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**CRIMES AGAINST HUMANITY AND WAR CRIMES PROGRAM  
SUMMATIVE EVALUATION  
Final Report**

**October 2008**

**Evaluation Division  
Office of Strategic Planning and Performance Management**



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## LIST OF ACRONYMS

AFP	Australian Federal Police
CAIPS	Computer Assisted Immigration System
CAHWCA	<i>Crimes Against Humanity and War Crimes Act</i>
CBSA	Canada Border Services Agency
CCRA	Canadian Customs and Revenue Agency
CIC	Citizenship and Immigration Canada
CSIS	Canadian Security and Intelligence Service
DCI	Department of Citizenship and Immigration (Australia)
DFAIT	Department of Foreign Affairs and International Trade
DND	Department of National Defence
DOJ	Department of Justice
EAC	Evaluation Advisory Committee
EU	European Union
GTEC	Greater Toronto Enforcement Centre
IAG	International Assistance Group
ICC	International Criminal Court
ICE	Immigration and Customs Enforcement (US)
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
INS	Immigration and Naturalization Service (Netherlands)
IRB	Immigration and Refugee Board
IRPA	<i>Immigration and Refugee Protection Act</i>
MIO	Migration Integrity Officer
MWCS	Modern War Crimes System
NCMS	National Case Management System
NGO	Non-government Organization
NHQ	National Headquarters
NSD	National Security Division CBSA
OGD	Other Government Department
OSI	Office of Special Investigations (US)
PCO	Privy Council Office
PCOC	Program Coordination and Operations Committee

POE	Port of Entry
PPSC	Public Prosecution Service of Canada
PRRA	Pre-Removal Risk Assessment
PSC	Public Service Commission
RCMP	Royal Canadian Mounted Police
RMAF	Results-Based Management and Accountability Framework
SIPRI	Stockholm International Peace Research Institute
TBS	Treasury Board Secretariat
ToR	Terms of Reference
TRP	Temporary Resident Permit
TRV	Temporary Resident Visa
UN	United Nations

## EXECUTIVE SUMMARY

### 1. Introduction

In 1998, the Government of Canada established the current coordinated Crimes Against Humanity and War Crimes Program (Program). Program partners include the Canada Border Services Agency (CBSA), Citizenship and Immigration Canada (CIC), the Department of Justice (DOJ), and the Royal Canadian Mounted Police (RCMP).

The purpose of the Program is to support Canada's policy to deny safe haven to suspected war criminals and to contribute to the domestic and international fight against impunity. More specifically the Program aims to:

- Identify and prevent the admission to Canada of persons involved in war crimes, crimes against humanity, or genocide;
- Detect at the earliest possible opportunity, war criminals who are in Canada and to take steps to prevent them from obtaining status or citizenship;
- Revoke the status or citizenship of individuals who were involved in war crimes, crimes against humanity, or genocide who are in Canada and to remove them from Canada; and
- Examine all allegations of war crimes suspects in Canada and, where appropriate, to investigate and prosecute them.

The objective of the evaluation is to determine the continued relevance of the Program; assess the degree of success in achieving the Program objectives and report on results to date; and assess the cost effectiveness and determine whether there are more effective alternatives to the current design and delivery of the Program. The Evaluation Division of DOJ undertook this summative evaluation of the Program in 2008, assisted by an Evaluation Advisory Committee with representatives from CBSA, CIC, the RCMP and DOJ.

## **2. Methodology**

The evaluation was comprised of seven lines of evidence:

- A document review;
- Interviews with staff of the four program departments, other government departments (OGDs), international partner agencies, independent researchers and external stakeholders in Canada and abroad;
- Case studies of five of the nine remedies available under the Program;
- Country studies of war crimes and crimes against humanity operations in Australia, the Netherlands and the US;
- A content analysis of media coverage of war crimes cases in Canada;
- A survey of staff of program departments; and,
- A cost comparison of the nine Program remedies based on detailed process flow charts.

## **3. Key Findings**

### **3.1. Relevance**

The Program is the primary enforcement mechanism available to the federal government to give support to the policy of denying safe haven in Canada to those suspected of involvement in crimes against humanity and war crimes. Its purpose and objectives remain a priority for the government as expressed in legislation, ongoing budgetary commitments, and in Annual Reports of the Program.

Given Canada's legal obligations arising from international conventions and statutes dealing with war crimes, genocide, torture and crimes against humanity, the Program continues to remain highly relevant. Furthermore, there is no indication that the number of allegations against those seeking to enter Canada or already resident will decline. The combination of new conflicts, the changing pattern of immigration to Canada from countries in conflict and allegations arising from older conflicts, indicate that the Program will continue to deal with a significant volume of allegations.

## **3.2. Program Design and Delivery**

### **Governance and Policy**

The changes in governance structure, including the establishment of both an Assistant Deputy Minister level Steering Committee and the Program Coordination and Operations Committee (PCOC), contribute to a more cohesive and coordinated Program. The guidance provided on resource allocation, the clarification of departmental roles and responsibilities, and the more rigorous criteria for assigning cases to different remedies improve the cohesiveness and focus of the Program and allow its limited investigative capacities to be more concentrated on high priority cases.

### **Partnership and Integration**

The operations of the Program are integrated with other Canadian border management initiatives in the areas of organized crime and counter-terrorism. This is mostly done through CBSA. As an example, CBSA has located its War Crimes Section within the National Security Division of its Intelligence Directorate along with its Counter-Terrorism and Organized Crime Sections. At a regional level in Canada, CBSA officers have integrated war crimes, counter-terrorism and organized crime functions, with support to all three provided by the RCMP and DOJ as well as several OGDs and agencies. Similarly, the National Security Division is able to provide overseas officers, including visa officers, with a single source of information on war crimes, organized crime and counter-terrorism.

The Program also operates in partnerships with other departments and agencies of the Government of Canada. One example of this type of partnership has been collaboration on extradition cases between the Department of Foreign Affairs and International Trade (DFAIT) and the International Assistance Group (IAG) of DOJ in order to develop appropriate documentation with the country seeking extradition.

The Program is highly effective in developing and maintaining partnerships with international partner organizations and with similar programs in other countries. Staff of international criminal tribunals, national police agencies, national prosecution services and immigration enforcement agencies from other countries gave examples of effective collaboration between the Canadian Program and their organization. One of these was Canada's place as the only non-European member of the European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes.

## **Coordination, Allegation Management and Service Delivery**

Improved interdepartmental coordination has contributed to more efficient and effective management of allegations, principally through more effective interdepartmental cooperation during investigations, more effective screening and file review processes, and better prioritization of applicable remedies.

At the same time, the Program faces an important challenge in improving the adequacy and frequency of training, most critically for staff newly assigned to front-line positions in the regions and in posts abroad. There is also a need to invest in the upgrading and updating of computerized databases and electronic platforms at CBSA/CIC, most notably the Modern War Crimes System (MWCS).

## **Raising Awareness and Knowledge**

The Program activities make an important contribution to raising the profile of international efforts to deal effectively with crimes against humanity and war crimes. They also raise awareness of the Program within the international community of war crimes experts. However, there is a strong consensus among stakeholders at all levels of the need for more intensive awareness building and communication activities in Canada. Interviewees from organizations representing victims or specific immigrant communities believe their constituents could make an important contribution to identifying those involved who now reside in Canada. They also stated that they believe that their members would be more willing and able to assist the RCMP investigators by providing information or identifying witnesses if they were 1) aware of the Program, and 2) believed that the perpetrators of the crime would be sought out and either punished or removed from Canada.

## **Gathering and Using Performance Monitoring Data**

Participating departments provide an annual overview of Program performance by submitting data on allegations and outcomes in terms of investigations, prosecutions, entries prevented, persons excluded from refugee protection, and removals of persons involved in crimes against humanity and war crimes from Canada. The Program (through the Steering Committee and PCOC) also uses this information to guide policy and to manage program activities. Nonetheless, there are gaps in the performance monitoring system relating to education and outreach and awareness-raising activities.

### **3.3. Program Success**

#### **International Leadership and Meeting International Obligations**

The Program continues to demonstrate Canada's global leadership role in dealing with crimes against humanity and war crimes mainly through its engagement in international cooperation, its support of international institutions, its robust legislative framework, and the existence of an integrated, interdepartmental program. It has also been effective in meeting Canada's international legal obligations with regard to crimes against humanity and war crimes.

#### **Meeting the Objectives of the Program and the Policy**

It is impossible to demonstrate with certainty that the Program is effective in deterring entry into Canada of those suspected of war crimes and crimes against humanity. Similarly, quantitative data on outcomes achieved in terms of persons denied entry, removed from Canada, or facing criminal prosecution do not provide a definitive answer on the effectiveness of the Program in achieving its over-arching goal of denying safe haven in Canada. However, the combination of quantitative results data and opinions of stakeholders in Canada and abroad supports the conclusion that the Program does make a significant contribution to achieving this national objective.

At the same time, there is an apparent discrepancy between the size of the RCMP/DOJ inventory of modern war crimes cases and the resources available to the RCMP War Crimes Section for investigation. The limited resources available for investigation, in relation to the inventory of serious cases, place an important limitation on the Program's contribution to the objective of denying safe haven.

### **3.4. Cost Effectiveness**

The nine remedies for dealing with persons involved in crimes against humanity and war crimes under Canadian statutes vary tremendously in terms of cost and complexity. Those remedies which are carried out before a person suspected of involvement becomes a permanent resident or citizen (or is provided refugee protection) are the least costly. The most complex, lengthy and expensive remedy to apply is criminal prosecution under the *Crimes Against Humanity and War Crimes Act* (CAHWCA). These data support the Program in its concentration of efforts on preventing entry of suspected war criminals. Notwithstanding the variance in costs, the careful use of the criminal prosecution remedy continues to be an important component in meeting the overall program objective of preventing impunity for war crimes and crimes against humanity.

## **Policies and Processes Contribute to Cost Effectiveness**

The Program strikes a balance between the desire to achieve the most cost-effective solutions and the need to maintain the integrity of the no safe haven policy. This balance is supported by the adjustments to file review criteria placing greater priority on immigration remedies without denying the need for revocation of citizenship and criminal prosecution where they are warranted.

## **Alternative Program Structures**

There is no indication that independent delivery of program services by the four departments acting outside the framework of an integrated program would be a more cost-effective alternative. In fact, any gains through small, theoretical cost savings would be more than offset by diminished program effectiveness through loss of cohesion and poor coordination.

## **Rationale for Increased Resources**

There is considerable evidence that the Program will require increased resources if it is to be effective in addressing the no safe haven policy in the future. In particular, there is a need for allocating increased resources to carrying out criminal investigations, for frequent training of new staff, and for updating and upgrading program databases.

## **4. Recommendations**

The evaluation supports the continuation of the Crimes Against Humanity and War Crimes Program. It also found that the interdepartmental model is effective and should be maintained, and all four participating departments remain relevant partners in the Program.

While the coordination and delivery of the Program has seen an increase in efficiency and effectiveness since the last evaluation in 2001, there remain areas for improvement. The evaluation team has the following recommendations:

1. Consider making program funding permanent and adjust the overall level of financial resources provided to the Program based on a cost-justified plan prepared by the participating departments;
2. Consider increasing funding to strengthen the investigative capacity of the RCMP as this was the highest priority for enhanced funding identified by the evaluation;

3. Consider improving and upgrading CBSA and CIC program databases, most notably the MWCS, to ensure better access and so that updates and changes may be made more frequently;
4. Consider undertaking a formal review of training requirements in order to develop a detailed training plan to address gaps. The plan should include the needs of the various departments, nature and frequency of training, format for delivery, an assessment of resource requirements and performance measures for monitoring purposes; and,
5. Consider allocating additional funding to support the development and implementation of an operational plan for intensified outreach to raise awareness of the Program in Canada. The plan should include identification and prioritization of potential recipients, the appropriate method to reach each group, the resource requirements and performance measures for monitoring purposes.

# 1. INTRODUCTION

This document presents the results of the evaluation of the Crimes Against Humanity and War Crimes Program (the Program). The report is organized as follows:

- Section 1 provides an overview of the Program;
- Section 2 outlines the research methods used for the evaluation;
- Section 3 presents the evaluation findings; and
- Section 4 provides the evaluation conclusions and recommendations.

## 1.1. Program Profile

In March 1987, the federal government responded to the Report of the Commission of Enquiry on War Criminals (1985) by announcing that those alleged to have been involved in the commission of war crimes or crimes against humanity<sup>1</sup> would be subject to criminal prosecution or revocation of citizenship and deportation. Subsequently the Department of Justice (DOJ) and the Royal Canadian Mounted Police (RCMP) set up war crimes units for the investigation of alleged war criminals. In 1998, the federal government established a coordinated Crimes Against Humanity and War Crimes Program, involving DOJ and the RCMP, as well as Citizenship and Immigration Canada (CIC). In December 2003, the majority of the modern war crimes activities and corresponding resources of CIC were transferred to the Canada Border Services Agency (CBSA).

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<sup>1</sup> War Crimes are defined as criminal acts committed during international armed conflicts (war between states) and civil wars, which violate the rules of war as defined by international law. These acts include the ill-treatment of civilian populations within occupied territories, the violation and exploitation of individuals and private property, and the torture and execution of prisoners.

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

Resources for the Program were earmarked in the fiscal framework pursuant to the 2005 Federal Budget at a total of \$78 million for a period of five years (2005/06 to 2009/10).<sup>2</sup>

### Program Purpose

The purpose of the Program is to support Canada’s policy to deny safe haven to suspected war criminals and to contribute to the domestic and international fight against impunity. The Program also aims to reflect the government’s commitment to international justice, respect for human rights, and strengthened border security. To meet this over-arching goal, resources have been invested toward the objectives as stated in the Program Results-based Management and Accountability Framework (RMAF) and summarized in Table 1.<sup>3</sup>

**Table 1: Program Objectives**

Operational Objectives	Coordination Objectives
<ul style="list-style-type: none"> <li>• To risk manage a large overseas workload to target and then identify and prevent the admission of persons involved in war crimes, crimes against humanity, or genocide;</li> <li>• To detect at the earliest possible opportunity, war criminals who are in Canada and to take steps to prevent them from obtaining status or citizenship;</li> <li>• To revoke the status or citizenship of individuals involved or complicit in war crimes, crimes against humanity or genocide who are in Canada and to remove them from Canada; and,</li> <li>• To examine all allegations of war crimes suspects in Canada and, where appropriate, to investigate and prosecute them.</li> </ul>	<ul style="list-style-type: none"> <li>• To ensure all allegations are addressed and to apply the appropriate remedy in each case;</li> <li>• To put in place measures to manage the inventory of modern cases; and</li> <li>• To increase Canada’s intelligence capacity.</li> </ul>

There are several remedies available to deal with alleged war criminals and persons who are suspected of involvement in crimes against humanity. These remedies are:

1. Screening and denial of visas to persons outside of Canada;
2. Denial of access (ineligibility) to Canada’s refugee determination system;<sup>4</sup>
3. Exclusion from the protection of the 1951 United Nations Convention relating to the Status of Refugees;

<sup>2</sup> Results-based Management and Accountability Framework (RMAF), Crimes Against Humanity and War Crimes Program. Department of Justice, March 2006.

<sup>3</sup> RMAF, p. 9, 10

<sup>4</sup> As indicated in the process flow diagrams in Appendix D, the procedures followed by CBSA and CIC in Remedy 3 (and the costs) essentially mirror those in Remedy 2. What differ are the grounds on which a person is either denied access to the system or excluded from protection.

4. Prosecution in Canada under the *Crimes Against Humanity and War Crimes Act* (CAHWCA);
5. Extradition to a foreign government (upon request);
6. Surrender to an International Tribunal;
7. Revocation of citizenship and deportation;
8. Inquiry and removal<sup>5</sup> from Canada under the *Immigration and Refugee Protection Act* (IRPA); and
9. Denial of status to senior officials from designated governments considered to have engaged in gross human rights violations under 35(1)(b) of the IRPA.

The decision to use one or more of these mechanisms is based on: the different requirements of the courts in criminal and immigration/refugee cases to substantiate and verify evidence; the resources available to conduct the proceedings; the likelihood of success of a given remedy; and Canada's obligations under international law.<sup>6</sup>

## **1.2. Program Governance**

Senior officials from each department or agency share responsibility for managing the Program through the War Crimes Steering Committee and the War Crimes Program Coordination and Operations Committee (PCOC).

The War Crimes Steering Committee meets on an *ad hoc* basis to examine the Program with a view to ensure that its tenets are concordant with objectives, both within each Program partners' department and within wider government policy. The Steering Committee is composed of senior managers at the level of Assistant Deputy Minister or equivalent.

At the operational level, PCOC consists of senior officials from each department who regularly meet to discuss policy, coordinate operations and assess allegations. In order to have the PCOC

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<sup>5</sup> Removal refers specifically to the act of removing a person from Canada or requiring them to leave and can be done only through a removal order, of which there are three types: a deportation order (the person is usually banned for life); an exclusion order (the person is banned for a few years, usually one to two); and a departure order (requiring a person to leave Canada within 30 days or face deportation).

<sup>6</sup> RMAF, March 2006.

respond more effectively to these challenges, its mandate was expanded from the three original objectives – interdepartmental co-ordination, addressing all war crimes allegations and compliance with international obligations – to also include operational policy development, integrated planning and accountability functions.

### **1.3. Evaluation Objectives**

The objectives of the evaluation are: to determine the continued relevance of the Crimes Against Humanity and War Crimes Program; assess the degree of success in achieving program objectives and report on results to date; and assess the cost effectiveness and determine whether there are more effective alternatives to the current design and delivery of the Program.

The detailed evaluation questions are presented in summary form in the relevant sub-sections of Section 3.0 on evaluation findings. The evaluation took place under the direction of the Evaluation Division of the DOJ between January and August 2008.

## 2. METHODOLOGIES

The evaluation employed a multi-method approach to address the evaluation issues and ensure that multiple lines of evidence were employed.

Qualitative methods used during the evaluation included:

- **Structured interviews** with participating departmental staff, other government departments (OGDs), international partner organizations and key external stakeholders in Canada and abroad.

International partners interviewed included international police and criminal justice organizations and persons involved in war crimes programs in Australia, Belgium, Denmark, Germany, the Netherlands, New Zealand, Sweden, the United Kingdom and the United States of America (USA). External stakeholders interviewed included Canadian non-governmental organizations (NGOs) representing victims of war crimes and crimes against humanity (including torture) and human rights organizations as well as university researchers and groups representing Canadians of different ethnicity and origin. Internationally, external stakeholders were interviewed from organizations advocating for international justice and the prosecution of war criminals, as well as law faculty and university researchers;

- A detailed **review of program documents** including program planning and budgeting documents, meeting minutes and records of decisions, program files, operational and annual reports, evaluation reports, departmental Websites, operational manuals and other relevant documents;
- **Case studies** representing five of the nine different remedies available under the Program to deal with persons suspected of involvement in crimes against humanity or war crimes. The cases were selected based on their ability to illustrate the cross-departmental coordination and information-sharing mechanisms. As they were selected to provide a variety of the remedies with a range of complexity and partner involvement, the actual case outcomes were not a determining factor. They highlighted some of the phenomena found in the broader-based methods, e.g. interviews and survey.

- Case Study 1 (Remedy 4: Prosecution);
- Case Study 2 (Remedy 7: Revocation of Citizenship and Deportation);
- Case Study 3 (Remedy 8: Inquiry and Removal from Canada under the IRPA);
- Case Study 4 (Remedy 1: Denial of a Visa); and,
- Case Study 5 (Remedy 9, Denial of Status under Section 35 (1) (b) of the IRPA).
- **Country Studies** of three comparison countries with active programs for apprehending and deterring those involved in war crimes (the Netherlands, Australia and the USA) comparing program structures, human resources, legislative basis, and, where possible, outcomes; and,
- A content **analysis of Canadian media** coverage of cases dealing with crimes against humanity and war crimes.

