\\_ssobl/Rel20\\_OCT2003-eng.aspx](http://cicintranet.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/Rel20_OCT2003-eng.aspx)

---

## 26. Procedures: Review Mechanisms for Safe Third Country

---

### 26.1. Reconsideration of positive determination that an exception applies

Article 4 of the Agreement states the following: *Neither party shall reconsider any decision that an individual qualifies for an exception under this Agreement.*

However, should information surface that leads an officer to conclude that an exception was applied and the claim referred to the RPD as a result of misrepresentation, eligibility may be redetermined further to [A104\(1\)\(c\)](#). As Article 8 of the Agreement holds that "returns" must take place within 90 days of the refugee claim, officers should assess the likelihood that removal may take place within this 90-day timeframe before pursuing a redetermination.

## PP 1 Processing claims for refugee protection in Canada

### Appendix A Safe Third Country Agreement: Statement of Principles

Procedural issues associated with implementing the Safe Third Country Agreement for cooperation in the examination of claims for refugee protection from nationals of third countries.

#### Statement of Principles

The Parties intend to act according to the following principles:

1. **Opportunity for Third Party during Proceedings.** Provided no undue delay results and it does not unduly interfere with the process, each Party will provide an opportunity for the claimant to have a person of their own choosing present at appropriate points during proceedings related to the Agreement. Details concerning access to proceedings will be set out in operational procedures.
2. **Proof of Family Relationship.** Procedures will acknowledge that the burden of proof is on the claimant to satisfy the officer that a family relationship exists and that the relative in question has the required status. Credible testimony may be sufficient to satisfy an officer in the absence of documentary evidence or computer records. It may be appropriate in these circumstances to request that the claimant and the relative provide sworn statements attesting to their family relationship.
3. **Standard for Determining Eligibility for an Exception to the Agreement.** The United States will use the preponderance of evidence standard to determine whether a claimant qualifies for an exception under the Agreement. Canada will use the balance of probabilities standard to determine whether a claimant qualifies for an exception under the Agreement. These standards are functionally equivalent.
4. **Review.** Each Party will ensure that its procedures provide, at a minimum: (1) an opportunity for the claimant to understand the basis for the proposed determination; (2) an opportunity for the claimant to provide corrections or additional relevant information, provided it does not unduly delay the process; and (3) an opportunity for the claimant to have a separate decision-maker, who was not involved in preparing the proposed determination, review any proposed determination before it is finally made.
5. **Record of Interview and Eligibility Determination.** Upon request and subject to national law, Canada and the United States will share all written materials pertaining to whether a claimant qualifies for an exception under the Agreement. Subject to national law, this information will also be available to the claimant.
6. **Requests to Reconsider Exception Determinations.** Each Party will have the discretion to request reconsideration of a decision by either Party to deny a claimant's request for an exception under the Agreement should new information or information that has not previously been considered, come to light.
7. **No Reconsideration of Positive Determinations.** Neither Party will reconsider any decision that a claimant qualifies for as an exception under the Agreement.
8. **Timeframe for Return under the Agreement.** Returns to the country of last presence under the Agreement must take place within 90 days after the original claim is made.



## PP 1 Processing claims for refugee protection in Canada

### Appendix B - Sample letter

#### Acknowledging suspension of processing under A100 (2) before the referral of claim to the RPD

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your claim for refugee protection in Canada. I have reviewed your application and, pursuant to A100 (2) of the *Immigration Refugee Protection Act*, your claim has been temporarily suspended pending a determination by the [court, Immigration Division] regarding [alleged offence/violation].

As per A100 (2), the officer shall suspend consideration of the eligibility of the person's claim if:

- (a) a report has been referred for a determination, at an admissibility hearing, of whether the person is inadmissible on grounds of security, violating human or international rights, serious criminality or organized criminality; or
- (b) the officer considers it necessary to wait for a decision of a court with respect to a claimant who is charged with an offence under an Act of Parliament that is punishable by a maximum term of imprisonment of at least 10 years.

As your refugee claim has been temporarily suspended, you are not allowed to work or study in Canada until you are told that processing of your application will go ahead, and your refugee claim is found eligible for referral to the Refugee Protection Division of the Immigration and Refugee Board.

Once a determination is made the processing of your refugee claim will continue and you will be advised of an interview date.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix C – Sample letter

#### Suspension [Resumption of Processing (A100 (2))]

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your claim for refugee protection in Canada. Processing of your refugee claim is no longer suspended pursuant to 100(2) of the *Immigration and Refugee Protection Act*.

To continue processing your claim, you must meet with an officer who will decide whether your refugee claim is eligible to be referred to the Refugee Protection Division of the Immigration and Refugee Board of Canada.

You are scheduled to report to [office address] on [date & time]. Please bring with you all relevant documentation with respect to your refugee claim.

If you do not attend the interview, an officer will make a decision with the information on file. If you fail to appear for the scheduled interview the file may be transferred to the *Canada Border Services Agency* to initiate your removal from Canada.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix D – Sample Letter

#### Suspension [Continuation of Proceedings A103 (2)]

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your claim for refugee protection in Canada. It has been determined that your refugee claim is no longer suspended and as a result the proceedings with respect to your claim will resume in keeping with A103(2) of the *Immigration and Refugee Protection Act*.

The Refugee Protection Division of the Immigration and Refugee Board has been notified and will contact with you in the near future with regards to your refugee hearing.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix E – Sample Letter

#### Redetermination - Ineligibility under A101 (1) (a) to (c) and (e) [A104]

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and, pursuant to A104 of the IRPA, have determined that your claim for refugee protection is **not eligible** to be referred to the Refugee Protection Division of the Immigration Refugee Board of Canada.

According to Subsection 101(1) (*cite a, b, c or e*) of the Act:

A claim is ineligible to be referred to the Refugee Protection Division if (*cite a, b, c or e*)

- (a) refugee protection has been conferred on the claimant under this Act;
- (b) a claim for refugee protection by the claimant has been rejected by the Board;
- (c) a prior claim by the claimant was determined to be ineligible to be referred to the Refugee Protection Division, or to have been withdrawn or abandoned;
- e) the claimant came directly or indirectly to Canada from a country designated by the regulations, other than a country of their nationality or their former habitual residence.

Enclosed you will find (*cite documents to be enclosed - example of documents*):

- a copy of the RPD decision
- confirmation from the RCMP indicating a fingerprint match
- a copy of the subsequent Eligibility Decision
- a copy of the IMM5317 Withdrawal of a claim for refugee protection prior to the referral to the refugee to the RPD

Your file has been transferred to the *Canada Border Services Agency*. They will contact you in the near future about your case.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada.

You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix F - Sample letter

#### Reasons for redetermination as per A104 for ineligibility A101 (1) (d)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and pursuant to A104 of the *Immigration and Refugee Protection Act* (IRPA), have determined that your claim for refugee protection **may be ineligible** to be referred to the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada.

Specifically, information has come to our attention that your claim may be ineligible pursuant to paragraph 101(1) (d) of IRPA which reads:

A claim is ineligible to be referred to the RPD if:

(d) the claimant has been recognized as a Convention refugee by a country other than Canada and can be sent or returned to that country;

We have received information that you were recognized as a Convention refugee in [insert country] on [date]. We have enclosed a copy of this decision. You are scheduled to report to the following office [office address] on [date] to meet with an officer to discuss this matter.

Please bring with you any information, written submissions or documentation that you believe is relevant to your case. If you do not attend the interview, an officer will make a decision with the information on file.

If you do not appear for the scheduled interview your file will be transferred to the *Canada Border Services Agency* to initiate removal arrangements.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix G- Sample letter

#### Reasons for redetermination as per A104 for ineligibility under A101 (2) (a), A36 (1) (a)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and pursuant to A104 and A101 (2) (a) of the *Immigration and Refugee Protection Act*, have redetermined that your claim for refugee protection is ineligible to be referred to the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada.