Quantitative evaluation methods used included:

- A review of **program statistics** as reported in Annual Reports;
- A **survey** of program staff from the four participating departments; and,
- A **detailed process flow description and cost analysis** of the nine remedies available to the Program as part of the allegation management process. The completed remedy process flow diagrams are provided in Appendix D.

The coverage of the evaluation methods, response rates to surveys and any resulting limitations are discussed in Appendix E: Research Methods and their Limitations.

### **3. EVALUATION FINDINGS**

The following section presents the findings of the evaluation as they relate to each of the four major categories of evaluation questions: relevance, program design and delivery, program success and cost effectiveness, and alternatives. Each sub-section begins with a summary of the evaluation questions it addresses and then presents the evaluation information and analysis supporting specific findings.<sup>7</sup>

#### **3.1. Program Relevance**

Do the goals of the Program remain relevant in context of:

- Government of Canada priorities;
- Government-wide and departmental refugee, security and justice policies;
- Canada's international legal obligations;
- The expressed needs of stakeholders; and
- The continuing supply of allegations?

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<sup>7</sup> In order to provide some consistency to the classification of responses to the analysis of interviews, the evaluation team has used the following terms in describing the frequency of a given response:

- "All/Almost All" – 90 percent or more of respondents;
- "Large Majority" – at least 75 percent but less than 90 percent of respondents;
- "Majority/Most" – at least 50 percent but less than 75 percent of respondents;
- "Some" – at least 25 percent but less than 50 percent of respondents; and
- "A few" – at least two respondents but less than 25 percent of respondents.

### **3.1.1. Relevance to Government Priorities and Policies**

#### **Summary Findings**

By restating the goals of the Program annually and through the legislative and programmatic actions to establish and maintain the Program, the Government of Canada continues to confirm the policy priority of denying safe haven and the related goals of the Program. On balance, the continuing priority of the Program and its relevance to national policy is readily evident. Similarly, as the principal instrument for upholding a repeatedly emphasized priority of government, the Program is clearly in the public interest.

#### **Evaluation Evidence**

The review of program documents reveals strong indications of the continuing fit between the purpose of the Program (upholding the government's policy that Canada is not a safe haven for anyone involved in crimes against humanity, war crimes or genocide) and Government of Canada priorities. The documents reviewed provide details of diplomatic, legislative, and programmatic actions taken to uphold the policy, including:

- Canadian involvement in the diplomatic efforts (including chairing the drafting committee) that resulted in the Rome Statute of the International Criminal Court (ICC);
- Canada becoming the 14<sup>th</sup> country to sign the Rome Statute of the ICC in December 1998;
- Passage of the CAHWCA which updated Canadian law to conform with the Rome Statute on June 29, 2000;
- Canadian Ratification of the Rome Statute on July 7, 2000;
- Renewal of the unified Crimes Against Humanity and War Crimes Program with five-year funding set at \$78 million in 2004;
- Re-iteration in the 2004 Speech from the Throne of the Government of Canada's commitment to international justice, respect for human rights and strengthened border security; and
- The publication of nine consecutive Annual Reports (1998 to 2008) of the Crimes Against Humanity and War Crimes Program, each of which reaffirms the Program as an ongoing priority of the Government of Canada.

When asked about the continuing relevance of the Program, interviewees from the program departments, other departments of the Government of Canada, international partner agencies, and external stakeholders in Canada and abroad all tended to discuss what they perceived as the objectives of the Program rather than their perception of its continuing relevance to Canadian government priorities. When pressed on the point, however, the large majority of interviewees (including all 26 from participating program departments) felt the Program remains a priority, with many citing one or more of the actions listed above.

External stakeholders were also more interested in discussing the reasons they felt the Program should remain a high priority for the Government of Canada than in providing evidence that it so remains. A few interviewees from program departments and from elsewhere in the Government of Canada felt that, while the Program and its goals remain a priority, the decision not to increase funding over the five-year period from 2004 to 2009 calls that priority somewhat into question.

Without any prompting from the evaluators, interviewees involved in similar programs in Australia, the Netherlands and the USA cited the existence of an integrated, separately funded, multi-department program as evidence that the Canadian Government continues to place a high priority on the goals of the Program.

### **3.1.2. Continued Relevance to International Obligations**

#### **Summary Findings**

The relevance of the Program to addressing Canada's international obligations was confirmed during the 2001 Evaluation Study, and the obligations have not changed materially since then. The Program remains relevant to meeting those obligations. Its effectiveness in meeting international obligations is addressed in Section 3.3.4.

#### **Evaluation Evidence**

Canada's international obligations regarding crimes against humanity and war crimes have continued to evolve during the period under evaluation, but they have certainly not diminished. They arise mainly from treaty obligations resulting from international agreements. Interviews and documents reviewed point, in particular, to:

- The Convention on the Prevention and Punishment of the Crime of Genocide (1949) committing signatories to prevent and to punish acts of genocide;

- The Convention on the Status of Refugees (1951) that established war crimes and crimes against humanity (Article 1 F) as a reason to exclude refugee protection;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987) with its obligations to prosecute or extradite persons who have committed acts of torture;
- The Geneva Conventions of 1949 and their 1977 Additional Protocols containing an obligation to prosecute or extradite persons who have committed war crimes in international armed conflicts as described in those instruments; and
- The Rome Statute of the ICC (2002).

The Rome Statute, in particular, seeks to integrate efforts at both the international and national level to end impunity for the worst possible crimes. The DOJ War Crimes Section indicates that the Rome Statute, while creating an obligation to cooperate and support the work of the ICC, did not create new obligations to investigate and prosecute crimes of genocide, war crimes and crimes against humanity. Rather, in the wording of the Statute, it provides primary discretion to national courts and, only when they are unwilling or unable, does it provide for jurisdiction by the ICC.

Almost all those interviewed indicated that the Program continues to be particularly relevant to meeting Canada's international obligations when dealing with crimes against humanity and war crimes. They make an important distinction, however, between the formal legal obligations created by treaties, conventions and statutes on the one hand, and, on the other, the wider context of international capacity to effectively prosecute crimes against humanity and war crimes and thereby deny impunity.

Some interviewees point to the establishment and/or expansion of programs in both sending and receiving countries (Australia, Belgium, Bosnia, Croatia, Denmark, Germany, the Netherlands and Sweden) as evidence, partly as a result of Canadian efforts, of increased global priority. They argue further that this increased international interest in combating impunity places Canada under at least a moral obligation to continue to take action.

### **3.1.3. The Expressed Needs of External Stakeholders**

Virtually all Canadian external stakeholders interviewed emphasized the Program's continued relevance to the need to respond to, in particular, modern war crimes. Representatives of

organizations working on behalf of immigrants from countries where war crimes have occurred feel strongly that their constituents need a program that can respond to the presence in Canada of persons who may have participated in crimes against humanity or war crimes abroad. As an example, one organization working for victims of torture noted that the possibility of securing justice is one of the important pre-conditions for successful rehabilitation of victims.

The staff of Canadian advocacy organizations and university researchers in Canada and abroad also strongly endorsed the continuing relevance of the Program.

### **3.1.4. The Continuing Supply of Allegations**

#### **Summary Findings**

There is considerable evidence that the Program will need to deal with a continuing supply of new allegations to be addressed in the medium-term future. This finding is based on: the significant number of armed conflicts globally; continued cases of crimes against humanity being perpetrated by regimes not formally in conflict; significant levels of immigration to Canada from countries that are in conflict; and the fact that even past conflicts can give rise to new allegations.

#### **Evaluation Evidence**

Objectively there are three readily apparent factors affecting the number of allegations the Program must deal with:

- Armed conflicts giving rise to war crimes and crimes against humanity. Clearly crimes against humanity may occur in peacetime as some regimes abuse their own populations, but armed conflicts in the past (in Rwanda and the former Yugoslavia for example) have contributed to a significant rise in the number of war crimes and crimes against humanity;
- The patterns and volume of persons attempting to migrate to Canada (sometimes successfully) from conflict locations; and,
- The level of awareness both in Canada and internationally arising from, for example, the establishment of international tribunals that may encourage people to report allegations to the Program.

The Stockholm International Peace Research Institute (SIPRI) in its *2007 Yearbook* notes a declining trend in international armed conflict since 1999.

*In 2006 there were 17 major armed conflicts in 16 locations, with the same conflicts active as in 2005. In the period 1997–2006, there were 34 different major armed conflicts. There has been a decline in the total annual number of conflicts since 1999.*<sup>8</sup>

The *2007 Yearbook* notes that, in 2006, Africa, Asia and the Middle East were the principal geographical locations of armed conflict. It makes particular reference to conflicts in Afghanistan/Pakistan, Iraq, Lebanon, Somalia and the Sudan and the rising intensity of conflicts no longer fought directly between states (Chapter 2).

At the same time, changes in patterns of immigration to Canada have been shifting along with the pattern of armed conflict. Clearly, immigration patterns change for a host of reasons. This analysis does not imply that armed conflicts cause changes in immigration patterns to Canada, but only that the pattern itself means that new permanent residents continue to arrive from countries in conflict.

As reported in CIC's latest *Facts and Figures*, the number of permanent residents coming to Canada from Africa and the Middle East (the major conflict zones in 2006 according to SIPRI) grew from 33,557 in 1999 to 51,863 in 2006 (the latest reporting year)<sup>9</sup>.

Table 2 below shows the changing pattern of permanent residents arriving from twelve countries experiencing armed conflict sometime in the period from 1999 to 2006, as reported by CIC.

**Table 2: New Permanent Residents in Canada from 12 Selected Source Countries**

Country	1999	2002	2006
Bosnia-Herzegovina	1,809	466	253
Yugoslavia (former)	1,492	1,623	126
Croatia	1,369	347	85
Lebanon	1,397	1,723	4,513
Ethiopia	637	802	1,647
Congo, Democratic Republic	873	1,022	1,414
Iraq	1,396	1,365	977
Somalia	1,499	598	896
Sudan	539	1,368	832
Zimbabwe	38	200	449
Afghanistan	2,111	2,971	2,552

<sup>8</sup> Stockholm International Peace Research Institute: *2007 Yearbook*, P. 55.

<sup>9</sup> Citizenship and Immigration Canada: *Facts and Figures 2007*, 2007

Country	1999	2002	2006
Colombia	1,296	5,294	5,813
Total	<b>16,457</b>	<b>19,783</b>	<b>21,565</b>

Source: *Citizenship and Immigration Canada: Facts and Figures 2007*

The table clearly illustrates a decline in new permanent residents of Canada from conflict zones in Eastern Europe between 1999 and 2006, but a corresponding rise from other countries experiencing conflict. There is no readily available evidence that the changing patterns in armed conflicts are driving similar changes in immigration to Canada. Nonetheless, the expected result in terms of the need for the Program is the same, a continuing supply of allegations of involvement by persons seeking to enter Canada or already residents. New allegations of involvement continue to arise from old as well as ongoing conflicts.

Finally, some interviewees (in particular, Canadian external stakeholders) suggest that recent high profile cases receiving fairly positive media coverage in Canada can be expected to lead to more allegations, as their constituents are encouraged to report more allegations to the RCMP War Crimes Section.

Data in the Program's Annual Reports also supports the finding that the Program faces a continuing supply of new allegations. During the nine-year period from 1997/98 to 2005/06, 15,694 cases were reviewed abroad and 14,274 in Canada for a total of 29,968.

The 9<sup>th</sup> *Annual Report* shows the number of cases reviewed abroad rising from 85 in 1997/98 to over 3000 in 2005/06.<sup>10</sup> Cases reviewed in Canada rose also from 392 to just over 1,400 in the same time period.

### 3.1.5. Overall Summary Findings on Program Relevance

In summary, the interviews conducted for the evaluation in Canada and internationally and both inside and outside the program departments, combined with the document and data review, strongly support the continuing relevance of the Program. The study indicates:

- The continued priority of program goals for the Government of Canada;
- The continuation of international legal obligations the Program is designed to address;

<sup>10</sup> Department of Justice: *9th Annual Report of the Crimes Against Humanity and War Crimes Program. 2005/06*, p. 12

- A continuing expression of need among Canadian and international external stakeholders for a program of this type; and,
- A reasonable expectation that new allegations will continue to arise in significant volumes as a result of old and new armed conflicts and the changing pattern of migration to Canada.

The Program also represents a legitimate and necessary role for government as it is concerned with the effective application of federal law using the full range of legal remedies available through a program structure integrated across four federal departments.

### **3.2. Program Design and Delivery**

- Have changes in governance structure resulted in a more cohesive, efficiently coordinated program that has produced benefits for partners?
- Have policy changes resulted in a more cohesive, efficiently coordinated program that has produced benefits for partners?
- How effective is the Program in overall management and service delivery?
- How effective is the Program in establishing and maintaining partnerships with those managing other border initiatives?
- How effective is the Program in establishing and maintaining partnerships with other federal departments and international partners?
- How effective is war crimes training provided to program staff?
- To what extent have program partners used performance data to manage the Program and guide policy?

#### **3.2.1. Changes in Governance Structure**

##### **Summary Findings**

Interviews with program staff and staff of other departments, the survey of program staff and the case studies provide evidence that changes in governance and structure, including the establishment of a higher level War Crimes Steering Committee and of the PCOC (with a revised sub-committee structure) as well as significant clarifications in departmental roles and responsibilities have resulted in a more cohesive program. The same sources report that there

were very significant improvements in program coordination (mainly through coordinated priority setting and joint assignment of cases to specific remedies) during the evaluation period.

### **Evaluation Evidence**

Responding to questions about governance structures, interviewees and respondents to the online survey made reference to a range of organizational or structural changes in the Program in the period since the last evaluation. These changes were also confirmed in program documents including Annual Reports, minutes of the PCOC, interdepartmental memoranda of understanding and case-related documents reviewed for the case studies. The key changes are:

- Establishment of the War Crimes Steering Committee to deal with issues relating to policy and allocation of resources across participating departments;
- Establishment of the PCOC; and
- Clarifications of the role of participating departments, particularly further clarification in 2004 of the respective roles of the RCMP and DOJ War Crimes Units in investigation and case preparation.

The majority of program departmental staff interviewed reported that changes in the governance structure had resulted in a more cohesive and more efficiently coordinated program. In particular they pointed to:

- Clearer policy guidance from the ADM level War Crimes Steering Committee including guidance on resource allocation and priority to be placed on different remedies;
- Much clearer definition of roles and responsibilities and improved collaboration, in particular between the War Crimes sections of the DOJ and the RCMP. This was cited by a number of interviewees as a very significant improvement on the working relationship described in the 2001 evaluation; and
- Improved clarity and effectiveness in the work of the file review sub-committee of PCOC.

Most interviewees from other (non-program) federal departments who were very familiar with the governance structure reported that roles and responsibilities seemed to be well defined.

As the survey was directed at program staff with an operational focus, it did not include direct questions on governance and policy. However, this group was asked to rate the clarity of role definitions and the effectiveness of program communications both among program departments

and with international partners: all factors which can reasonably be related to the changes noted above.

Two thirds of survey respondents rated the clarity of departmental roles and the effectiveness of interdepartmental communications positively. Without comparing this result to an earlier survey, it is impossible to know if this is an improvement over the situation before the noted changes in governance were made. At the same time, the 2001 evaluation pointed to the need to make significant improvements in the clarity of role definitions and in interdepartmental coordination and communications.

The case studies show that remedies like revocation of citizenship and deportation sometimes encountered significant problems in the coordination of the investigative phase, including strained relations between RCMP investigators and DOJ War Crimes Section staff assigned to the case. These resulted from unclear role definitions subsequently clarified in the RCMP/DOJ Guiding Principles Document of 5 November 2004. Coordination improved significantly after 2004, with the DOJ and CIC units proceeding in close cooperation and the RCMP War Crimes Section providing effective support through DOJ.

The remedy of inquiry and removal from Canada under the IRPA was also illustrative of the changing quality of program coordination and roles definitions. It was characterized by much clearer understanding of roles and responsibilities and better communications among the program departments involved.

Regular PCOC meetings also played an important role in coordinating these cases. As an example, staff attended a PCOC meeting to discuss an appropriate remedy once it became clear that extradition was a possibility. Case three also highlights the improvement in coordination resulting from changes in the Program governance and structure (operation of PCOC file review sub-committee and roles clarification among program departments).

Interviewees for the country studies compared the governance arrangements and structure of the Program with those of Australia, the Netherlands and the USA. In all three cases, they pointed to the integration of the four Canadian departments into a single program as evidence of a higher level of coordination in comparison to their own jurisdiction. This observation does not point directly to changes in governance and structure in the Program, but it does support the principle of achieving integration through a common program with central governance and coordinating mechanisms.

### 3.2.2. Changes in Policy

#### Summary Findings

The document review, interviews, staff survey and indirectly the country studies provide considerable evidence that the three policy changes relating to the policy development role of PCOC, resource allocation decisions undertaken by the War Crimes Steering Committee and refinements to file review criteria and processes have contributed to improving the cohesiveness and effective coordination of the Program.

#### Evaluation Evidence

Three important policy changes during the evaluation period gave new direction to operational priority setting, influenced resource allocation decisions, had an impact on the ongoing inventory of cases, and influenced the choice of remedies and the priority given to cases. The three changes noted included:

- The increased role in policy development undertaken by the PCOC through the work of sub-committee on file review;
- Decisions on resource allocation taken by the War Crimes Steering Committee which emphasized the priority given to modern war crimes cases and to immigration remedies (2007) without excluding either World War II cases or prosecutions; and
- The PCOC *File Review Policy Adjustment* (2006) dealing specifically with files in, or being added to, the RCMP/DOJ inventory.

The file review policy adjustment replaced the older two-stage process with its different criteria for each stage, by combining them in a single screening process. Under the new policy,<sup>11</sup> in order for an allegation to remain in the RCMP/DOJ inventory (under investigation for potential criminal prosecution), it must meet the following criteria:

- The allegation must disclose personal involvement or command responsibility on the part of the person alleged to be involved;
- The evidence pertaining to the allegation must be corroborated; and
- The necessary evidence must be available in a reasonably uncomplicated and rapid fashion.

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<sup>11</sup> *File Review Policy Adjustment Proposal: 2006*. P.3.

However, a file may be added to the inventory if not all three criteria are met, provided that:

- The allegation pertains to a Canadian citizen living in Canada or to a person present in Canada who cannot be removed for practical or legal reasons; or
- Policy reasons such as the national or public interest, or over-arching reasons related to the interests of the War Crimes Program, international impunity or the search for justice exist.

The majority of interviewees from program departments agreed that these policy changes had clarified overall program priorities without prejudicing remedies such as prosecution. They pointed to the changed file review criteria and single-stage file review process as an important operational output of policy change.

Some interviewees from other departments highlighted the adjusted file review criteria and the renewed policy emphasis on modern war crimes and immigration remedies as examples of changes contributing to an improved program focus and, potentially, to improved program efficiency.

External stakeholders in Canada and internationally pointed out that it remains important that the remedy of investigation and criminal prosecution is visibly present in the Canadian Program if Canada is to make an effective contribution to a global effort to combat impunity. In the view of the evaluation team, this last point is met by the fifth file review criteria allowing for cases to be assigned or maintained in the RCMP/DOJ inventory for policy reasons relating to international impunity.

Survey respondents generally gave a positive assessment to the adequacy of program policies and case assessment criteria.

**Table 3: Online Survey Responses Relating to Policies and Priorities**

Respondent rating of the adequacy of Program elements	Somewhat or Very Adequate	Somewhat or Very Inadequate
	Percent	Percent
Adequacy of departmental and agency policies	86	15
Adequacy of criteria for case assessment	73	27

There was no discernible pattern in the comments made by those respondents who felt that one or more of these dimensions of the Program were inadequate. A few did point to what they see as a need for even more stringent file review criteria to avoid pursuing cases with little prospect for criminal conviction or removal.