As per A101 (2) (a), a claim is not ineligible for reasons of serious criminality under paragraph 101(1) (f) unless:

(a) in the case of inadmissibility by reason of a conviction in Canada, the conviction is for an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years and for which a sentence of at least two years was imposed.

Our records indicate that you were convicted of the following offence: [insert offence], which is punishable by a maximum term of imprisonment of [insert max term], and you were sentenced to [insert number of years] imprisonment. Therefore, it has been determined that you are inadmissible to Canada pursuant to Paragraph 36(1) (a) of the *Immigration and Refugee Protection Act* which reads:

A permanent resident or a foreign national is inadmissible on grounds of serious criminality for: (a) having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years;

Enclosed you will find a court document which details your conviction(s), a copy of the A44 (1) Inadmissibility Report, the Removal Order, and the subsequent Eligibility Decision.

Your file has been transferred to the *Canada Border Services Agency*. They will contact you in the near future about your case.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix H- Sample letter

#### Redetermination as per A104 for ineligibility under A101 (f) (except serious criminality)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and, pursuant to A101 (1) (f) of the *Immigration and Refugee Protection Act* (IRPA) have determined that your refugee claim is ineligible to be referred to the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada.

As per A101 (1) (f), a claim is ineligible to be referred to the RPD if:

(f) the claimant has been determined to be inadmissible on grounds of security, violating human or international rights, organized criminality, except for persons who are inadmissible solely on the grounds of paragraph 35(1)(c).

At the Admissibility Hearing held on [date] you were found described under [insert applicable section of Act] of the IRPA which reads:

Insert text.

Enclosed is a copy of the decision that was made by the Immigration Division and the subsequent eligibility decision made according to A104 (1) (b) of the IRPA.

Your file has been transferred to the *Canada Border Services Agency*. They will contact you in the near future about your case.

As part of your conditions while you are in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix I - Sample letter

#### Notice of ineligible claim according to A 104(1) (c)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and, pursuant to A104 (1) (c) of the *Immigration and Refugee Protection Act* (IRPA), have determined that your claim for refugee protection may be *ineligible* to be referred to the Refugee Protection Division of the Immigration and Refugee Board.

As per A104 (1) (c), an officer may, with respect to a claim that is before the Refugee Protection Division or, in the case of paragraph (d) that is before or has been determined by the Refugee Protection Division or the Refugee Appeal Division, give notice that an officer has determined:

(c) the claim was referred as a result of directly or indirectly misrepresenting or withholding material facts relating to a relevant matter and that the claim was not otherwise eligible to be referred to that Division.

It has been determined that you misrepresented the following material facts:

[Insert material facts misrepresented].

You are scheduled to report to the following office [office address] on [date] to meet with an officer to discuss this matter. Please bring with you any written submissions or relevant documentation that you believe is relevant to this redetermination.

Failure to appear for the scheduled interview will result in a decision based on the information we have on file. In addition, your case will be transferred to the removal unit of the Canada Border Services Agency.

As part of your conditions while you are in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer Signature

Officer Name



## PP 1 Processing claims for refugee protection in Canada

### Appendix J - Sample letter

#### Notice of ineligible claim according to Paragraph 104(1) (d)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and, pursuant to A104 (1) (d) of the *Immigration and Refugee Protection Act* (IRPA), have determined that your claim for refugee protection may be *ineligible* to be referred to the Refugee Protection Division of the Immigration and Refugee Board of Canada.

As per A104 (1) (d), an officer may, with respect to a claim that is before the Refugee Protection Division or, in the case of paragraph (d) that is before or has been determined by the Refugee Protection Division or the Refugee Appeal Division, give notice that an officer has determined:

(d) the claim is not the first claim that was received by an officer in respect of the claimant.

Enclosed is a copy of the previous Convention refugee decision with respect to [name of claimant] and confirmation from the RCMP indicating a fingerprint match.

You are scheduled to report to the following office [office address] on [date] to meet with an officer to discuss this matter. Please bring with you any written submissions or relevant documentation that you believe is relevant to this redetermination.

Failure to appear for the scheduled interview will result in a determination being rendered with the evidence we have on file and your case will be transferred to the removal unit of the Canada Border Services Agency.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

.