### **3.2.3. Program Management and Service Delivery**

#### **Summary Findings**

The evaluation period has been characterized by improvements in policy development and analysis, improved screening of cases through strengthened criteria and more explicit priority setting, and improved interdepartmental coordination. There is, however, a clear need for training of new staff regarding departmental roles and responsibilities and a need to invest in converting the Modern War Crimes System (MWCS) database onto a platform which can be updated by CBSA.

#### **Evaluation Evidence**

This question concerns the effectiveness of the Program in supporting service delivery and management, in particular with regard to case analysis and case screening, more specifically:

- Contextual and case-specific research;
- Contextual and case-specific intelligence gathering;
- Information sharing in the context of crimes against humanity and war crimes;
- Information sharing on specific cases;
- Case screening and priority setting (including the choice of remedies); and
- Interdepartmental communications.

A majority of departmental staff taking part in interviews pointed to improvements in the file review criteria (as detailed above) and to more effective operation of the file review sub-committee of the PCOC as factors contributing to improved screening of cases. Some attributed this to better understanding of departmental roles and responsibilities based on formal agreements and memoranda of understanding. Most interviewees from program departments also pointed to improvements in interdepartmental communications during the evaluation period.

Most departmental staff also indicated that the Program was effective in research and intelligence gathering, as well as sharing information on program context and on specific cases, with one important exception relating to the MWCS.

MWCS is an electronic database designed to assist CBSA and CIC officers in the investigation of modern war crimes and crimes against humanity. It contains open source data compiled by

program researchers as well as operations memoranda, screening tools, legislation, legal opinions and jurisprudence. Unfortunately, MWCS originated on a CIC electronic platform prior to the creation of CBSA. When the War Crimes Section of CIC was transferred to CBSA, the database remained on a CIC platform and was not transferred to CBSA. This means that CBSA, as the main user of MWCS, cannot input new information into the system or update it as the platform used by the agency is not compatible with the one used by CIC. Only CIC has the right and capability to update MWCS.

Program staff at CBSA point to resource constraints and the priority given to other systems projects as the reason for the delay in resolving systems issues restricting the updating of MWCS material.

Survey respondents were positive with regard to the adequacy of gathering and sharing intelligence on the context and history of war crimes (see Table 4). They were somewhat less positive regarding gathering and sharing case-specific intelligence, but more than two thirds still rated this aspect of the Program somewhat or very adequate.

**Table 4: Online Survey Responses Relating to Management and Service Delivery (Q7)**

Respondent rating of the adequacy of Program elements	Somewhat or Very Adequate	Somewhat or Very Inadequate
	Percent	Percent
Gathering intelligence on the context and history of war crimes	81	19
Sharing intelligence on the context and history of war crimes	82	18
Gathering intelligence on allegations against specific individuals	72	28
Sharing intelligence on allegations against specific individuals	68	32

The first point in Table 5 indicates that 35% of respondents identify issues in the availability of background information generally. Though the question did not specifically ask about information accessible through MWCS, when combined with interview results, it appears to relate to problems in updating the MWCS. A few interviewees in regional offices of CBSA and in posts abroad raised the issue of the need to update MWCS material as an important factor limiting the availability of background information.

**Table 5: Online Survey Responses Relating to Management and Service Delivery (Q10)**

Extent Respondents Agree or Disagree With:	Agree	Disagree
	Percent	Percent
Background information on events connected with war crimes is accessible and sufficient	65	35
Information to substantiate individual allegations is available	61	39

In commenting on the apparent problem of access to case-specific information and intelligence sharing, a few respondents from CBSA regional offices noted difficulties in accessing secret data in electronic databases at headquarters. Similarly, a few RCMP staff reported difficulties in securing case-specific data from CBSA/CIC electronic files. The evaluation team followed up on this observation in interviews with CBSA and RCMP headquarters staff, who pointed to a recently signed Memorandum of Understanding on access as an effective response to the situation. This was confirmed in a few interviews with investigative staff in both departments.

The five case studies present a more positive picture of the availability of general and case-specific information than the survey of departmental staff.

The case on revocation of citizenship did point to problems in gathering and sharing general and case-specific information. Significantly, those problems occurred in the first phase of the case, prior to 2003. The study points to a significant improvement in the availability of contextual and case-specific data from 2004 to 2008. This improvement in information sharing is attributed to clarification of the respective roles of RCMP and DOJ investigators in 2004.

The remaining case studies all reported no important barriers to information sharing across the four departments. The case study of denial of refugee status provided an example of excellent communications among the DOJ, the War Crimes Section of CBSA headquarters and CBSA regional offices.

Survey respondents and a few interviewees in program departments did call for further refinement in the understanding of departmental roles (with one-third of survey respondents calling for improved clarity). Follow-up analysis of the open-ended responses to the survey questions and selected key informant interviews strongly points to fairly rapid staff turnover rates and some delays in training of new staff in regional offices in Canada and in posts abroad as the most probable cause of this reported problem. In a program as complex as this one involving staff from four departments, there is a need to frequently update and educate staff on departmental roles and responsibilities.

### **3.2.4. Partnership – Other Border Management Initiatives**

#### **Summary Findings**

Despite some differences of opinion on the necessity of integrating program activities with border management initiatives relating to organized crime and terrorism, there are concrete examples of integration especially (but not exclusively) at regional offices and posts abroad. While the evaluation issue is worded in terms of partnerships with other border management initiatives, the Program has in fact pursued a relationship much closer than partnership by being integrated into organizational units and activities aimed at addressing organized crime and counter-terrorism. Operationally, this provides the benefit to regional and overseas staff of having a single source of information on war crimes, organized crime and counter-terrorism.

#### **Evaluation Evidence**

The relevant border management initiatives identified in the documents reviewed and during key informant interviews are those dealing with organized crime and counter-terrorism. Interviewees differed in their awareness and support of the Program's integration into border management initiatives relating to organized crime and counter-terrorism. Generally speaking, CBSA, CIC and RCMP staff were more likely to claim a strong rationale for integration and partnership than the staff of the DOJ War Crimes Section. Perhaps because they are less involved than the other departments and agencies in specific border initiatives, some DOJ staff felt that:

- Those involved in crimes against humanity and war crimes may have a criminal background prior to the conflicts which led to accusations against them, but do not generally pursue these activities in Canada; and,
- There seems to be relatively little overlap between those people in Canada suspected of war crimes and persons or networks engaged in organized crime or terrorism.

It is important not to carry this distinction too far. Virtually all interviewees in the four program departments saw a strong need for integrating program operations within the broad range of Canadian border security and immigration integrity management systems. Since organized crime and counter-terrorism measures have been integrated into this wider system, it seems logical that measures for dealing with those involved in crimes against humanity and war crimes should be integrated as well. Through this integration, regional and overseas staff are able to access a single source of information on war crimes, organized crime and counter-terrorism.

Interviewees with specific knowledge of areas of partnership and integration with other border management initiatives pointed to CBSA's integration of program activities with those relating to organized crime, counter-terrorism, and strategic export control under its National Security Division as one example of effective partnership. They also noted the integration of functions relating to war crimes, organized crime and counter-terrorism at a regional level within Canada, with support to the regions provided by the RCMP and DOJ, and regional integration by CBSA.

The country studies provided one interesting example of an overlap between war crimes and organized crime. The Netherlands' *International Criminal Offences Act* provides for jurisdiction over war crimes, including arms trafficking, when a person is resident in the Netherlands. This definition of arms trafficking as a war crime provides an example of a direct legal link from organized crime to war crimes in one jurisdiction.

### **3.2.5. Partnership – Other Federal Departments and International Partners**

#### **Summary Findings**

Document reviews and interviews conducted for the evaluation indicate that the Program has established effective partnerships with other departments and agencies of the Canadian Government. Relations between DFAIT and the Program are characterized by most interviewees as effective, despite some disagreements on the specific issue of denying entry to some former officials of designated regimes. The Program maintains a continuing dialogue with DFAIT staff on these issues.

Similarly, all data collection methods relevant to this issue (document reviews, interviews with departmental staff, interviews with international partner agencies, the case studies of other jurisdictions) point to a high level of effectiveness in developing and maintaining partnerships with relevant international organizations. The Program has clearly been shown to be effective in developing and maintaining international partnerships.

#### **Evaluation Evidence**

##### *Other Government of Canada Departments and Agencies*

Program documents provide examples of policy and operational aspects of the Program mandate requiring program units to cooperate with other departments and agencies including DFAIT, the Department of National Defence (DND) and the Canadian Security and Intelligence Service

(CSIS). Similarly, Program Annual Reports and operational documents show examples of the necessity of collaboration between the DOJ War Crimes Section, the DOJ International Assistance Group and DFAIT when dealing with, for example, extradition cases.

Similarly, the majority of those interviewed in the four program departments were of the view that the Program had been actively engaged in establishing and maintaining partnerships with other federal departments, including DND, the Public Prosecution Service of Canada (PPSC), the Public Service Commission (PSC), the Privy Council Office (PCO), DFAIT and CSIS. They characterized this engagement as mainly informal in nature and based on the need to share information on specific files or working relationships relevant to joint involvement in cases, as with the PPSC.

Where they had experience of collaboration and cooperation with the Program, officers of other federal departments often pointed to good cooperation and effective partnership (for example in the Interdepartmental Working Groups on the ICC and International Criminal Tribunals for Yugoslavia (ICTY) and Rwanda (ICTR)).

At the same time, a few interviewees noted that there was some scope for improvement in the Program's partnership with, in particular, DFAIT. Difficulties in the partnership have arisen when DFAIT seeks to obtain permission for individuals to enter Canada who are former officials from governments considered to have engaged in gross human rights violations or who are otherwise suspected of having been involved in crimes against humanity or war crimes. Denial of visas to some of these persons (who may now be participating in post-reform democratic governments) may negatively affect Canada's bilateral relationship with the countries involved.

It is important to point out, however, that people who have been involved in crimes against humanity and war crimes remain inadmissible to Canada, according to existing legislation. Program staff also pointed out that they maintain an open dialogue with DFAIT and have provided crimes against humanity and war crimes training to their officers in the past year.

### *International Partners*

The most direct evidence of the effectiveness of the Program in developing and maintaining partnerships with international partner agencies can be found in the responses of international interviewees. The majority (14 of 23) responded that Canada has been very effective in establishing and maintaining these partnerships and has been very proactive in doing so. The factors they cited included:

- The ease of communicating with an integrated program;
- The willingness of program staff to support and assist other war crimes units through sharing information, policy dialogue, training support and other interventions;
- The visibility of the Canadian Program (including exposure through participation in working groups and international conferences); and
- The number of Canadians, some with a background in the Program, who are working with international tribunals dealing with war crimes and crimes against humanity.

One example of the level of close international partnerships given by both departmental staff and international agency representatives was Canada's place as the only non-European Union member of the European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes.

The RCMP also hosted the third annual International Expert Meeting on Genocide, War Crimes and Crimes Against Humanity at its headquarters in Ottawa (jointly with Interpol) – the only time it has been held outside Europe.

Turning to the survey of program staff, 97 percent of respondents indicated the Program had been effective in providing support to international organizations. As examples they cited participation in, and hosting of, international conferences, provision of training to other country staff, provision of information in support of cases, and assignment of Canadian staff to work with ICTY and ICTR, in particular.

The case studies also provided examples of effective international partnership. Three in particular (Criminal Prosecution, Removal Under the IRPA and Denial of Status Under 35 (1) (b)) involved collaboration between program staff and authorities of another government or an international tribunal.

Prosecutions require the development of good relations with police and judicial authorities in partner countries and the country of conflict in order to allow witnesses to be interviewed by program staff. The case of removal under the IRPA relied on information supplied from several foreign governments and ongoing communications with staff from Interpol, an international tribunal, the United Nations (UN) and national authorities of several countries. The denial of status case required staff of IAG at DOJ to work closely with authorities of another country to ensure adequate documentation to support extradition.

While these cases do not provide examples of the Program supporting agencies abroad (rather the reverse), they do demonstrate that the Program is able to collaborate effectively with a range of international partners as required. To some extent this ability is based on learning lessons over time (for example, how to secure the permission of local political leaders to investigate specific cases). On the other hand, it can also be linked to goodwill generated by support the Program has provided to, for example, Interpol or the ICTY and the ICTR.

### **3.2.6. Effectiveness of Training and Other Tools**

#### **Summary Findings**

The Program faces an important challenge in providing adequate training to staff in all four participating departments. In particular, this seems to be an important problem for staff outside headquarters. There is also an apparent need for strengthening training for staff newly appointed to positions where they deal with crimes against humanity and war crimes issues.

Program manuals and other tools have been demonstrated to be relevant and useful although there is also a need for more frequent updating of some of these tools. In particular, the MWCS has not been kept adequately up to date, mainly because of problems relating to the electronic platform used to host the database.

#### **Evaluation Evidence**

The review of selected presentations, other training tools and operational manuals showed that there was a significant level of program-specific training and information dissemination activity being undertaken in the different program departments (especially CBSA and DOJ). The operational manuals reviewed were clearly relevant to the operational requirements of the Program and some were undergoing updating and finalization at the time of the evaluation.

Similarly, during interviews, some respondents from program departments reported that they had access to manuals and guidelines that were helpful (e.g., were recently updated to include an overview of war crimes) while other program staff noted that the material required updating and that was done infrequently because of a lack of resources.

Almost all program department respondents commented that the MWCS was out-of-date and needed improvement, including strengthening links to other systems on organized crime and counter-terrorism.

Some respondents indicated that training was provided, was useful, and had recently been improved (including, for example, more training made available to DOJ staff). However, most respondents noted that there was room for improvement. They cited as examples: a limited number of training sessions with a limited number of spaces offered to their organizational unit; more training required for front-line staff (including training in screening visa applications for visa officers, training in preparing and presenting cases before the Immigration Division, training in the use of online databases and Web-search methods, and training in investigative methods for supporting immigration remedies); the need for an annual conference among practitioners within the partner departments as well as DFAIT and DND; absence of a solid introductory course for new staff; and the need for enhanced training in French.

The single most frequent training need mentioned was the need to provide specialized training to staff assuming positions where they are engaged with the Program for the first time, especially CIC and CBSA staff in posts abroad and CBSA staff in regional offices in Canada (also including RCMP Liaison Officers at posts abroad).

Respondents to the online survey tended to rate training as one of the weakest program elements. Over one-third (37 percent) rated training as very or somewhat inadequate. Similarly, when asked if they agreed that training was adequate to support their work in addressing war crimes, 47 percent of survey respondents disagreed.

In order to make sure that the fairly negative survey responses on training were not confined to a single department, the evaluation ran cross-tabulations by department of the responses to both questions. The cross-tabs indicated that DOJ representatives were less likely to rate training negatively.<sup>12</sup>

**Table 6: Cross-tabulations of Negative Responses to Adequacy of Training by Department (Q7 & Q10)**

	<b>CBSA</b>	<b>CIC</b>	<b>DOJ</b>	<b>RCMP</b>
	Percent	Percent	Percent	Percent
Training somewhat or very inadequate (Q7)	39	63	18	44
Disagree or strongly disagree on adequacy of training (Q10)	59	50	26	46

When the responses are compared between those stationed at headquarters (or in units in Ottawa) and those working in regional offices or posts abroad, there is a considerable difference. Only 28

<sup>12</sup> Care must be taken in interpreting this data given the very small numbers of respondents in each cell. Since the survey was not a random sample of staff but a directed survey aimed at staff with operational expertise, statistical validity cannot be assessed.

percent of headquarters staff rated training as somewhat or very inadequate compared with 48 percent of respondents from regional offices in Canada or from posts abroad. This difference is much more noticeable than any noted across the four departments taken as a whole. It may result from the fact that many overseas and regional staff had been recently appointed to their current posts (in comparison to their colleagues at headquarters) and had not yet received training.

Finally, when asked if resources for training and professional development were adequate, 58 percent of respondents (from all program departments) rated them as very or somewhat inadequate. Some interviewees link this lack of financial resources to the lack of funds for training in the most recent Program renewal decision.

Other challenges in the area of training noted during key informant interviews or listed as comments by survey respondents included:

- A limited number of training sessions available, especially for front-line staff, and of limited duration;
- A need for more systematic introductory training, especially for newly posted staff;
- A tendency for war crimes issues and procedures to be included only as very brief segments or modules in broader training packages; and
- Inconsistent training material across regional offices, even within the same department.

In contrast to the interview responses and survey results, the case studies provide examples of how manuals, guidelines and other tools developed to guide departmental investigation and immigration enforcement processes are used at different steps depending on the remedies sought. The RCMP War Crimes Section, for example, now relies on the Major Case Management System used in all complex investigations to guide its approach to war crimes investigations. Cases 3, 4 and 5 all illustrate how CBSA staff made effective use of Enforcement Manuals at different stages in the process.

### **3.2.7. Utilizing Performance Data for Program Management and Policy**

#### **Summary Findings**

There are concrete examples of the Program making use of performance data on allegations to make changes to operational policy and managerial processes. The Annual Reports also provide much of the necessary performance data on program outcome for the remedies available. At the

same time, however, there are serious gaps in the performance monitoring system relating to information on training, education and outreach activities.

There is also an opportunity to strengthen operational management through investments in improving and integrating existing CBSA/CIC databases including NCMS and MWCS to provide performance information on interim outputs of immigration remedies.

### **Evaluation Evidence**

The Program's overall accountability structure is detailed in the *Result-Based Management and Accountability Framework (RMAF) for the Crimes Against Humanity and War Crimes Program* (March 2006) prepared collectively by the four participating departments and published by DOJ.

The RMAF makes it clear that the primary mechanism for program performance reporting is the Annual Report providing the Canadian public with information on activities and results each year. The Annual Report presents information from the Modern War Crimes Inventory along with a summary of WWII cases and supplementary data from CBSA and CIC on outcomes relating to immigration remedies.

The RMAF goes further, however, and identifies four key elements of program performance to be monitored:

1. Changes in governance and their contribution to program organization and effective use of resources;
2. Efficient coordination to be monitored through a five-year operational plan approved by PCOC;
3. Collaborative training and outreach activities; and
4. The allegation management process and its outcomes to be monitored to identify best practices or lessons learned which can be incorporated into policies and procedures guiding the handling of allegations.

The RMAF also sets out targets and indicators for each of the four elements of performance and assigns responsibility for data collection to PCOC and the four departments. There is no single program performance report summarizing data on all indicators on a regular basis.

On the other hand, many indicators relating to Element 4, allegation management, are reported in the Program Annual Report. Similarly, the Annual Report and PCOC meeting minutes (and concept papers reviewed by PCOC) often review information on Element 1, program governance, and Element 2, coordination. It can also be argued that issues of governance and coordination are most effectively dealt with through periodic evaluations rather than ongoing monitoring.

There are also concrete examples of the use of allegations-related data to make policy changes and to alter program processes including the *File Review Policy Adjustment* approved by the War Crimes Operations Committee in September 2005 and a second *File Review Policy Adjustment* in 2006, as discussed in Section 3.2.2 above. The stated purpose of those changes in policy and in the file review process was to streamline the allegation management process by gathering more information prior to a decision by PCOC on adding or retaining allegations to the RCMP/DOJ inventory. By applying more stringent file review criteria, the changes were also aimed at achieving a better match between limited investigative resources and high-priority cases with the potential for prosecution.

The program performance element of the RMAF with the lowest level of coverage in program documents and reports is Element 3, efficient and effective training, education, outreach and international activities. Program departments were able to give specific examples of all indicators listed for this area: manuals and tools developed, information requests met, training courses and sessions held, conferences attended and knowledge transfer activities. What is missing is an analysis of the volume of these activities and any systematic effort to track their effectiveness through, for example, pre/post course knowledge assessments or follow-up contacts with trainees.

Most interviewees (especially from the RCMP and DOJ War Crimes Sections) felt strongly that the most important program performance information is readily available in the Annual Reports. They added that it has been used to change policy to deal more rationally with the inventory of cases and to strengthen case management and the process of allocating cases to different remedies. For DOJ and RCMP staff interviewed, the available data is sufficient to allow them “to manage the inventory in a cost-effective way.”

Some CBSA and CIC staff interviewed indicated an operational need for more detailed monitoring data on case loads and interim program processes such as processing times for background checks on visa requests involving war crimes allegations. A few pointed to problems in national immigration data systems as a platform to build performance data for the Program. As

an example, they cited the National Case Management System (NCMS) and indicated it did not permit them to identify and track the volume of war crimes cases efficiently at a regional level.

### **3.3. Program Success**

- To what extent has the Program contributed to increased knowledge and awareness among stakeholders?
- Are allegations managed efficiently and effectively?
- Does the Program continue to demonstrate Canadian leadership?
- To what extent does the Program assist Canada in meeting international obligations?
- To what extent has the Program deterred war criminals from coming to Canada?
- To what extent has the Program met the objective of Canada's no safe haven policy?
- What unintended impacts and effects have resulted from the Program?

#### **3.3.1. Increased Knowledge and Awareness Among Stakeholders**

##### **Summary Findings**

There is a striking difference in the perceived success of the Program in contributing to knowledge and awareness creation internationally and in Canada. International partner organizations and external advocacy and research organizations abroad are very familiar with, and can give examples of, the international activities of program staff. More importantly, they feel strongly that these activities have made an important contribution to raising and maintaining the profile of international efforts to deal effectively with those accused of crimes against humanity and war crimes.

Interviewees, including departmental staff and external stakeholders, gave fewer examples of outreach activities in Canada. They felt that the level of domestic awareness should be higher and that the Program could do more to raise it. Further, there is a strong consensus among program staff at all levels that there is a rationale for more intensive outreach and awareness building activities, and that resources should be devoted to these activities.

## **Evaluation Evidence**

### *International Stakeholders*

The majority of interview respondents from international organizations commented that the Program had consistently made important contributions to international awareness of issues relating to crimes against humanity and war crimes. They gave many examples of international awareness-raising activities undertaken by program staff that they felt had been effective means for raising the international profile of war crimes issues and for developing international support to combat impunity:

- Participating departments from the Program hosting conferences on war crimes issues (for example, the joint RCMP/Interpol International Expert Meeting on Genocide, War Crimes and Crimes Against Humanity in Ottawa in 2007);
- Membership by program staff in international working groups on war crimes and crimes against humanity;
- Attendance by program staff at international conferences where they have presented important findings on effective programming;
- Providing support through training to war crimes units in other countries (for example, the mentoring program with Australia);
- Presentations to officials in countries where war crimes have occurred in the past - to assist them in establishing or strengthening judicial and investigative processes;
- Supporting the work of the ICC and other International Criminal Tribunals, especially by sharing information and responding to requests for case-specific intelligence;
- Enacting and promoting specific legislation on crimes against humanity and war crimes and harmonizing national legislation with the Rome Statute; and
- Creating the interdepartmental program and promoting this model as an effective means of addressing the issues of universal jurisdiction.

Interviewees from international partner organizations and university researchers from outside Canada indicated that the activities listed above were effective means for raising the international profile of war crimes issues and for developing international support to combat impunity.

One staff member of a European war crimes unit indicated that they looked to Canada to represent the North American perspective on global efforts to deal with crimes against humanity and war crimes. Another noted Canada has developed a reputation for high standards in conducting investigations and for being accessible to provide assistance to jurisdictions with less experience.

### *Stakeholders in Canada*

Evaluation evidence on effectiveness of the Program in contributing to knowledge and awareness (including awareness of the Program itself) in a Canadian context is more equivocal.

Interviewees from participating departments, for example, are evenly split on the issue. One half of respondents commented that the Program has increased awareness through, for example, outreach activities to NGOs working with immigrant communities. The other half of respondents from program departments felt the Program had not contributed significantly to an increase in awareness in Canada and needed to do more. In particular they pointed to:

- The need to more vigorously promote the achievements of the Program in denying safe haven through removals and by denying entry; and
- The need for more outreach to communities to publicize the Program and its achievements.

External stakeholders in Canada were also of the view that more needs to be done to provide public education and outreach to community groups and NGOs if they are to make an effective contribution to the Program success and to the over-arching objective of denying safe haven.

Organizations representing victims of torture or specific immigrant communities from countries where crimes against humanity and war crimes have occurred felt their constituents could make an important contribution to identifying those involved who now reside in Canada. They stated that they believe their members would also be more willing and able to assist RCMP investigators by providing information or identifying witnesses if they were 1) more aware the Program existed, and 2) believed that the perpetrators of the crime would be sought out and either punished or removed from Canada.

The case on inquiry and removal under the IRPA revealed that such cases can be subjected to a high level of media scrutiny. One lesson noted in the case study was the value of fielding a communications team early in the process to provide effective and clear messages regarding the reasons for seeking extradition. This was especially important because some media were very

critical of the fact that the case did not result in criminal prosecution. Reportedly, effective messaging resulted in more positive media coverage during the course of the case.

The media analysis confirmed that both Canadian and international media outlets focused considerable attention on high profile criminal cases, whether aimed at prosecution under the CAHWCA or at revocation of citizenship and removal from Canada. This analysis indicates that high profile cases pursued on behalf of the Program can play an important role in domestic awareness building.

Finally, when asked to comment on the adequacy of resources available to the Program for outreach and communications with the public, 56 percent of respondents in the survey of departmental staff indicated the resources available were inadequate.

### **3.3.2. Allegations Managed Efficiently and Effectively**

#### **Summary Findings**

While opinions differ across the groups surveyed or interviewed, the most frequent observation is that allegations are managed reasonably effectively given the level of resources available to the Program. Very often respondents link the effectiveness of allegation management to financial and human resources. In essence, they often convey the message that the Program is doing reasonably well with the human and financial resources it has, but these are not sufficient.

The relative efficiency of remedies relating to denying visas or access to refugee status in comparison to revoking citizenship or prosecuting war criminals in Canada is seen by many interviewees as reason to give those remedies higher priority (but the same interviewees see the more complex and costly remedies, such as prosecution, as essential to the integrity of the Program).

Overall, there have been clearly identifiable improvements in the effectiveness of allegation management in the Program based mainly on improved coordination, better definition of priorities and clearer criteria (and processes) for assigning cases to appropriate remedies.

## Evaluation Evidence

The RMAF for the Crimes Against Humanity and War Crimes Program defines allegation management as “the way in which the Program partners determine the disposition of individual cases.”<sup>13</sup>

The latest published data on the inventory of allegations can be found in the Program’s 9<sup>th</sup> Annual Report.

**Table 7: Allegations and Open Case Files 2005/06**

Department	Type of Allegation/Activity	Numbers in 2005/06
Dept. of Justice/RCMP	Active Modern War Crimes Files (Under Investigation)	57 <sup>14</sup> (10 files added in 2005/06)
Dept. of Justice/RCMP	Active WWII Files	37
CIC/CBSA	Cases Reviewed Abroad	3,024
CIC/CBSA	Cases Reviewed in Canada	1,405
CIC/CBSA	Inventory of Cases Under Investigation Abroad	639
CIC/CBSA	Refugee Cases Under Investigation in Canada	346
CIC/CBSA	Non-Refugee Cases under Investigation in Canada	27

*Source: 9<sup>th</sup> Annual Report of the Crimes Against Humanity and War Crimes Program, 2005/06*

Program department staff were evenly divided on the extent to which allegations were managed efficiently and effectively at each step in the process (from screening and analysis to civil or criminal action). Half indicated that allegations were efficiently and effectively managed and, further, that the Program had improved significantly over the period from 2001 to 2008, mainly through:

- More coordinated process at each step through the work of the PCOC and its file review sub-committee;
- Clearer priority assigned to remedies as a result of the 2006 update of File Review Criteria;

<sup>13</sup> RMAF, p. 15. The RMAF also describes the components of allegation management as: Screening and Analysis; Legal Advice and Support; Assessment and Recommendations; Criminal Investigations; and Civil or Criminal Actions.

<sup>14</sup> The number of cases in the DOJ modern war crimes inventory fluctuates over time with 57 reported at the end of 2005/06 in the latest Annual Report.

- Improved ability of the File Review Sub-Committee to select the most appropriate remedy and allocate cases to departmental action;
- Increased effectiveness in carrying out removals each year;
- Improved screening of visa applications abroad; and
- Improved investigations by the RCMP and CBSA.

While not necessarily disagreeing with these improvements, the same number of respondents pointed to areas requiring improvement, including:

- Reducing the time required for revocations of citizenship;
- Improving the still relatively slow pace of removals;
- Increasing both staff and financial resources for investigations and prosecutions; and
- Increasing the small number of prosecutions of Modern War Crimes.

The pattern of responses was also mixed across the interviews with other federal departments, international partners and external stakeholders in Canada. Some respondents from other departments felt there was room for improvement in allegation management, mainly by placing even more emphasis on preventing entry as the priority remedy (they argued this point mainly from a cost effectiveness perspective). In contrast, a few respondents from other departments felt that allegations were being adequately managed, given the resource constraints of the Program and the labor intensive, costly and time-consuming nature of prosecution.

Most international partners and external stakeholders in Canada were unable to provide an informed response to questions on allegation management, since they were unfamiliar with how allegations are managed and had no knowledge of outcomes of the process.

At the same time, both international partners and external stakeholders in Canada (a few from each group) found the number and rate of criminal prosecutions disappointing. Although they appreciated that immigration remedies may be more cost effective, they felt Canada should make more use of prosecutions. In their view, relying on immigration remedies to such an extent, limits Canada's ability to play an effective part in combating impunity since those involved in war crimes will often not be prosecuted in the jurisdictions where they remain or to which they are returned.

One question on the survey directly addressed the criteria used to assess allegations and assign them to different remedies. When asked to rate the adequacy of criteria for assessing cases, 73 percent of program department respondents indicated they were adequate or very adequate with very little difference between the responses of headquarters unit staff and those of staff in the regions or posts abroad.

The survey also asked program department staff to rate the extent the Program had been successful in achieving some of the outcomes directly associated with effective allegation management (see Table 8). Respondents highlighted the relative success of the Program in securing immigration remedies, namely denial of visas for those suspected war criminals trying to enter Canada, and denying refugee status to those who were already resident. In contrast, they rated the Program’s success in revoking citizenship, removing suspected war criminals to other countries and prosecuting them in Canada much less positively. Respondents based their more negative ratings of these remedies on the legal complexity and, hence, duration of the processes involved. The process flow diagrams presented in Appendix D illustrate clearly the complexity of the required processes for implementing the remedies that have been ranked as less successful.

**Table 8: Survey Responses Relating to Success of Allegation Management (Q5)**

Respondent rating of the Program success: To what extent has the Program been successful in:	Somewhat or Very Successful	Somewhat or Very Unsuccessful
	Percent	Percent
Denying visas for suspected war criminals	89	11
Denying refugee status to suspected war criminals	90	10
Revoking the citizenship of war criminals	41	60
Removing war criminals from Canada	53	47
Prosecuting perpetrators of war crimes	46	54

While survey respondents rated success in allegation management at different levels for different remedies, they still have a positive view of the effectiveness of the Program as a whole. Over 74 percent of those responding were either somewhat or very satisfied with the Program as a response to the policy commitment to deny safe haven to war criminals in Canada.

Interviewees and survey respondents also indicated that one factor limiting the effectiveness of allegation management was a lack of human and financial resources. These observations are discussed in detail in Section 3.4.3 on program resources.

The case studies illustrate one of the important factors leading to the long duration and complexity of many cases (also illustrated in the process flow diagrams): the pursuit of multiple

remedies for a single case as information is gathered and evidence compiled. Three of the four cases involved program staff initiating and managing processes for more than one remedy.

Criminal prosecution, for example, is pursued in parallel with immigration remedies such as denial of access to refugee determination. This is necessary because the decision to move forward to criminal prosecution may not take place until very late in the immigration remedy process. If the decision is made not to prosecute, the person concerned can be removed from Canada under the other remedies, only if a proper case has been prepared and has proceeded through the necessary steps. During the case on Inquiry and Removal under the *IRPA*, four different remedies were pursued at different times during the course of the case before the subject was finally removed.

### **3.3.3. Demonstrating Canadian Leadership**

#### **Summary Findings**

Canada continues to demonstrate global leadership in identifying and publicizing this issue and in its development of a robust and effective legislative framework. Leadership is also demonstrated by the existence in Canada of a comprehensive, integrated interdepartmental program for dealing with war crimes and crimes against humanity. By maintaining a high level of international cooperation and by actively sharing information on the Program and its operations with international partners the Program demonstrates, on an international stage, the commitment of the Government of Canada to the no safe haven policy.

#### **Evaluation Evidence**

##### *Identifying, Defining and Publicizing Issues*

Staff of program departments and other federal departments (as they did for the 2001 evaluation) reported that Canada has continued to demonstrate leadership in identifying and publicizing issues related to war crimes through its ongoing involvement in international exchanges and its support of International Tribunals and foreign domestic programs established to deal with war crimes.

International partners and external stakeholders also report that the Canadian Program is seen as a leading voice promoting cooperation on war crimes issues.

In the last five years, delegations from Australia, Denmark, the Netherlands, the US, and the UK have visited Ottawa to examine and discuss the Canadian program model. One respondent indicated that Canada had been an inspiration for establishing the Danish program and assisted in setting up their Special International Crimes Office. A respondent from Australia noted that the proposal put to the Australian government for a war crimes program was based on the Canadian model. In addition, Canadian program staff have been providing mentoring to war crimes unit staff in both Australia and New Zealand on immigration issues. Survey respondents believe very strongly that Canada continues to demonstrate international leadership in supporting international organizations.

**Table 9: Survey Responses Relating to Global Leadership by Canada Q6**

Extent Program demonstrates Canadian Leadership at a Global Level:	Great or Reasonable Extent	Very Little or Not at All
	Percent	Percent
Effective legislative framework	96	4
Management of allegations	80	20
Support to international organizations	98	2

### *Legislative Framework*

All the different groups interviewed (program departments, other departments of the Government of Canada, Canadian external stakeholders, international partner agencies and international external stakeholders in university faculties and justice advocacy organizations) agreed that the Canadian legislative framework for dealing with crimes against humanity is comprehensive and integrated in comparison to the frameworks available to other countries. Interviewees from international partner agencies often noted that their national response to crimes against humanity and war crimes was dependent on a diverse body of legislation and lacked (with the important exception of the Netherlands) a single comprehensive act covering criminal prosecution for these crimes.

Of the three countries studied for the evaluation, only the Netherlands has a comprehensive and integrated legislative framework on war crimes and crimes against humanity, the *International Criminal Offences Act* of 2003. Australia relies on different elements of its *Migration Act* while the US uses a combination of Attorney General's orders, 1994 legislation on those involved in torture, and the 2004 *Intelligence Reform and Terrorism Prevention Act*.

### *Prosecution*

While Canada continues to be regarded as a global leader, some international stakeholders and a few staff of participating departments felt that at least some other jurisdictions were making more progress in conducting criminal prosecutions, most notably the Netherlands. For the purposes of planning, the Netherlands program targets three refugee cases (Article 1F) and one criminal prosecution of a Dutch national each year.

It is important to compare the rate of criminal prosecution under the Program to the rate in countries with judicial frameworks and rules of evidence similar to Canada's, most notably Australia and the US. Both those countries rely exclusively on immigration remedies (the US mainly through criminal prosecution for immigration fraud, leading to denaturalization and deportation). Neither has launched a criminal prosecution for participation in crimes against humanity and war crimes. In that sense, Canada continues to lead its most comparable counterpart countries in addressing modern war crimes and crimes against humanity through criminal prosecution for participation in the crimes.

### **3.3.4. Meeting International Obligations**

#### **Summary Findings**

There is a general consensus that the Program has made a positive contribution to Canada meeting its international obligations, mainly through:

- A coordinated and integrated interdepartmental approach;
- A robust legislative framework which is coordinated with international commitments;
- International forums and maintaining attention on the issue of crimes against humanity and war crimes; and
- Encouragement and support of other jurisdictions to follow suit.

It is clear that there is no international legal obligation for Canada to allow entry to those suspected of involvement in war crimes and crimes against humanity in order to facilitate their prosecution. The purpose of the policy is to deny safe haven to suspects either by refusing them entry, prosecuting them where reasonable criteria are met, or removing them. The international logic of this system argues that as fewer countries provide safe haven, the scope for impunity will be significantly diminished.

Canada can also argue that its program is well aligned with the approach to universal jurisdiction adopted in legislation in the Netherlands, assigning Dutch courts the authority to prosecute only when the suspect is resident in the Netherlands.

### **Evaluation Evidence**

Departmental staff knowledgeable on the subject of Canada's international legal obligations were unanimous in their view that the Program has assisted Canada in meeting its international obligations through its integrated, multi-departmental approach. They also pointed to the legislative framework discussed in Section 3.1.2 and the fact that it allows relevant Canadian law to be harmonized with the requirements of the Rome Statute and the operations of the ICC.

A few departmental respondents pointed out, however, that there seems to be a contradiction in the requirement to deny safe haven on the one hand, and, on the other, the restriction under the Convention Against Torture prohibiting Canada from removing some perpetrators to their country of origin. While the latter restricts the Program's ability to deport some persons alleged to have been involved in crimes against humanity and war crimes, it is a restriction faced by similar programs in every country signatory to the Convention.

The staff of international partner organizations and of external stakeholder organizations in Canada also generally felt that the Program was assisting Canada in meeting its international obligations. They pointed out that Canada has also encouraged other countries to establish similar programs and to make similar contributions to meeting international standards. In particular, staff of international organizations expressed the view that without the Program, Canada would have little international credibility regarding efforts to meet its obligations under the Conventions outlined above.

A few respondents from Canadian external stakeholder organizations suggested, however, that care should be taken in focusing on denial of entry of suspected persons if those persons either do not face justice in their home countries or are successful in entering a country without an effective war crimes program. In their view, that outcome, while it may meet Canada's goals, does not contribute effectively to the global goal of combating impunity.

On closer analysis, this reasoning has an important flaw. The Program's goal is to deny safe haven in Canada to those involved in crimes against humanity and war crimes and to remove or prosecute them **if they are resident in Canada**. There is no international obligation to permit entry for the purpose of mounting an effective prosecution.

One country study provides insights on addressing international obligations. The Netherlands, in applying the doctrine of universal jurisdiction in its *International Criminal Offences Act* (2003), was very clear to establish jurisdiction for war crimes, provided that the alleged perpetrator is resident in the Netherlands.

### **3.3.5. Deterring Entry into Canada**

#### **Summary Findings**

In summary, it is difficult to demonstrate with any level of certainty that the Program has deterred war criminals from entering Canada. At the same time, there is a general opinion among stakeholders and staff that the existence of the Program, with its range of remedies, including criminal prosecution, represents at least the minimum necessary deterrent.

#### **Evaluation Evidence**

Some respondents from program departments, international partner organizations and external stakeholder organizations in Canada felt that the Program was a reasonably effective deterrent because of the large number of persons denied visas to enter Canada over the life of the Program. They also argued that the existence of the CAHWCA and the willingness of the Program to seek criminal prosecution act as a deterrent, especially given the severity of the associated penalties.

One possible measure of the extent the Program may deter entry into Canada is found in annual data on program activities which might serve as a deterrent. This includes cases investigated abroad for war crimes and crimes against humanity where entry was refused or applications withdrawn as well as exclusions from refugee protection and removals (which may, by serving as an example, deter some of those involved from seeking entry into Canada).

In the five years from 2001/02 to 2005/06 (the period from the last evaluation in 2001 to the latest published data), the Program denied entry to 1,794 persons applying to enter Canada from abroad based on investigations related to war crimes and crimes against humanity (refused or withdrawn). In the same time period, it reported 306 exclusions and 221 removals from Canada for the same reasons, for a total of 2,321.