Sincerely,

Officer Signature

Officer Name

## PP 1 Processing claims for refugee protection in Canada

### Appendix K- Sample letter

#### Reasons for redetermination as per A104 for ineligibility under A101 (2) (b), A36 (1) (b)

[Insert date]

Name of client:

FOSS ID #:

Dear Sir/Madam:

This is in response to your application for refugee protection in Canada. I have reviewed your application and pursuant to A104 and A101(2)(b) of the *Immigration and Refugee Protection Act*, have redetermined that your refugee claim is ineligible to be referred to the Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada.

As per A101(1)(f), a refugee claim is ineligible to be referred to the RPD if the claimant has been determined to be inadmissible on grounds of serious criminality. Our records indicate that you are inadmissible on grounds of serious criminality under A36(1)(b).

As per A101(2)(b), a claim is not ineligible for reasons of serious criminality under paragraph 101(1)(f) unless:

*in the case of inadmissibility by reason of a conviction outside Canada, the Minister is of the opinion that the person is a danger to the public in Canada and the conviction is for an offence 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.*

Our records indicate that you were convicted of the following offence: [insert offence]. If committed in Canada, this offence is punishable by a maximum term of imprisonment of at least 10 years. Our records also indicate that the Minister is of the opinion that you are a danger to the public in Canada.

Enclosed you will find documentation detailing your conviction(s), a copy of the A44 (1) Inadmissibility Report, the Removal Order, and the subsequent Eligibility Decision.

Your file has been transferred to the *Canada Border Services Agency*. They will contact you in the near future about your case.

As part of your conditions while in Canada, you must report any change of address immediately to Citizenship and Immigration Canada. You can reach CIC through the call Centre at 1-800-242-2100.

Sincerely,

Officer signature

Officer name

## **PP 1 Processing claims for refugee protection in Canada**

### **Appendix L Information pamphlet for eligible refugee claimants**

Please see:

[http://cicintranet/manuals/immigration/pp/pp1/documents/pp1App12\\_e.doc](http://cicintranet/manuals/immigration/pp/pp1/documents/pp1App12_e.doc)

# PP 1 Processing claims for refugee protection in Canada

## Appendix M Contact information for UNHCR offices in Canada

### United Nations High Commissioner for Refugees- Main and Regional Legal Offices

#### Ottawa

Tel: (613) 232 0909

Fax: (613) 230 1855

#### **Mailing Address:**

UNHCR Canada  
280 Albert Street, Suite 401  
Ottawa, ON  
K1P 5G8

#### Toronto

Tel: (416) 954 1188

Fax: (416) 954 5318

#### **Mailing Address:**

C/O IRB, 4<sup>th</sup> Floor,  
74 Victoria Street  
Toronto, ON  
M5C 3C7

#### Montreal

Tel: (514) 496 1637 (Reception)

Fax (514) 283 8086

#### **Mailing Address:**

C/O CISR-IRB  
Complexe Guy-Favreau  
200, boul. René-Levesque ouest  
Tour est, bureau 102  
Montréal, P.Q  
H2Z 1X4

## PP 1 Processing claims for refugee protection in Canada

### Appendix N FOSS HELP

For all data entry into FOSS, see FOSS HELP - CODING INFORMATION

[http://cicintranet/cicexplore/english/systmguides/foss\\_ssobl/query\\_recherche/index-eng.aspx](http://cicintranet/cicexplore/english/systmguides/foss_ssobl/query_recherche/index-eng.aspx)

Practical Guide for Entering Information in FOSS for  
Section 44 Reports, RR and FR Screens and Departure Orders

The first document to be created is the **Section 44(1) Report** under the *Immigration and Refugee Protection Act*.

Procedures:

In the **Menu** screen, go to **FD** and then click **TRANSMIT**.

In the Full Document Entry screen, choose EC - EXISTING CLIENT or NC - NEW CLIENT.

If you choose **EC**, enter the client id. number on the **IF EC – Identify client** field.

Then choose **Option 44** and click **TRANSMIT**.

Go to the **Section 44(1) Report** screen: fill in the mandatory fields

Choose C – CONTINUE; click TRANSMIT.

Go to the second page of the **Section 44(1) Report** screen, complete the mandatory fields.

Note: the FOSS codes for the inadmissibility of refugee claimants are A36, A49 and R06 (this last code is used only at the port of entry).

Choose C – CONTINUE; click TRANSMIT.

Go to the third page of the **Section 44(1) Report** screen:

In the **FILE NO.** field, enter your office code followed by the file code.

In the **OFFICER'S DISPOSITION** field, enter your decision code – “*See FOSS system user guides*”, enter the date of your decision in the **DATE** field.

In the **MD DISPOSITION** field, enter the code for the decision of the Minister's delegate - “*See FOSS system user guides*”, and enter the date of the decision in the **DATE** field.

In the APPLICATION FOR PROTECTION (Y/N) field, indicate Y. You can then access the Refugee Monitoring (RM) screen.

You must also answer questions **POE CASE (Y/N)**, **DIRECT BACK (Y/N)**, **DETAINED (Y/N)**, and enter the date in the **DATE** field.

Choose OBSERVATIONS – O; then press TRANSMIT.

Type in the following note, making sure to include changes required to reflect circumstances of the case in the **OBSERVATIONS** field: **Claimed refugee protection (location) on (date)**. (A41 and A20(1)(a)).

## PP 1 Processing claims for refugee protection in Canada

Choose PF - PRINT FINAL; then click TRANSMIT.

Go to the RECORD OF REFUGEE CLAIM screen.

Enter **L44** in the **TYPE OF CASE** field.

In the **FINGERPRINTS (Y/N)**, type in **Y** for all clients 14 years of age and older.

Fill in the **TRAVEL DOC. (Y/N)** field and the **SEX** fields using the information available - "*See FOSS system user guides*".

Indicate the **FAMILY STATUS IND** and the **TOTAL PERSONS IN FAMILY** (complete for families).

Fill in the COUNTRIES OF ALLEGED PERSECUTION field.

Enter **N** in the **MAIL IN** field.

Complete the **CLAIM DATE** and the **3-DAY** fields (this is the date when a claim is considered deferred under the Act).

Fill in the **DETAINED Y/N** field (CIC officers do not have ministerial delegation to detain refugee claimants).

Choose: **C-CONTINUE**; then click **TRANSMIT**.

Go to the ELIGIBILITY RESULTS AND REFERRAL screen.

In the **EXCEPTION REQ. Y/N** field, indicate whether an exemption under the Safe Third Country Agreement applies – option **O** applies only at land ports of entry.

Fill in the **NAME OF MD** field.

Enter your decision in the **ELIGIBILITY DECISION** field–"*See FOSS system user guides*" - and the date of the decision in the **DECISION DATE** field.

In the **DECISION DELIVERED** field, indicate the method used to transmit the decision to the client.

"See FOSS system user guides";

Enter **Y** in the **PIF REQUESTED Y/N** field.

Enter the office number in the **FILE REFERRED TO CIC** and the date sent in the **DATE, DETAINED (Y/N)**

Enter your decision in the **ELIGIBLE FOR IFH BENEFITS Y/N** field.

Choose PF – PRINT FINAL; then click TRANSMIT.

Return to the **CH – CLIENT HISTORY** screen to create the applicable removal order (in most cases, it is a conditional departure order).

Note the Report 44 number, which starts with the letter **N**.

Enter under option: **FD** and click **TRANSMIT**.

Choose option: **SC - SAME CLIENT**.

Under **IF EXISTING CASE – IDENTIFY CASE SERIAL NO.**, enter the Report 44 number, starting with the letter **N**.

Choose **DP – Departure Order**; then click **TRANSMIT**.

Go to the **DEPARTURE ORDER** screen.

Enter **X** in the **ORDER MADE BY: MINISTER'S DELEGATE** field.

In the **INADMISSIBILITIES** field, indicate those that are identified in the Report 44.

Enter the decision in the **Decision** field - "*See FOSS system user guides*".