These numbers do not provide irrefutable proof of the deterrent effect of the Program since we do not know how many persons involved in these crimes decided not to attempt to enter Canada

as a result of these activities. On the other hand, they do point to a significant number of those suspected of involvement who have been denied entry, excluded or removed from Canada.

### **3.3.6. Meeting the Objective of the No Safe Haven Policy**

#### **Summary Findings**

Combining the quantitative data on outcomes and inventory levels with the views of interviewees and respondents, it is still difficult to arrive at a definitive statement of the extent the Program has met the ultimate objective of denying safe haven to those involved in crimes against humanity and war crimes.

It is clear, however, that results reported do show that significant numbers of persons suspected of involvement in crimes against humanity have been denied entry or removed from Canada as a result of program activities. Similarly, the existence and use of the option of criminal prosecution has demonstrated that those involved in crimes against humanity and war crimes face the risk of prosecution and conviction if they come to Canada.

There is an important question, however, relating to the fit between the size of the RCMP/DOJ modern war crimes inventory and the investigative resources available to the RCMP War Crimes Section (with support from the DOJ War Crimes Section). The stringent criteria for cases entering or remaining in the inventory that was established in the most recent PCOC File Review Policy Adjustment is that an allegation must be serious in nature and supported by robust evidence. If only a small minority of these cases can be actively investigated due to limitations in the human and financial resources of the RCMP War Crimes Section, this represents an important limitation on the Program's contribution to the objective of denying safe haven.

#### **Evaluation Evidence**

The strongest indicator of the extent the Program has met the ultimate objective of Canada's no safe haven policy is the type and volume of results reported since the last evaluation in 2001. The 9<sup>th</sup> *Annual Report* provides an overview of results for the six fiscal years from 2001/02 to 2005/06.

**Table 10: Results in Application of Immigration Remedies as Reported by CIC and CBSA**

Results	2001/02	2002/03	2003/04	2004/05	2005/06	Total
Entries prevented	445	355	242	385	367	1,794
Exclusions	51	73	63	79	40	306
Removals	46	48	44	42	41	221
<b>Sub-Totals</b>	<b>542</b>	<b>476</b>	<b>349</b>	<b>506</b>	<b>448</b>	<b>2321</b>
Interventions in RPD hearings	350	242	387	155	237	1,371
Cases reviewed abroad	1,797	2,103	2,300	2,651	3,024	11,875
Cases reviewed in Canada	2,186	303	2,740	2,077	1,405	8,711

Source: DOJ: 9<sup>th</sup> Annual Report of the Crimes Against Humanity and War Crimes Program. 2005/06

As the prospects of successful prosecutions are increasingly unlikely for WWII crimes, in recent years the Program has focused on revocation of citizenship. For example, the Program RMAF, published in 2006, indicated that at the end of 2004/05, the inventory for WWII cases included 246 initial allegations and 55 active investigative files. There were three WWII-related revocation cases in court and five WWII-related cases awaiting a possible recommendation to CIC for revocation at that time. In 2006/07, the number of active WWII files had been reduced to 20.

In 2007, four WWII cases were forwarded to the Governor in Council with a recommendation for revocation of citizenship and removal following a ruling by the Federal court in each case. Of those four cases, the Governor in Council approved revocation of citizenship in two cases.

The prosecution under the CAHWCA now before the courts represents the initial test case for criminal prosecution under the Act. It has gone some way to establishing the scale, cost and complexity of investigations and prosecutions of this type and can be expected to influence policy and practice under the Program going forward.

Considering the interview responses, over half of respondents from the Program departments and most of those from other federal government departments were unable or unwilling to give an informed response to the question of the overall impact of the Program on Canada's no safe haven policy. Among those that did give an opinion, however, most felt the Program had contributed to achieving the overall objective by preventing entries, excluding and removing suspects who have entered, and by demonstrating a willingness to undertake criminal prosecution where it is warranted.

External stakeholders were also generally uncomfortable with making an overall judgment on the effectiveness of the Program but a few felt that the Program was achieving generally positive

results. Notably, 74 percent of respondents to the online survey of program department staff describe themselves as satisfied with the Program as a response to denying safe haven to those involved.

Some interviewees have argued that there is a major imbalance between the investigative staff resources (and operational budget) of the RCMP War Crimes Section and the size of the inventory of active modern war crimes files. They think that this imbalance argues for shifting more to the immigration remedies and reducing the inventory of criminal investigations. They also note that even if the inventory were halved by use of more stringent criteria, it would still exceed both the investigative capacity of the RCMP War Crimes Section and the budget for prosecutions available to the DOJ War Crimes Section.

### **3.3.7. Unintended Impacts and Effects of the Program**

The evaluation methods used give light to two types of possible unintended impacts of the Program: possible negative effects on Canada's bilateral relations with some countries (already discussed under partnership in Section 3.2.5); and a possible rise in domestic demand for additional investigations and prosecutions. This potential increase in demand would be difficult to meet given current and expected levels of resources.

Some interviewees at Canadian advocacy organizations felt the Program may place less emphasis on prosecution as a remedy given the duration, complexity and apparent cost of one specific case. At the same time, they expect that the national and international media attention granted to the case may lead to a greater expectation among their constituents for more prosecutions at a faster pace.

While they argue there is a need for improved outreach and an increase in awareness-raising activities by the Program, they expect these to lead to greater public demand for prosecutions. Given the current level of resources provided to the Program for criminal investigations and prosecutions, it is hard to see how it could respond.

### **3.4. Cost Effectiveness and Alternatives**

- Are there more cost-effective ways to fulfill Canada's no safe-haven policy?
- Are there more effective and efficient ways to increase knowledge and program awareness among partners and stakeholders?

- Are the resources allocated to the Program adequate to achieve its goals?

### **3.4.1. Cost-Effective Means to Fulfill the Policy**

#### **Summary Findings**

Cost estimate data for each of the remedies used by the Program clearly illustrate the cost advantage of immigration remedies and strongly support recent (2006 and 2007) policy decisions and changes to file review criteria placing emphasis on their use (without prejudicing criminal prosecution in those cases meeting the criteria). In that sense, the Program has taken significant measures to improve cost effectiveness in recent years. Nonetheless, program staff has made a number of practical suggestions for reducing case costs and for ensuring that the least cost remedy of denying entry is as effective as possible.

Careful use of the prosecution remedy remains a necessary program component for contributing to the overall program objective of denying safe haven. As many interviewees have argued, criminal prosecution, while very costly, has an important role in emphasizing the high priority of the policy.

Finally, there is no evidence that the four program departments operating independently would be able to achieve improvements in cost effectiveness. In fact, there is a strong risk that any relatively small cost savings would be more than offset by losses in program coordination and cohesiveness and, thereby, in effectiveness.

#### **Evaluation Evidence**

##### *Cost Comparison Data by Remedy*

One of the most important methods used for assessing the cost effectiveness of the Program is the cost comparison of the nine remedies available for dealing with allegations of crimes against humanity and war crimes.

The first step in the cost-comparison process was a series of consultations with managers from program departments to develop process flow diagrams for all nine remedies (and the file review, which begins the process of classification). Program staff then provided estimates of the direct costs of each step in the process.

The cost estimates provided reflect direct costs such as departmental salaries and benefits (benefits estimated at 15% of salary), travel expenses, and any other out-of-pocket expenses that departments incur. Overhead costs (office rent, utilities, etc.) are not reflected in these cost estimates. The cost of each step in all the remedies is provided in Appendix D along with a more detailed description of the supporting data.

Table 11 presents the estimated costs for each remedy for the simplest and most complex scenarios.

**Table 11: Cost Estimates of Remedies Available to the Program**

Remedy	Estimated Costs Per Case	
	Simplest	Most Complex
Remedy 1: Denial of Visa to Persons outside Canada	\$639	\$7,832
Remedy 2: Denial of Access to the Refugee Determination System	\$4,768	\$45,551
Remedy 3: Exclusion from Protection of the 1951 UN Convention Relating to the Status of Refugees	\$8,152	\$41,085
Remedy 4: Prosecution	\$4,027,284	\$4,170,372
Remedy 5: Extradition to a Foreign Government	\$471,251	\$526,341
Remedy 6: Surrender to an International Tribunal	\$471,251	\$526,341
Remedy 7: Revocation of Citizenship	\$471,810	\$1,291,194*
Remedy 8: Inquiry and Removal from Canada under the <i>Immigration and Refugee Protection Act</i> (IRPA)	\$15,782	\$46,931
Remedy 9: Denial of Status to Senior Officials from Governments Considered to Have Engaged In Gross Human Rights Violations under Section 35 1 (B) of IRPA	\$523	\$36,351

\* *If the intent to revoke citizenship results from a decision to terminate a criminal investigation in favour of pursuing citizenship revocation, the costs of the aborted criminal investigation could arguably raise the cost of this remedy by as much as an additional \$676,000.*

There are three important messages regarding the costs of remedies evident in the data presented in Table 11 and described in the pages above.

1. Remedies 1, 2, 3, 8, and 9 are orders of magnitude less costly on a per-case basis than remedies 4, 5, 6 and 7. Essentially, if an allegation can be dealt with before a person suspected of involvement in crimes against humanity and war crimes becomes a permanent resident or citizen or is granted refugee protection, the available remedies can be very cost effective.

2. For Remedies 2, 3, 7, 8 and 9, there is a very large difference between the cost of a simple and a complex case. For these remedies, if the subject appeals a decision, costs increase significantly.
3. Even though criminal prosecution is a multi-year activity, with costs spread over about two and a half years, it remains more than twice as expensive as all the others combined, even when they are the most complex cases.

The data on the cost of the different remedies, points to several important observations on cost effectiveness:

- The 2007 decision of the War Crimes Steering Committee to place greater emphasis on immigration remedies (in terms of allocating resources) can be seen as appropriate from a cost effectiveness point of view given the apparent costs of prosecutions case and the budgetary limitations of the Program.
- The PCOC file review policy adjustment in 2006 (realigning the Program to reflect the fact that immigration remedies represent an important aspect of the no safe haven policy without denying the need for revocation of citizenship and criminal investigations/prosecutions) can only be seen as appropriate given the costs of the different remedies.
- There is a strong cost effectiveness argument for using the criminal prosecution remedy sparingly, even if the costs of the investigation phase can be reduced in future cases.
- One important factor that constrains the cost effectiveness of the Program is the fact that remedies are often pursued in parallel with the result that the Program assumes the cost of more than one remedy for a single case. This occurs because it is often not clear at the beginning of a case which remedy will prove most effective. If a decision is taken during an investigation for criminal prosecution that such a prosecution is not viable, it is very important that the relevant immigration remedy be at an advanced stage of preparation in order to proceed as quickly as possible.

Interviewees from program departments and partner international organizations made a number of quite detailed suggestions for improving cost effectiveness, including:

- Place even greater emphasis on immigration enforcement by, for example, increasing the number of Migration Integrity Officers (MIO) supporting the screening process at posts abroad;

- Increase training of visa officers so they can readily recognize cases where there are war crimes related grounds for denial;
- Make more use of video-taping and other evidence gathering techniques to reduce the need and cost of bringing witnesses to Canada; and,
- When evidence is gathered abroad, avoid multiple missions and their travel costs by keeping a small team in the field until all the evidence is gathered.

It is also worth noting that some staff of the international partner organizations pointed out that the Canadian Program is, from their perspective, characterized by effective interdepartmental coordination and likely to be more cost effective than other national programs. Others argued that assessing cost effectiveness of justice programs is always difficult, but that there is an overriding imperative to take action.

It should also be noted that a few interviewees from the Program departments and other federal departments felt that cost effectiveness could be improved if a much more aggressive risk management approach were adopted. Among other actions, this would involve a further revision to file review criteria classifying fewer cases for costly remedies such as investigation for revocation of citizenship or criminal prosecution.

### **The Alternative of Separate Departmental Programs**

A few interviewees raised the question of whether or not it would be more cost effective to have each department conduct its operations relating to war crimes and crimes against humanity independently, rather than through a single integrated program.

Any improvement in cost effectiveness would presumably be based on potential savings that could be made through eliminating the central program governance structures (the War Crimes Steering Committee and PCOC and its file review sub-committee). Similarly there could be some cost savings for departments as they eliminate or reduce the expense of participating in joint planning and accountability mechanisms such as preparing the RMAF and providing data for the Annual Report.

There are three problems with this analysis, however:

1. The savings would not be very large in comparison to the costs of delivering the remedies themselves as outlined in Table 11;

2. In the absence of the formal mechanisms for coordinating war crimes related operations among the four departments, it would very likely be necessary to set up ad-hoc structures for coordination. The process flow diagrams presented in Appendix D show that **none** of the remedies available to deal with those involved in war crimes and crimes against humanity can be fully delivered by a single department and most involve either three departments or all four. The country studies show that Australia, the Netherlands and the US all found it necessary to institute either formal or informal inter-agency committees of government to deal with policy issues and operational coordination;
3. While separation could theoretically lead to a slight reduction in costs for one or more departments (although a more thorough cost analysis of the Program governance and coordination structures would need to be undertaken to support that view), any savings would come at a significant cost to effectiveness. The Program has achieved substantial gains in cohesiveness and effective coordination in the period under evaluation, which could be undermined by such cost-cutting measures. If those gains were to be sacrificed in order to make small savings in governance and coordination costs, the effect on the cost effectiveness of the Program would most likely be negative.

### **3.4.2. Effective Ways to Increase Awareness**

#### **Summary Findings**

There are opportunities for increasing awareness and knowledge of the Program by taking advantage of the media exposure offered by high profile revocation of citizenship and prosecution cases. High profile (although admittedly expensive) revocation of citizenship and prosecution cases, although they should only be undertaken based on the merits of the cases involved, represent a powerful means of creating awareness. There are also opportunities to increase awareness and knowledge in Canada through relatively small investments in increased outreach activities aimed at communities and potential partner organizations.

Clearly, increasing awareness of the issues and of the Program in Canada may lead to an increase in the number of allegations with implications for program workload and costs. On the other hand, an absence of awareness may raise the risk of those involved going undetected, which undercuts the effectiveness of the no safe haven policy and raises the risk of Canada being perceived as less than fully committed to the policy.

## Evaluation Evidence

This issue presupposes a need to increase awareness and knowledge of the Program in Canada, presumably in order to build strong support for the Program among the Canadian public and to engage members of the public who may be able to identify alleged perpetrators and/or provide information and evidence. That is certainly the argument made by the staff of external stakeholder organizations in Canada.

Program department staff and external stakeholders in Canada emphasized the possibility of increasing awareness in Canada by:

- Increasing outreach to ethnic communities in Canada arriving from the conflict zones where war crimes and crimes against humanity have taken place in order to encourage their members to identify alleged perpetrators and to provide information and evidence;
- Increasing the emphasis on media relations and the cultivation of media contacts (for example through the use of press releases);
- Including the NGOs in Canada (and internationally) as an element of the outreach of the Program so that their activities can help to increase awareness and knowledge at little or no cost;
- Creating a link on the Program Website allowing potential complainants to contact the Program directly;
- Increasing contact with local police forces in Canada so that they recognize potential war crimes cases more readily and can refer them to the Program; and,
- Strengthening linkages to the academic community in Canada.

The media analysis illustrated the fact that prosecution and revocation of citizenship cases receive very significant media attention with the potential to raise public awareness and knowledge of the Program. This was confirmed in three of the case studies dealing with high profile cases of criminal prosecution or removal from Canada.

### **3.4.3. Allocated Program Resources Adequate to Achieve Goals**

#### **Summary Findings**

As noted in Section 3.1.4, the Program has continued to see a rising number of cases reviewed abroad and in Canada during the evaluation period. Similarly, the combined patterns of global armed conflict and immigration to Canada strongly indicate there is no reason to expect a decline in the number of allegations in the near future. Given the expectation that the workload of the Program is unlikely to decline (after rising through much of the evaluation period), combined with funding which has not increased in nominal terms in the same period, it is not surprising that many interviewees feel the Program lacks sufficient resources to achieve its objectives.

In light of the decline since 1998/99 (in real dollar terms) of the annual program budget, and in the context of a continued supply of new allegations reported in the 9th Annual Report, the current level of program resources will be inadequate to achieving the Program's goals in the future.

Key areas for allocating increased resources (in order of relative priority) are in the RCMP War Crimes Section for investigation of cases in the modern war crimes inventory, the improvement and updating of electronic databases held by CBSA/CIC, investments in training for new front-line staff in the regions and posts abroad and investments in outreach and awareness raising in Canada.

Similarly, there is a strong argument that allegations of involvement in modern war crimes are not a temporary phenomenon leading to a backlog that can be dealt with through a temporary program. The backlog in World War II cases was cited as one rationale in 1998 for providing temporary funding to the Program. As already noted, there is no reasonable expectation that the number of allegations dealt with by the Program will significantly decline in the near future. These factors, when combined with the existence of permanent legislation in the CAHWCA, point to a strong rationale for permanent funding for the Program.

#### **Evaluation Evidence**

The overall envelope of financial resources for the Program is earmarked in the fiscal framework pursuant to the 2005 Federal Budget at a total of \$78M for the period 2005/06 to 2009/10. In addition, the RCMP has allocated \$0.66M annually in their A-base for war crimes-related work. This constitutes the same level of funding allocated in 1998 for the period from 2004/05 to 2009/10 without any adjustment to reflect increases in salary or inflation that impact operational

costs, or accommodation and corporate support costs. The result is a significant reduction in real dollar terms (adjusted for inflation) of the value of funds available for all program activities.

When staff of program departments were asked if resources were adequate to undertake the activities necessary for achieving the Program's goals, they strongly agreed that they were not. Nearly all departmental staff interviewed claimed that the Program has been under-funded. They largely agreed that the RCMP War Crimes Section, in particular, was not sufficiently funded in the 2005/06 to 2008/09 budget allocation, especially given the costs and human resources requirements of the RCMP/DOJ inventory.

Program department staff identified many areas requiring increased funding in order to better meet program objectives; those most frequently mentioned and given the highest emphasis included:

- Increased funding for the RCMP for investigations relating to the RCMP/DOJ modern war crimes inventory;
- Investing in CIC/CBSA electronic databases to allow for more frequent updating (especially for the MWCS) and to allow easier data sharing between regional offices and headquarters and across different electronic platforms;
- Increasing the number of MIO at posts able to assist visa officers in posts abroad;
- Increased investment in training for frontline staff in regions and in posts abroad (CIC, CBSA and RCMP Liaison Officers) especially so that staff newly posted in these positions receive training early in their assignments; and
- Increased funding of awareness and outreach activities to key stakeholders in Canada to build support for the Program and to allow community members and organizations to provide information and evidence.

Most interviewees also reported that permanent program funding would allow for better strategic and long-term planning and greater stability for human resources (career planning). In addition, some respondents cautioned against receiving A-base funding as it would be vulnerable to other departmental priorities, especially given recent changes in cost recovery policies.

The survey of the staff of program departments asked respondents to rate the adequacy of resources available for different elements of allegation management.

**Table 12: Survey Responses Relating to Adequacy of Resources (Q14)**

Respondent rating of the adequacy of Program resources for	Somewhat or Very Adequate	Somewhat or Very Inadequate
	Percent	Percent
Screening visa applications	69	31
Denying visas related to war crimes	68	32
Training and professional development	42	58
Gathering and disseminating intelligence	48	53
Investigations	31	69
Outreach and communications	44	56
Preparation of cases for hearings and review	70	30
Preparation of cases for trial	74	26

Program staff surveyed identified four program elements as those most critically under-resourced in the following order:

- Investigations (including RCMP/DOJ investigations for criminal prosecution and CBSA-led investigations for immigration remedies);
- Training and professional development;
- Outreach and communications; and
- Gathering and dissemination of intelligence (including investments in databases and electronic platforms).

The country studies did not provide a full accounting of the budgetary investments of the countries involved. On the other hand, they did provide some estimates of the human resources available to similar programs outside Canada, especially for police investigators and field agents (in the US).

The Netherlands, for instance, has 20 police officers (4 coordinators and 16 investigators) in the War Crimes Unit of the International Crimes Division of the National Police. This is more than twice the number of investigators in the RCMP War Crimes Section. The Immigration and Naturalization Service (INS) in the Netherlands has a further 25 investigators devoted to war crimes investigations, with 8 more being added in 2008.

The Immigration and Customs Enforcement (ICE) Service in the US estimates that, of its over 6,000 field investigators, some 50 to 200 may be working mainly on human rights violator cases.

The Australian Federal Police (AFP) does not have a dedicated war crimes unit, but can assign resources depending on the case load. They estimate the number of investigators allocated to war crimes cases can be as low as two and a half or as high as 30. Meanwhile, the Department of Citizenship and Immigration war crimes unit in Australia currently has eight analysts but expects that number to double in the near future.

In comparative terms, all three countries studied are able to dedicate a much larger contingent of police investigators to war crimes cases, either as permanent staff of war crimes units or assigned as needed. Of course other countries may not have comparable incidences of war crimes allegations (interviewees were not able to provide this data to the evaluation team) so there are limits to the comparability of the number of dedicated personnel.

In terms of population alone, the Netherlands at an estimated 16.4 million in 2008 is just under half of Canada's 33.4 million estimate for the same period. Australia's population stands at 24.4 million and the US at 305.3 million. Given Canada's larger population and continuing commitment to high levels of immigration, it seems unlikely that either the Netherlands or Australia would be faced with a much higher case load of allegations than Canada.

## **4. CONCLUSIONS AND RECOMMENDATIONS**

### **4.1. Conclusions**

#### **4.1.1. Program Relevance**

1. Canada's Crimes Against Humanity and War Crimes Program remains relevant as an expressed policy and priority of the Government of Canada and to meeting Canada's international legal obligations. It also remains relevant to meeting the expressed needs of international partner agencies and external stakeholders in Canada.
2. The geographic patterns of continued international conflicts and of immigration to Canada, along with allegations arising from older conflicts, indicate that the Program will be required to continue to deal with a significant volume of allegations.

#### **4.1.2. Program Design and Delivery**

##### **Governance and Policy**

3. The changes in governance structure introduced during the evaluation period, including the establishment of the War Crimes Steering Committee, the Program Coordination and Operations Committee and its File Review Sub-Committee, have contributed to a more cohesive and coordinated program. These changes have contributed to clearer guidance on resource allocation, clearer definitions of departmental roles and responsibilities, and more rigorous criteria for assigning cases to different remedies.

##### **Partnership and Integration**

4. The Program has established effective formal and informal partnerships with other federal government departments and agencies. Relations between DFAIT and the Program are characterized by most interviewees as effective despite some disagreements on the specific issue of denying entry to some former officials of designated regimes.

5. The Program has been highly effective in developing and maintaining partnerships with international organizations and with similar programs in other countries.
6. Program organizational units and processes have been reasonably well integrated into other border management initiatives relating to organized crime and counter-terrorism, especially but not exclusively, at regional offices and posts abroad.

### **Coordination, Allegation Management and Service Delivery**

7. The single most important improvement in program management and service delivery has been felt in the area of interdepartmental coordination. This improved coordination has contributed to more efficient and effective management of allegations, principally through more effective interdepartmental cooperation during investigations, more efficient screening and file review processes, and better prioritization of applicable remedies.
8. The Program faces important challenges in improving the adequacy and frequency of training, most critically for staff newly assigned to front-line positions in the regions and in posts abroad, and in upgrading and updating computerized databases.

### **Raising Awareness and Knowledge**

9. The Program and its activities have made an important contribution to raising the profile of international efforts to deal effectively with crimes against humanity and war crimes. They have also raised awareness of the Program within the international community of war crimes experts. There is, however, a strong consensus among stakeholders at all levels of the need for more intensive awareness building and communication activities in Canada.

### **Gathering and Using Performance Monitoring Data**

10. While the program departments do use basic performance data on outcomes to guide policy and manage program activities, there are gaps in the performance monitoring system relating to education and outreach and awareness-raising activities.

### **4.1.3. Program Success**

#### **International Leadership and Meeting International Obligations**

11. The Program continues to demonstrate Canada's global leadership role in dealing with crimes against humanity and war crimes mainly through its engagement in international cooperation; its support of international institutions; its robust legislative framework; its attention to meeting Canada's international legal obligations with regard to crimes against humanity and war crimes; and the very existence of an integrated, interdepartmental program.
12. As already noted, the Program has been effective in meeting Canada's international legal obligations with regard to crimes against humanity and war crimes.

#### **Meeting the Objectives of the Program and the Policy**

13. It is impossible to demonstrate with certainty that the Program has been effective in deterring entry into Canada of those suspected of war crimes and crimes against humanity.
14. The combination of quantitative results data and inputs from stakeholders in Canada and abroad supports the conclusion that the Program makes a significant contribution to achieving the national objective of denying safe haven. At the same time, the limited resources available to the RCMP War Crimes Section for investigating these cases represent an important limitation on the Program's contribution to the objective.

### **4.1.4. Cost Effectiveness and Alternatives**

#### **Policies and Processes Contributing to Cost Effectiveness**

15. Policy decisions and adjustments to file review criteria (placing greater priority on immigration remedies without denying the need for revocation of citizenship and criminal prosecution where they are warranted) reflect an appropriate balance between the desire to achieve the most cost-effective solutions and the need to maintain the integrity of the Program in addressing the no safe haven policy. This conclusion is even more apparent given the wide differential among the comparative costs of different remedies (and of different scenarios within a given remedy).

16. One factor contributing to costs for some remedies is the fact that more than one remedy is usually pursued at one time and the branching into a final remedy may occur quite late in the process. These costs argue for making the decision on a definitive remedy as early in the process as possible.

### **Alternative Program Structures**

17. There is no indication that independent delivery of program services by the four departments acting outside the framework of an integrated program would be a more cost effective alternative. In fact, any gains through a small (theoretical) cost savings would be more than offset by diminished program effectiveness through loss of cohesion and poor coordination.

18. There is considerable evidence that the Program will require increased financial resources if it is to be effective in addressing the no safe haven policy in the future.

## **4.2. Recommendations and Management Response**

### **4.2.1. Introduction**

The evaluation supports the continuation of the Crimes Against Humanity and War Crimes Program. It also found that the interdepartmental model is effective and should be maintained, and all four participating departments remain relevant partners in the Program.

While the coordination and delivery of the Program has seen an increase in efficiency and effectiveness since the last evaluation in 2001, there remain areas for improvement. This section discusses four issues arising from the evaluation and provides five recommendations. It also contains the management response to these recommendations, which has been prepared by the PCOC.

### **4.2.2. Issues**

#### **Issue 1: Permanent and Enhanced Funding**

There is considerable evidence that the Program will require increased resources to assist in dealing with the increases in operating costs that have occurred since the creation of the coordinated program in 1998. Furthermore, the evaluation identified specific areas that require

enhanced resources if the Program is to be effective in addressing the no safe haven policy in the future, namely the investigative capacity of the RCMP, updating and upgrading program databases, and training of staff.

There is also a strong argument for establishing program funding on a permanent basis. This is based on: a) ongoing commitments made by the Government of Canada through international conventions and statutes; b) the establishment of a legislative basis for the Program through the CAHWCA; and c) the ongoing supply of allegations overseas and in Canada for involvement in war crimes, which can be expected to continue into the foreseeable future.

There is an apparent discrepancy between the size of the RCMP/DOJ inventory of modern war crimes cases and the resources available to the RCMP War Crimes Section for investigation. The limited resources available for criminal investigation, in relation to the inventory of serious cases, place an important limitation on the Program's contribution to the objective of denying safe haven through non-civil remedies.

**Recommendation 1: Consider making program funding permanent and adjust the overall level of financial resources provided to the Program based on a cost-justified plan prepared by the participating departments.**

**Recommendation 2: Consider increasing funding to strengthen the investigative capacity of the RCMP as this was the highest priority for enhanced funding identified by the evaluation.**

**Management Response:**

We concur with the recommendations.

A permanent and enhanced funding base would facilitate long-term planning of key program activities and create a more stable environment for the management of human and financial resources.

Operationally, this would result in the enhancement of the Program's investigative capacity, the update of databases, the increase of outreach and training activities as well as the improvement of research sharing within the Program and with other government departments, other countries and stakeholders. These areas of activity have all been identified in the evaluation report as areas to be improved.

From a policy perspective, permanent funding would send an unequivocal message, nationally and internationally, that the fight against impunity for crimes against humanity, war crimes and genocide is a government priority. Permanent funding is consistent with the government's international treaty obligations.

PCOC will seek approval for a renewed mandate beyond the 2009/10 fiscal year with permanent enhanced funding, based on a cost-justified plan.

The renewal process will be initiated this fall (2008). Through this exercise, the program partners will identify the areas of the Program that would most benefit from permanent and enhanced funding.

Increasing the investigative capacity of the RCMP will be one of the fundamental elements included in this process. Specifically, the RCMP will seek an increased level of resources, both human and financial, to effectively manage the investigative caseload.

## **Issue 2: Information Sharing and Access**

Most departmental staff indicated that the Program was effective in research and intelligence gathering, as well as sharing information on program context and on specific cases, with one important exception relating to the Modern War Crimes System (MWCS).

MWCS is an electronic database designed to assist CIC and CBSA officers in the investigation of war crimes and crimes against humanity. MWCS originated on a CIC electronic platform prior to the creation of CBSA. When the war crimes section of CIC was transferred to CBSA, the database remained on a CIC platform and was not transferred to CBSA. This means that CBSA, as the main user of MWCS, cannot input new information into the system nor update it, as the platform used by the agency is not compatible with the one used by CIC. Only CIC has the right and capability to update MWCS.

Program staff at CBSA point to resource constraints and the priority given to other systems projects as the reason for the delay in resolving the systems issues restricting the updating of MWCS material.

**Recommendation 3: Consider improving and upgrading CBSA and CIC program databases, most notably the MWCS, to ensure better access and so that updates and changes may be made more frequently.**

**Management Response:**

We agree with the recommendation that there is a need to update the MWCS database and provide better access to the system.

CBSA and CIC IT are working together to resolve the issues that have prevented the MWCS from being updated. Discussions have been taking place at the PCOC level as well, including on the availability of funds for these initiatives or lack thereof.

The CBSA War Crimes Section has identified an employee to update the MWCS.

Discussions are also taking place with CBSA and CIC IT to assess the possibility of sharing MWCS with the other program partners.

**Virtual Library Project**

CBSA has proposed to use the MWCS database for a CBSA-led initiative to launch a “virtual library” project to improve the coordination of the Program’s research capacity.

As part of this initiative, it is proposed to use the existing MWCS database for the virtual library project and share it with the other program partners. This initiative will allow the Program to resolve several important issues addressed in both the RMAF and current evaluation, namely the need to improve information sharing at the research level, to modernize and update MWCS, and to ensure better access to it.

A virtual library working group made up of representatives from each department was established in September 2008 and has begun work on this project.

The project is being supervised by the newly created War Crimes Program joint Research Committee, which was created in the summer of 2008 to enhance information sharing amongst program researchers and analysts. The Research Committee will report back to PCOC.

It is important to note, however, that our ability to update the system and input new data in it is highly dependent upon securing additional resources.

### **Issue 3: War Crimes Training and Professional Development**

The review of selected presentations, other training tools and operational manuals showed that there was a significant level of program-specific training and information dissemination activity being undertaken in the different program departments (especially CBSA and DOJ). The operational manuals reviewed were clearly relevant to the operational requirements of the Program and some were undergoing updating and finalization at the time of the evaluation.

Similarly, during interviews, some respondents from program departments reported that they had access to manuals and guidelines that were helpful (e.g., were recently updated to include an overview of war crimes) while others noted that the material required updating and that was done infrequently because of a lack of resources.

Other challenges in the area of training noted during key informant interviews or listed as comments by survey respondents included:

- A limited number of training sessions available, especially for front-line staff, and of limited duration;
- A need for more systematic introductory training, especially of newly posted staff;
- A tendency for war crimes issues and procedures to be included only as very brief segments or modules in broader training packages; and
- Inconsistent training material across regional offices, even within the same department.

The Program faces an important challenge in improving the adequacy and frequency of training, most critically for staff newly assigned to front-line positions in the regions and in posts abroad.

**Recommendation 4: Consider undertaking a formal review of training requirements in order to develop a detailed training plan to address gaps. The plan should include the needs of the various departments, nature and frequency of training, format for delivery, an assessment of resource requirements and performance measures for monitoring purposes.**

#### **Management Response:**

We agree with the conclusion and recommendations that training and professional development are critical to the operation of the Program. The War Crimes Program partners have decided to develop a more consistent and standardized approach when conducting training activities. They

are currently moving forward with several training initiatives and will be preparing a detailed training plan. A number of training initiatives may require additional funding.

### **Standardized War Crimes Program Training Plan and Modules**

In order to rectify existing training gaps, PCOC has approved in September 2008 a CBSA-led initiative to develop a standardized War Crimes Program training plan and associated training modules. The idea behind this project is to assess the training needs of each program partner and develop standard training modules, which would provide information on substantive matters common to all partners. The modules would be updated on a regular basis and could be used, individually or collectively, for a variety of outreach activities.

This project was undertaken to implement one of the components of the War Crimes Program RMAF. Moreover, this initiative is consistent with the recommendations made in the current evaluation.

A War Crimes Program Training Plan Working Group was established in September 2008 and has begun work on this project.

Like the Virtual Library Project, the standardized War Crimes Program training plan project is being supervised by the joint Research Committee.

### **Annual National War Crimes Program Workshop**

The CBSA, DOJ and RCMP are currently preparing the annual three-day National War Crimes Program Workshop, which will take place in Ottawa in early 2009. This will be the third year in a row that this workshop has been offered to staff from CBSA (HQ and regions), CIC, DOJ and the RCMP as well as several other government departments, including DFAIT and DND. Feedback from past participants has been extremely positive.

The War Crimes Program partners intend to continue providing this annual workshop and refining the material. With additional funding, the training could be offered twice per year and to a greater number of trainees within the program departments.

### **Updating Training Material**

War Crimes Program partners intend to regularly update training material. As an example, CBSA updated its War Crimes Program tactical guide (last updated in 2004), which will be

released in the fall of 2008. The guide is a valuable research and training tool and will be distributed to staff within the Program. In order to facilitate regular updating and reduce production costs, it has been decided to distribute the guide electronically as a “living document” that will be regularly updated as needs develop.

### **Training to CIC and CBSA Regions and Missions**

War Crimes Program partners also intend to offer greater training opportunities to CIC and CBSA field officers by deploying qualified trainers directly to regional offices in Canada and missions abroad. In the past year, CBSA and DOJ have conducted several regional training sessions. With additional funding, such activities could be increased.

### **DOJ Mandatory Training Schedule**

The War Crimes Section of the DOJ is establishing a mandatory training schedule for all War Crimes DOJ staff. The training schedule will focus on core essential skills and knowledge.

This initiative follows the creation of a DOJ War Crimes Section Education and Outreach Committee in early 2008 to search for and examine learning and outreach opportunities.

### **RCMP Training Initiatives**

The RCMP War Crimes Section is creating an orientation manual for new members to its section. The Section has undertaken a review of training needs and established a set of core courses for war crimes investigators.

### **Issue 4: Outreach within Canada**

There is a striking difference in the perceived success of the Program in contributing to knowledge and awareness creation internationally and in Canada. International partner organizations and external advocacy and research organizations abroad are very familiar with, and can give examples of, the international activities of program staff. More importantly, they feel strongly that these activities have made an important contribution to raising and maintaining the profile of international efforts to deal effectively with those accused of crimes against humanity and war crimes.

Interviewees, including departmental staff and external stakeholders, gave fewer examples of outreach activities in Canada. They think that the level of domestic awareness should be higher

and that the Program could do more to raise it. Further, there is a strong consensus among program staff at all levels that there is a rationale for more intensive outreach and awareness building activities and that more resources should be devoted to these activities to avoid raising expectations.

**Recommendation 5: Consider allocating additional funding to support the development and implementation of an operational plan for intensified outreach to raise awareness of the Program in Canada. The plan should include identification and prioritization of potential recipients, the appropriate method to reach each group, the resource requirements and performance measures for monitoring purposes.**

#### **Management Response:**

Over the past several years, efforts have been made to increase awareness and outreach. Target audiences have ranged from other departments and agencies within the Canadian government, like-minded foreign governments, and other countries or international institutions involved in the fight against impunity for crimes against humanity and war crimes, to entities with no direct affiliation to any given war crimes activity, such as universities, schools, conferences, NGOs or individuals.

However, there is currently no consistent approach to the way outreach activities are conducted by the four partners. Each department and agency does outreach independently and in an ad-hoc fashion.

The War Crimes Program therefore agrees with the recommendation to develop a standardized War Crimes Program Outreach Plan that will indicate the Program's outreach objectives and activities, and the resources most suited to delivering them, subject to additional funding being received.

#### **Updating the War Crimes Program Website**

War Crimes Program partners have also decided to update the Program Website, which is an important outreach tool. This work will be undertaken through the joint Research Committee.

**APPENDIX A:**  
**Key Informant Interview Guide**

## **Interview Guide 1A: Participating Departments**

### **Crimes Against Humanity and War Crimes Program**

The Evaluation Division of the Department of Justice, in cooperation with the Royal Canadian Mounted Police (RCMP), Canada Border Services Agency (CBSA), and Citizenship and Immigration Canada (CIC) is conducting an evaluation of the Crimes Against Humanity and War Crimes Program. The Department of Justice has retained the services of Goss Gilroy Inc. (GGI) to perform this evaluation. **The purpose of the evaluation is to assess the relevance, success and cost effectiveness of the Program and to determine whether there are more effective alternatives to the current design and delivery elements of the Program.**

As part of this evaluation, and along with other methodologies, we are interviewing program partners and key external stakeholders.

At this time, we are requesting your participation in an interview. Your participation is voluntary. The interview will take approximately one hour to complete. Thank you in advance for your participation and assistance.

**Confidentiality:** All information that you provide is confidential and will be used only for research purposes. This information will be used in aggregate form, and individual responses will not be shared outside Goss Gilroy Inc. and the Evaluation Divisions of the participating departments.

#### **Background:**

1. Please describe your role with respect to the War Crimes Program.

#### **Relevance:**

2. Are the goals of the War Crimes Program relevant in the context of:
  - a) Evolving Government of Canada priorities; (note: including international priorities);
  - b) Government-wide and departmental immigration, refugee, security and justice policies;
  - c) Canada's international legal obligations (e.g. the Convention on Torture, the Rome agreement establishing the ICC);

- d) Other border initiatives; (note: relating to, for example, organized crime or terrorism);
  - e) The needs of other stakeholders (including for example Canadian NGOs).
3. Have new or different needs arisen related to the prosecution/deportation/exclusion of war crimes suspects?
- a) Have these needs been adequately addressed?

**Design and Delivery:**

4. How has the change **in governance structure** (Program Coordination and Operations Committee [PCOC] and the Program Steering Committee) affected the Program and the partners? For example:
- a) Clear definition of roles and responsibilities;
  - b) Overall program coordination;
  - c) Policy direction and governance.
5. Have changes in operational policies resulted in a more cohesive, efficiently coordinated program? If so, how?
6. To what extent is the Program effective in supporting the delivery of services, in particular with regards to:
- a) Policy development and analysis;
  - b) Screening cases;
  - c) Analysis of cases;
  - d) Investigation and processing;
  - e) Interdepartmental cooperation (for example, the File Review Sub-committee)?
7. Is the Program effective in establishing and maintaining partnerships with those managing **other border management initiatives** (e.g. anti-terrorism and organized crime)?