## PP 1 Processing claims for refugee protection in Canada

Complete the **STATUS** field.

Enter the **DATE** and the CIC office code.

Choose PF - PRINT FINAL; then click TRANSMIT.

After you complete these steps, the following documents will be printed:

Report 44 (printed on form IMM5292)

The conditional departure order (printed on form IMM5292)

The refugee claimant document (printed on form IMM1442 – a controlled document)

Notice to appear before the Refugee Protection Division (printed on form IMM5292).

FOSS Help

Practical Guide for Entering Information in FOSS to Proceed for a

Notice of Ineligible Claim or for a Redetermination

Use the **NOTIFICATION TO RPD – SUBSEQUENT ELIGIBILITY DECISION / RE-DETERMINATION OF ELIGIBILITY** screen when an eligibility determination must be made for a refugee protection claim that has been suspended under the Act, or when subsection 104(1) (*claw-back*) of the *Immigration and Refugee Protection Act* is invoked.

These are the procedures for accessing the screen:

Return to the CH – CLIENT HISTORY screen to create the SE – NOTIFICATION TO RPD – **SUBSEQUENT ELIGIBILITY DECISION / RE-DETERMINATION OF ELIGIBILITY** screen.

Choose SC – SAME CLIENT.

Choose SE – Subsequent Eligibility Decision.

Enter the RR code, starting with the letter **D** in the **DOCUMENT NO.** field and then click **TRANSMIT**.

Go to the NOTIFICATION TO RPD – **SUBSEQUENT ELIGIBILITY DECISION / RE-DETERMINATION OF ELIGIBILITY** screen.

Complete the mandatory fields.

In the **DECISION TYPE** field, check off **SUBSEQUENT ELIGIBILITY** if entering a decision rendered after a suspension, or choose **RE-DETERMINATION** to enter an ineligibility decision as per subsection 104(1).

For more information on FOSS codes, see the FOSS HELP - CODING INFORMATION guide at: [http://www.ci.gc.ca/cicexplore/english/systmguides/foss\\_ssobl/helpaide/index-eng.aspx](http://www.ci.gc.ca/cicexplore/english/systmguides/foss_ssobl/helpaide/index-eng.aspx)

Choose PF - PRINT FINAL; then click TRANSMIT.

## PP 1 Processing claims for refugee protection in Canada

### Appendix O - Digital Fingerprinting

---

The referral letter for fingerprinting must include the following typed information:

- application type (immigration);
- applicant's full name;
- date of birth;
- sex;
- address;
- FOSS number;
- CIC file number and office address for reply from RCMP.

"As part of the application process, you are required to provide a set of your fingerprints. The following three service providers offer digital fingerprinting services:

- **ClearNeed** – to find an office near you, see their website at [www.clearneed.com](http://www.clearneed.com);
- **International Fingerprinting Services Canada** – to find an office near you, see their website at [www.fingerprinting.ca](http://www.fingerprinting.ca);
- **Commissionaires** – to find an office near you, see their website at [www.commissionaires.ca](http://www.commissionaires.ca) or call toll free 1-877-322-6777.

It is recommended that you call ahead and make an appointment. You will have to pay for this service. The service provider will send your fingerprints directly to the Royal Canadian Mounted Police (RCMP).

If you live in an area where digital fingerprinting is not available, it is recommended that you telephone the local police to request their assistance. Please note that you may have to pay for this service. Please submit your original set of prints to this office as soon as possible. "

Sincerely,

Immigration officer

#### **RCMP feedback**

The RCMP has a service level agreement with the Treasury Board Secretariat. Therefore, results should be received as follows:

- Civil (Criminal) Submission (No Hit) - 72 hours
- Criminal Submission with Added Charge (Urgent Priority) - 2 hours (for search)
- Criminal Records Inquiries - 2 hours
- Refugee Submission (Urgent Priority) - 2 hours
- Latent Submission - 24 hours

The 72 hours No Hit for a criminal enquiry is calculated from the time the electronic submission is received to the time the results are mailed out. If a query finds a criminal record, it must be reviewed by an analyst, which may add to the time required to deal with the request.