8. To what extent is the Program effective in establishing and maintaining partnerships with:
  - a) other federal departments; and
  - b) international partners?
9. How effective and useful is the war crimes training (in terms of staff ability to contribute effectively to program goals) provided to program staff in your department?
  - a) Guidelines, manuals;
  - b) Interdepartmental training sessions;
  - c) Participation by staff in your department (numbers trained/frequency).
  - d) Examples \_\_\_\_\_?
10. How does your department access and make use of information/data on program performance, including;
  - a) Program performance measurement systems;
  - b) Information on best practices;
  - c) Policy changes based on performance measurement; or,
  - d) Changes in program management and service delivery?

**Success:**

11. To what extent has the Program contributed to an increase in awareness among stakeholders:
  - a) Participating departments;
  - b) Other government departments;
  - c) Canadian NGOs and non-government stakeholders;
  - d) International partners?
12. Are allegations managed effectively at each step in the process including:

- a) Compiling allegations;
- b) Screening allegations;
- c) Investigating allegations;
- d) Selecting remedies;
- e) Implementing remedies;
- f) Monitoring and reporting on outcomes?

13. In your view, how do stakeholders perceive the effectiveness of the Program in dealing with war crimes allegations?

14. In your view, does Canada demonstrate international leadership:

- a) In identifying and publicizing war crimes issues;
- b) In regard to the adequacy of its legislative framework;
- c) As a programmatic model for other countries?

Examples: \_\_\_\_\_

15. Has the Program assisted Canada to meet its international obligations? (Examples include: Genocide Convention; Geneva Convention concerning War Crimes and Additional Protocols; Convention Against Torture; Rome Statute/International Criminal Court; Geneva Convention and Additional Protocols concerning the Status of Refugees.)

16. Does the Program meet the objective of denying safe haven in Canada (detering arrivals and dealing with those residing in Canada)?

17. In your experience, has the Program deterred war criminals from coming to Canada (for example by withdrawing a visa application)?

18. Does Canada currently have the program capacity to effectively address war crimes issues? Does it have an appropriate legislative framework?

19. To your knowledge, what unintended impacts and effects (positive or negative) have resulted from the Program and/or from individual projects?

**Cost Effectiveness and Alternatives:**

(**Note:** Interviewer may explain that cost effectiveness need not mean least costly; some remedies may be relatively expensive but can still be cost effective given the purpose they serve and the results achieved.)

20. How effective is your department or agency, given the levels of funding it has received as part of the War Crimes Program?

21. If the Program remains relevant to Canadian Government priorities, what would be the advantages of securing permanent program funding? Please comment.

22. Are there further efficiencies that can be realized in the delivery of the War Crimes Program?

23. In light of the overall goal of denying safe haven, which remedies would you say are most cost effective? Which are least cost effective?

24. Are there more effective and efficient ways to increase awareness of the Program among partners and stakeholders?

25. Are the **resources** allocated to the Program adequate to achieve its goals when assessed in terms of:

- a) Financial resources for the participating departments;
- b) Policy analysis and policy development resources (including human resources);
- c) Resources for training and staff development;
- d) Resources for compiling and classifying allegations;
- e) Resources for coordination of case files and actions;
- f) Investigative resources;
- g) Resources for enacting remedies including denial of access, exclusion from refugee status, revocation of citizenship, prosecution, etc.

- h) Resources for monitoring performance and identifying best practices;
- i) Resources for outreach and communications activities; and,
- j) Other.

**APPENDIX B:**  
**Survey Questionnaire**

## Survey Questionnaire

Many of the following questions are close-ended requiring you to choose from a range of answers. However, an opportunity to provide more general comments is provided at the end of the survey. Participation in the survey is voluntary and confidential; however, the results will be shared with the Evaluation Offices of the participating departments and agencies.

**Q1:**

Where do you work?

- Headquarters or satellite offices in Ottawa/Hull..... 01
- Regional units..... 02
- Overseas mission..... 03
- Other (Please specify)..... 95
- Other location - please specify:

**Q2:**

What is your current job title?

**Q3A:**

How long have you been in your current position? (Years)

**Q3B:**

How long have you been in your current position? (Months)

**Q4A:**

Please list your two or three primary functions in order of relative importance.

**Q5A:**

Based on your experience in your current position, to what extent has the Program been successful in? (Rate only those that apply to you and mark others with N/A)

	<i>Very successful</i>	<i>Somewhat successful</i>	<i>Somewhat unsuccessful</i>	<i>Very unsuccessful</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>Denying visas for potential war criminals?</i>						
<i>Denying refugee status to potential war criminals?</i>						
<i>Revoking citizenship of war criminals?</i>						
<i>Removing war criminals from Canada?</i>						
<i>Prosecuting perpetrators of war crimes?</i>						

**Q6A:**

To what extent has the Program demonstrated Canadian leadership on war crimes at the global level:						
	<i>To a great extent</i>	<i>To a reasonable extent</i>	<i>Very little</i>	<i>Not at all</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>In providing an effective legislative framework?</i>						
<i>In the effective management of allegations?</i>						
<i>In providing support to international organizations addressing war crimes issues?</i>						

**Q7A:**

Please assess the adequacy of each of the following in addressing war crimes. If needed, please provide additional comments on each of your responses to this question.

	<i>Very adequate</i>	<i>Somewhat adequate</i>	<i>Somewhat inadequate</i>	<i>Very inadequate</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>Legislation</i>						
<i>Department and agency policies</i>						
<i>Department and agency procedures</i>						
<i>Department and agency manuals</i>						
<i>Training sessions</i>						
<i>Outreach activities</i>						
<i>Criteria for assessing cases</i>						
<i>International agreements and treaties (ex. Memorandum of Understanding)</i>						
<i>Gathering intelligence on the context and history of war crimes</i>						
<i>Gathering intelligence on allegations against specific individuals</i>						
<i>Sharing intelligence on the context and history of war crimes</i>						
<i>Sharing intelligence on allegations against specific individuals</i>						

Comments

**Q8A:**

Please indicate the percentage of your time that you spend working with other federal government departments and agencies in addressing war crimes:

DOJ

RCMP

CBSA

CIC

Total of other government departments and agencies? Please specify.

Other government departments and agencies - Please specify.

**Q9A:**

To what extent is the communication between your agency and the following departments adequate?						
	<i>Very adequate</i>	<i>Somewhat adequate</i>	<i>Somewhat inadequate</i>	<i>Very inadequate</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>DOJ</i>						
<i>RCMP</i>						
<i>CBSA</i>						
<i>CIC</i>						
<i>Total of other government departments and agencies</i>						

**Q10A:**

To what extent do you agree with each of the following statements? If needed, please provide additional comments on each of your responses to this question.

	<i>Agree</i>	<i>Somewhat agree</i>	<i>Somewhat disagree</i>	<i>Disagree</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>Roles of other departments and agencies are clear.</i>						
<i>Communication and coordination among departments and agencies are effective</i>						
<i>Communication and coordination with international organizations are effective</i>						
<i>Background information on events connected with war crimes is accessible and sufficient</i>						
<i>Information to substantiate individual allegations is available</i>						
<i>Length of time to prepare cases for hearings/trial is reasonable.</i>						
<i>Length of time for removals is reasonable</i>						
<i>Training is adequate to support my work in addressing war crimes</i>						

Comments

**Q11:**

Are there significant barriers to effective delivery of the War Crimes Program?

Yes (please specify)..... 01

No ..... 02

**Q12:**

In an average year, what percentage of your working time is spent on dealing with war crimes issues?

**Q13A:**

To what extent can adequate staff in your unit enable you to carry out your primary functions as identified in a timely manner?

	<i>Very adequate</i>	<i>Somewhat adequate</i>	<i>Somewhat inadequate</i>	<i>Very inadequate</i>	<i>Don't know</i>	<i>Not applicable</i>
<Q4A>						
<Q4B>						
<Q4C>						

**Q14A:**

In dealing with war crimes issues, are there adequate resources for each of the following?

	<i>Very adequate</i>	<i>Somewhat adequate</i>	<i>Somewhat inadequate</i>	<i>Very inadequate</i>	<i>Don't know</i>	<i>Not applicable</i>
<i>Screening visa applications for entry to Canada</i>						
<i>Denying visas related to war crimes</i>						
<i>Training and professional development</i>						
<i>Gathering and disseminating intelligence data</i>						
<i>Investigations</i>						
<i>Resources for outreach and communications</i>						
<i>Preparation of cases for hearings/reviews</i>						
<i>Preparation of cases for trial</i>						

**Q15:**

How would you describe your level of satisfaction with the War Crimes Program as a response to denying safe haven in Canada to those involved?

Highly satisfied..... 01

Somewhat satisfied..... 02

Somewhat unsatisfied..... 03

Highly unsatisfied..... 04

Don't know ..... 96

Not applicable..... 97

Comments

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**Q16A:**

Please identify the three elements of the War Crimes Program which work particularly well.

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**Q17A:**

Please identify three potential areas for improving the War Crimes Program.

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**Q18:**

Do you have any other specific comments that you would like to make on the Program and/or suggestions for improvements in program design or delivery?

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**INT99:**

Thank you for completing the survey. If you have any questions about the survey, please contact [WCSurvey\\_enquete@ggi.ca](mailto:WCSurvey_enquete@ggi.ca).

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**APPENDIX C:**  
**References**

## References

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**APPENDIX D:**  
**Remedy Cost Estimates and Process Flow Diagrams**

## **Remedy Cost Estimates and Process Flow Diagrams**

### **Remedy 1: Denial of Visa to Persons outside Canada**

This remedy was charted with the assistance of CBSA and CIC staff at national headquarters. Then headquarters staff and staff located at specific Canadian missions abroad provided cost estimates. The posts were chosen because they have processed the largest number of visas that warranted war crimes investigations of any city in their respective region (Europe, Africa, South America, and Middle East). According to CIC's Computer Assisted Immigration System (CAIPS) database, between 2001 and 2007, the chosen posts denied 923 visas based on war crimes.

Cost estimates represent the salary and benefits of the human resource effort required to process a typical case. Cost estimates range from roughly \$600 to \$7,800, depending on the complexity of the case. For example, the cost estimate of a case originating in Africa where a non-permanent visa is denied based on war crimes is roughly \$639. In a more complex case involving a permanent visa, where the applicant appeals the denial to Federal Court, the cost ranges between \$7,000 and \$8,000.

### **Remedy 2: Denial of Access to the Refugee Determination System**

CBSA and CIC regional and national headquarters staff and the DOJ War Crimes Section staff provided cost estimates for this remedy. CIC regional staff provided cost estimates for steps carried out by CIC regional offices. CBSA regional staff provided cost estimates for steps carried out in the regions. Cost estimates include salaries and benefits, travel, and incarceration costs. In general, regions handle few of these cases (i.e., less than five) annually. There are two scenarios for this remedy.

#### *Scenario 1: Person arrives at Canadian port of entry and files refugee claim*

Under this scenario, CBSA performs the bulk of the upfront investigative activities. The complexity of this remedy can vary widely. In the simplest of cases, CBSA may send the refugee claim to the Refugee Protection Division, and if the claimant is excluded, does not contest the decision, waives his right to a Pre-Removal Risk Assessment (PRRA), and is quickly removed from Canada, the costs could be as low as \$4,768. However, if the case is more complex, involving an admissibility hearing and if the claimant seeks a judicial review to Federal Court, a full PRRA is performed, and the person is incarcerated for two to three months before removal, the costs are estimated to rise to \$41,085.

*Scenario 2: Person already in Canada files a refugee claim*

Under this scenario, a CIC officer conducts the initial investigative work. Depending on the complexity of the case, cost estimates range from \$8,152 to \$45,551. For instance, if the Refugee Protection Division rules that the claimant is to be excluded based on war crimes, and the PRRA finds that there is no risk of torture if the person is returned to his country, the costs would be approximately \$8,152. However, if the case is more complex, involving an admissibility hearing and the claimant seeks a judicial review to Federal Court, a full PRRA is performed, and the person is incarcerated for two to three months, the costs are estimated at \$45,551.

**Remedy 3: Exclusion from Protection of the 1951 UN Convention Relating to the Status of Refugees**

The steps undertaken and costs incurred by CBSA, CIC and DOJ essentially mirror those of Remedy 2. Cost estimates range from \$8,152 (simple case) to \$41,085 (complex case).

**Remedy 4: Prosecution**

Cost estimates for an African and European case are based on experience with prosecution, plus estimates of cost differentials by geographic area. They cover the entire process, beginning with the assignment of a case to the inventory by the file review sub-committee of PCOC and include the costs of investigation as well as prosecution.

The time and costs required to pursue this remedy vary depending on whether the person in question appeals the provincial court decision. If the person does not appeal, the costs of this remedy are estimated at about \$4.0M. If the person appeals all the way to the Supreme Court, the costs are estimated at \$4.2M. It is important to note that the prosecution costs for this remedy would be incurred over about two and a half years. Travel expenses for DOJ (\$1.3M) and RCMP (\$186,000) account for a significant portion of the overall costs.

It should be noted that interviewees at the RCMP War Crimes Section suggest that investigation costs can be expected to decline as investigators gain more experience with prosecutions of this type. DOJ War Crimes Section staff did not expect to see a similar decline in the cost of prosecutions because of the unique nature of each trial.

### **Remedy 5: Extradition to a Foreign Government**

The time and cost required to conduct this remedy depend primarily on whether the individual in question appeals his decision to the provincial and federal courts. If an appeal occurs, the remedy is estimated to cost about \$526,341. In a more straightforward case where the person does not appeal, the cost is estimated at \$471,251. Most of the costs are salary and benefits, with travel by the RCMP estimated at only \$8,000.

### **Remedy 6: Surrender to an International Tribunal**

The process for surrender to international tribunal is essentially the same as for extradition to a foreign government.

### **Remedy 7: Revocation of Citizenship**

Headquarters staff at DOJ, RCMP and CIC provided cost estimates for this remedy. In a simple case, where the remedy begins with the Review Committee recommending that citizenship be revoked, the Minister decides to revoke, and the person does not take the matter to court, the costs are estimated at \$471,810. A significant portion of this cost is paralegal and travel costs. If the person takes the matter all the way to the Federal Court of Appeal, the costs are estimated at \$1.3M.

If the intent to revoke citizenship does not come from the Review Committee, but instead results from a decision to terminate a criminal investigation in favor of pursuing citizenship revocation, the costs of the preceding criminal investigation should be factored in. The costs of the criminal investigation could be as high as \$676,000.

### **Remedy 8: Inquiry and Removal from Canada under the *Immigration and Refugee Protection Act (IRPA)***

There are three scenarios in which this remedy can be used. A tip involving war crimes can be received on a person in Canada who falls under IRPA; a criminal investigation may be re-directed in favor of pursuing this remedy; and it may be initiated when a person's citizenship is revoked for war crimes. Cost estimates were provided by CIC, CBSA and DOJ. In a relatively simple case, where the person's refugee status is vacated, the Federal Court rules against the person, and the PRRA finds no risk of torture, the costs are estimated at \$15,782. If however, the PRRA finds there is a risk of torture, more steps are required, and the costs are estimated at \$46,961.

## **Remedy 9: Denial of Status to Senior Officials from Governments Considered to Have Engaged in Gross Human Rights Violations under Section 35 1 (b) of IRPA**

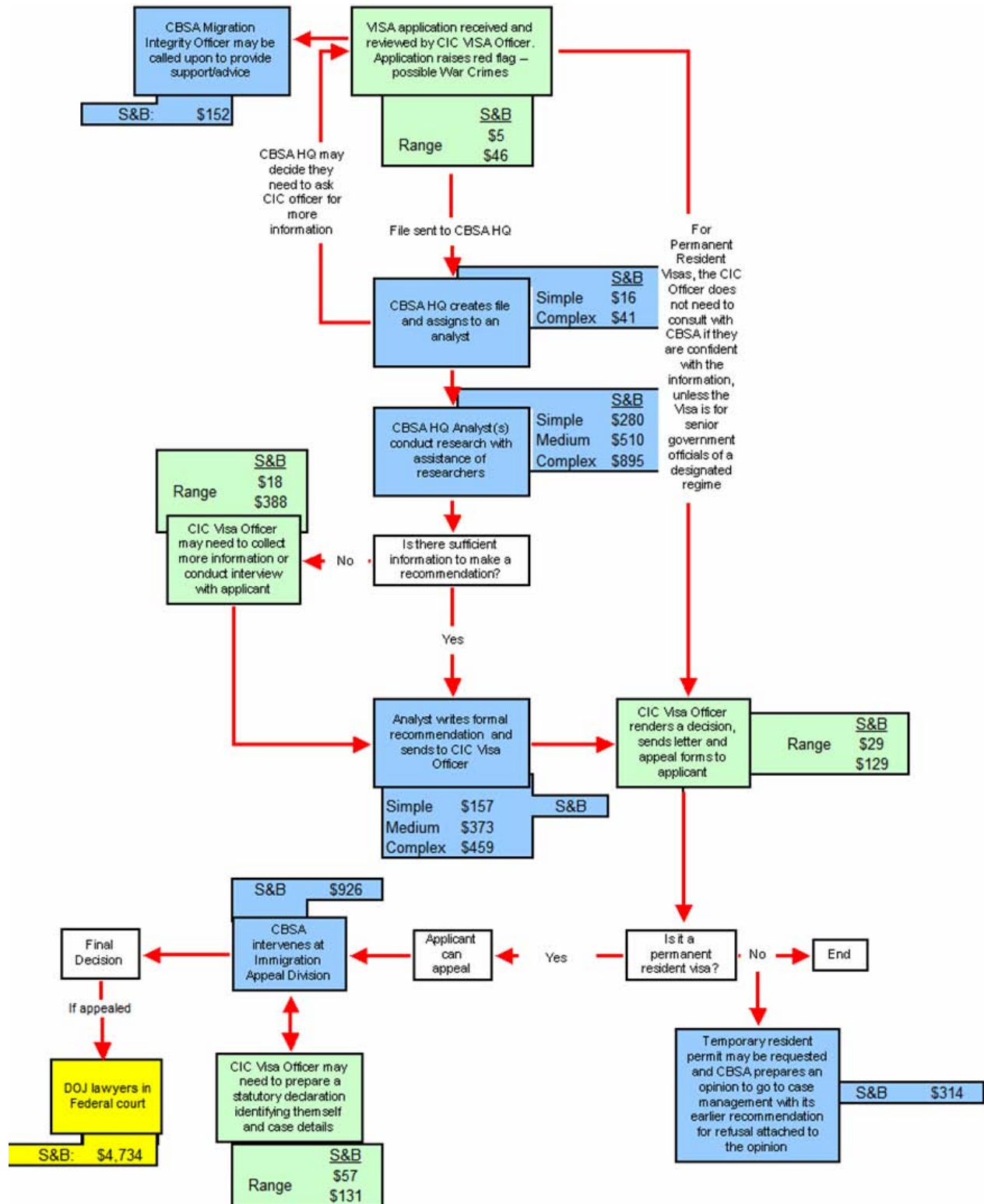
There are three scenarios that may initiate this remedy. A visa application from a senior official of the government in question may be received at an overseas post; the official may present himself at an inland CIC office; and the official may present himself at a Canadian port of entry.

Cost estimates were provided by CIC, CBSA and the RCMP. If the remedy initiates from an overseas application, the costs may be as low as about \$500. If, however, the official presents himself at an inland office or port of entry, and a PRRA is eventually required and incarceration costs are incurred, the costs could be as high as \$36,351.

### **Introduction to Process Flow Diagrams**

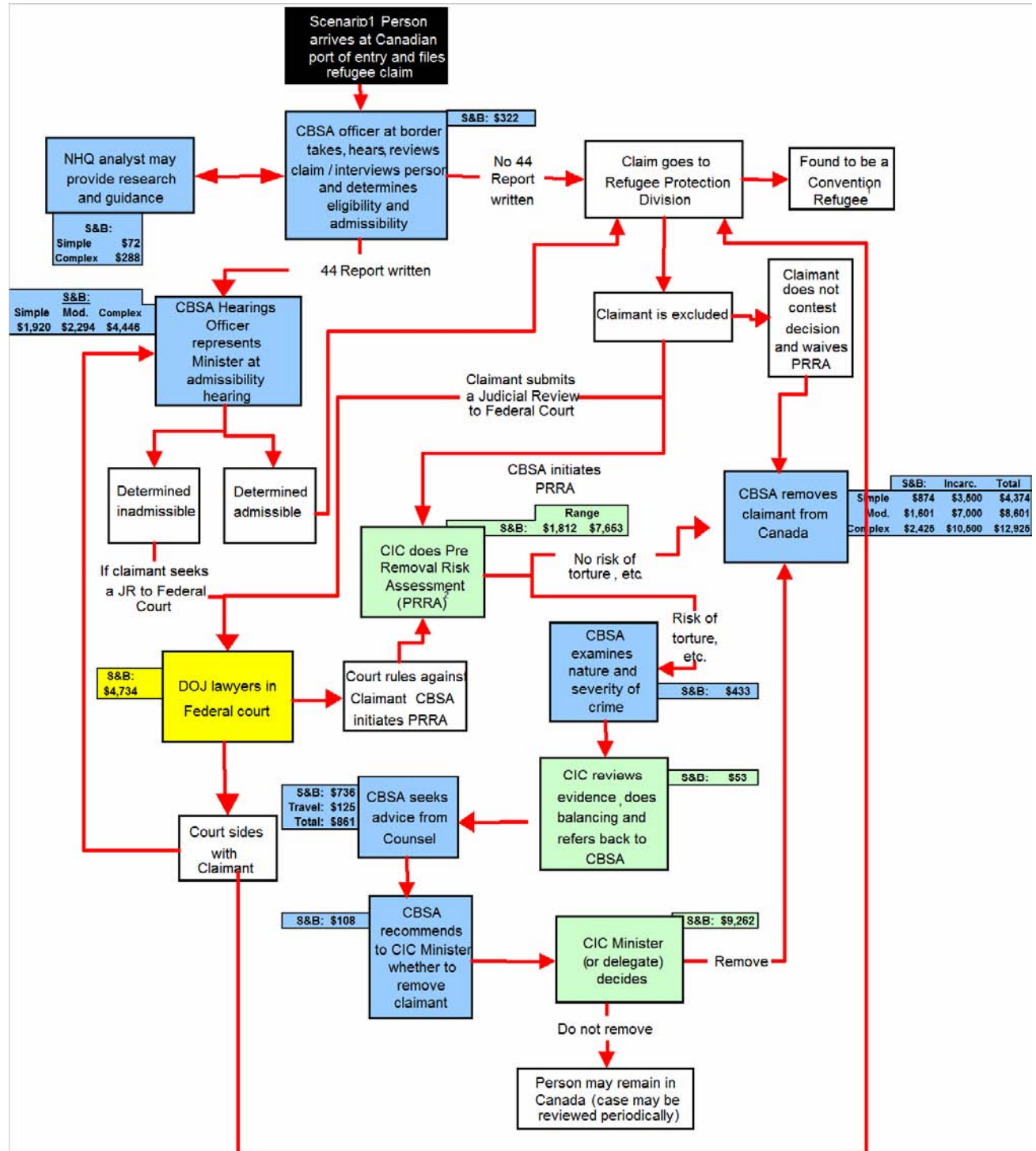
The following pages contain diagrams that present the sequence of steps and estimated costs associated with the war crimes remedies. Each department has been assigned a color (RCMP = red, DOJ = yellow, CBSA = blue, and CIC = green). In cases where regions provided costing, these are noted. Estimates are provided for a wide range of costs such as salaries and benefits (S&B); travel, paralegal costs, etc. Please note that overhead costs such as rent and taxes are not reflected in these estimates. Only direct costs have been estimated.

### Remedy 1: Denial of Visa to Persons outside Canada



## Remedy 2: Denial of Access to Refugee Determination System

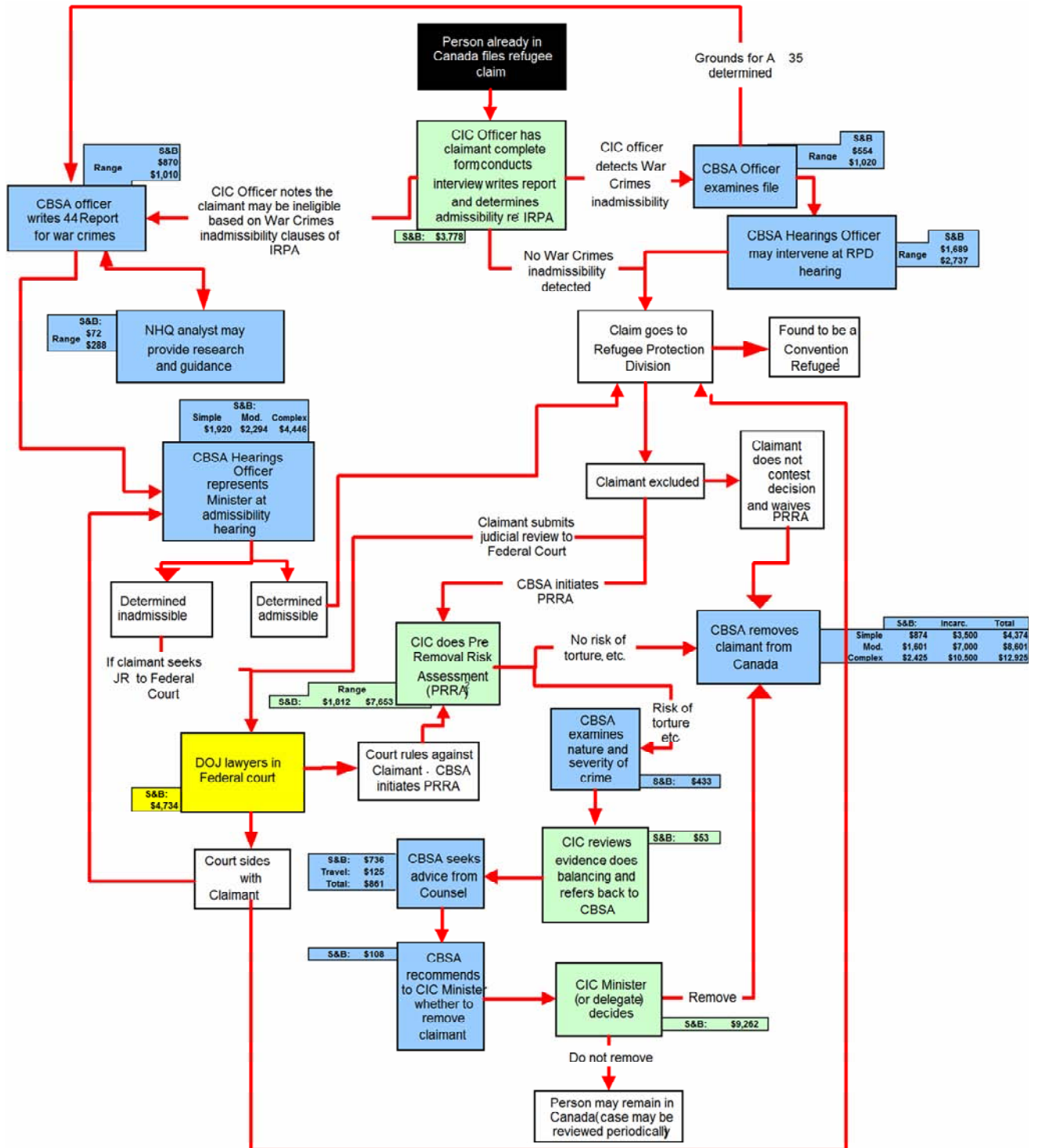
### Scenario 1: Person arrives at Canadian port of entry and files refugee claim



Notes:  
 1 In rare cases, the Minister may submit a Judicial Review  
 2 A reviewable stay of removal can be reviewed from time to time with a change of country condition.

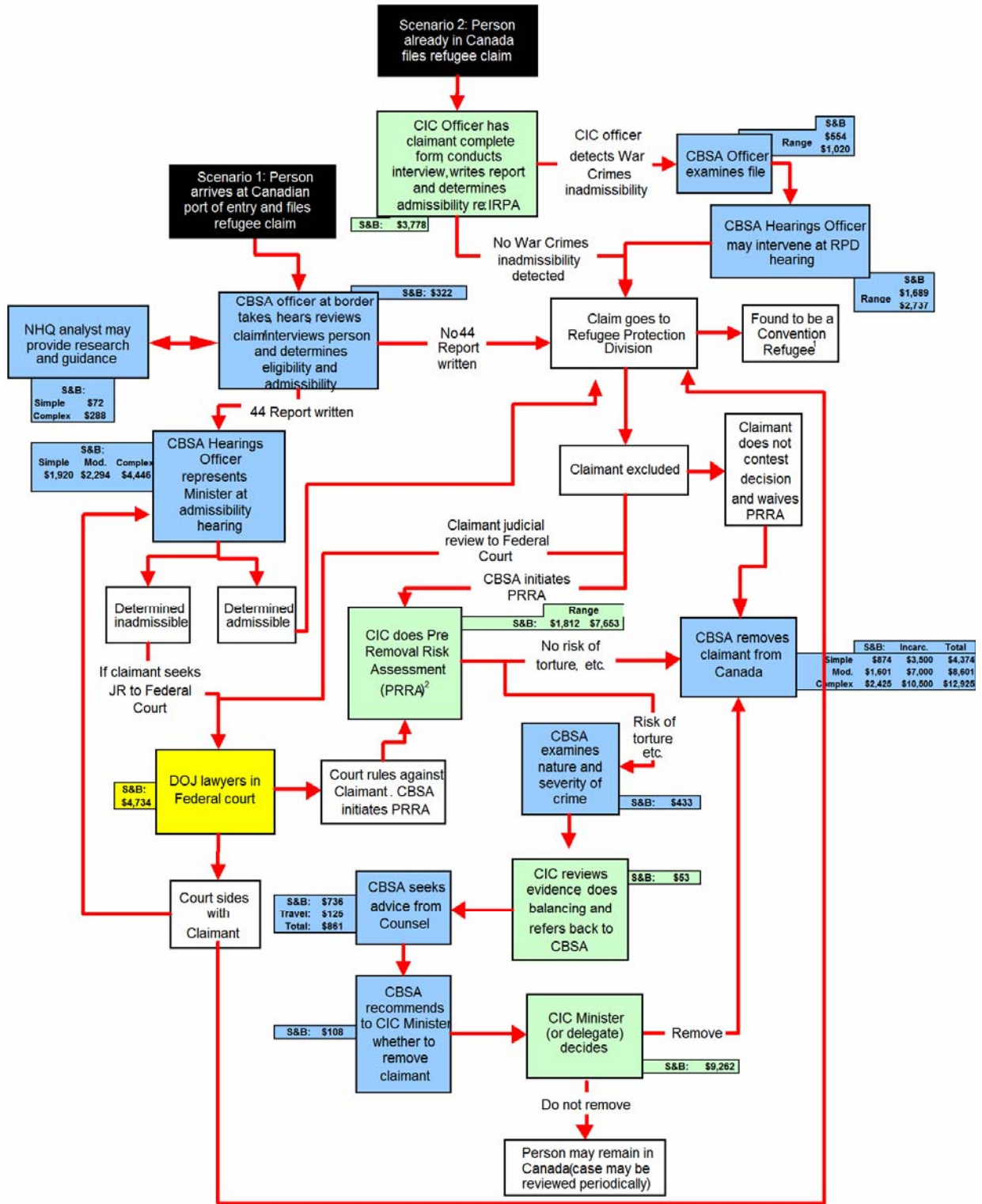
## Remedy 2: Denial of Access to Refugee Determination System

### Scenario 2: Person already in Canada files refugee claim

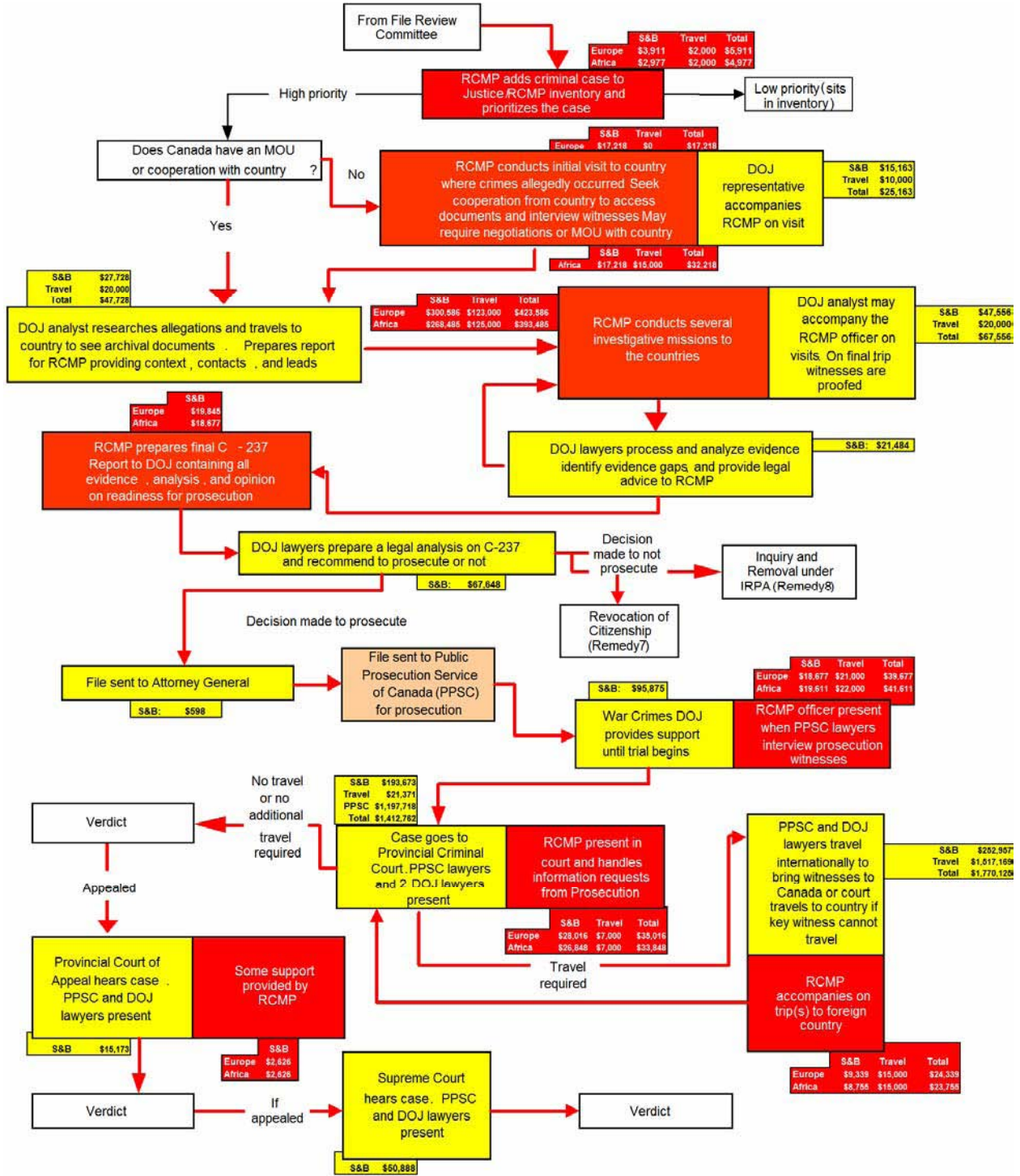


**Notes:**  
 1 In rare cases, the Minister may submit a Judicial Review  
 2 A reviewable stay of removal can be reviewed from time to time with a change of country condition.

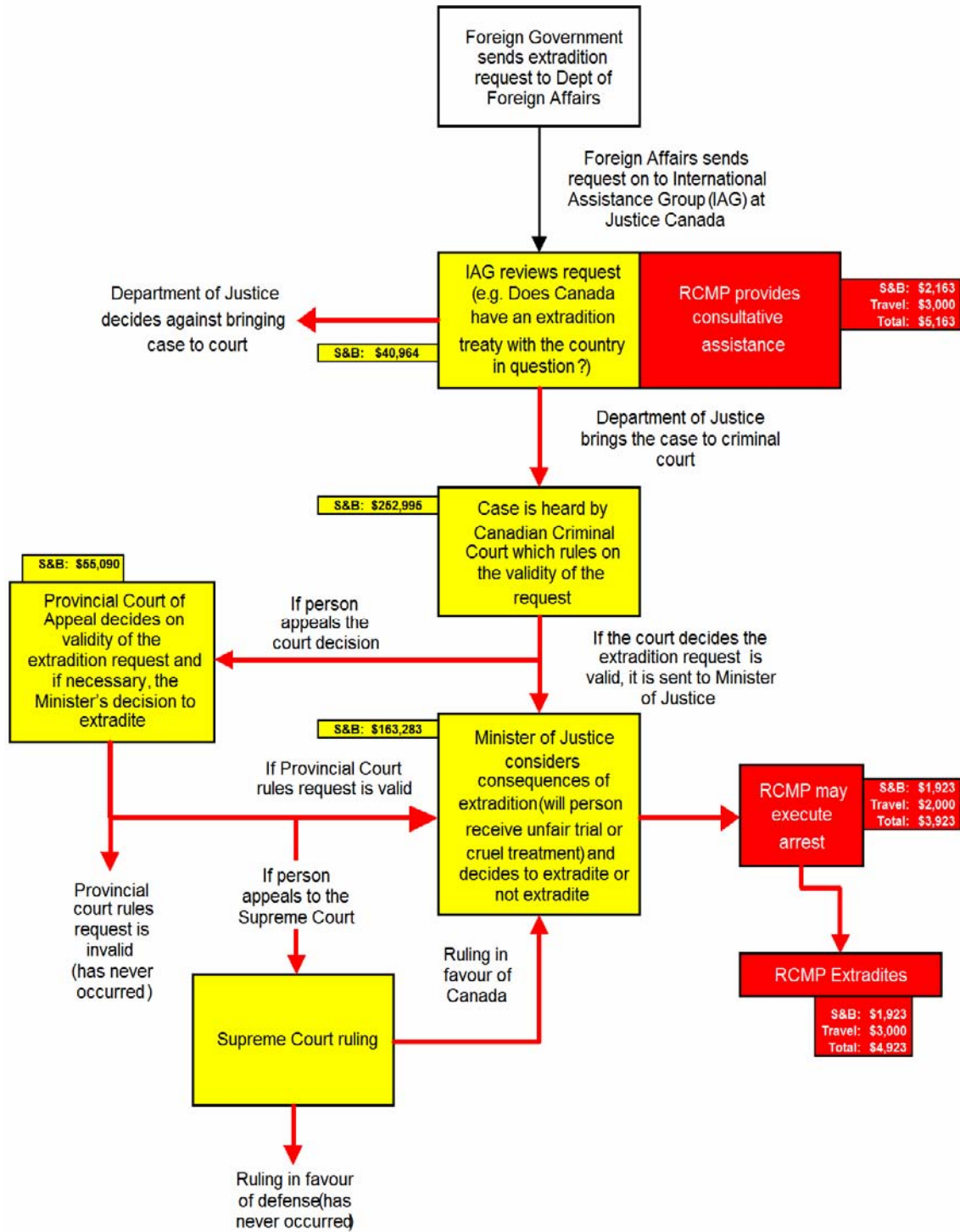
### Remedy 3: Exclusion from Protection of the 1951 UN Convention Relating to the Status of Refugees



### Remedy 4: Prosecution



### Remedy 5: Extradition to Foreign Government (upon request)

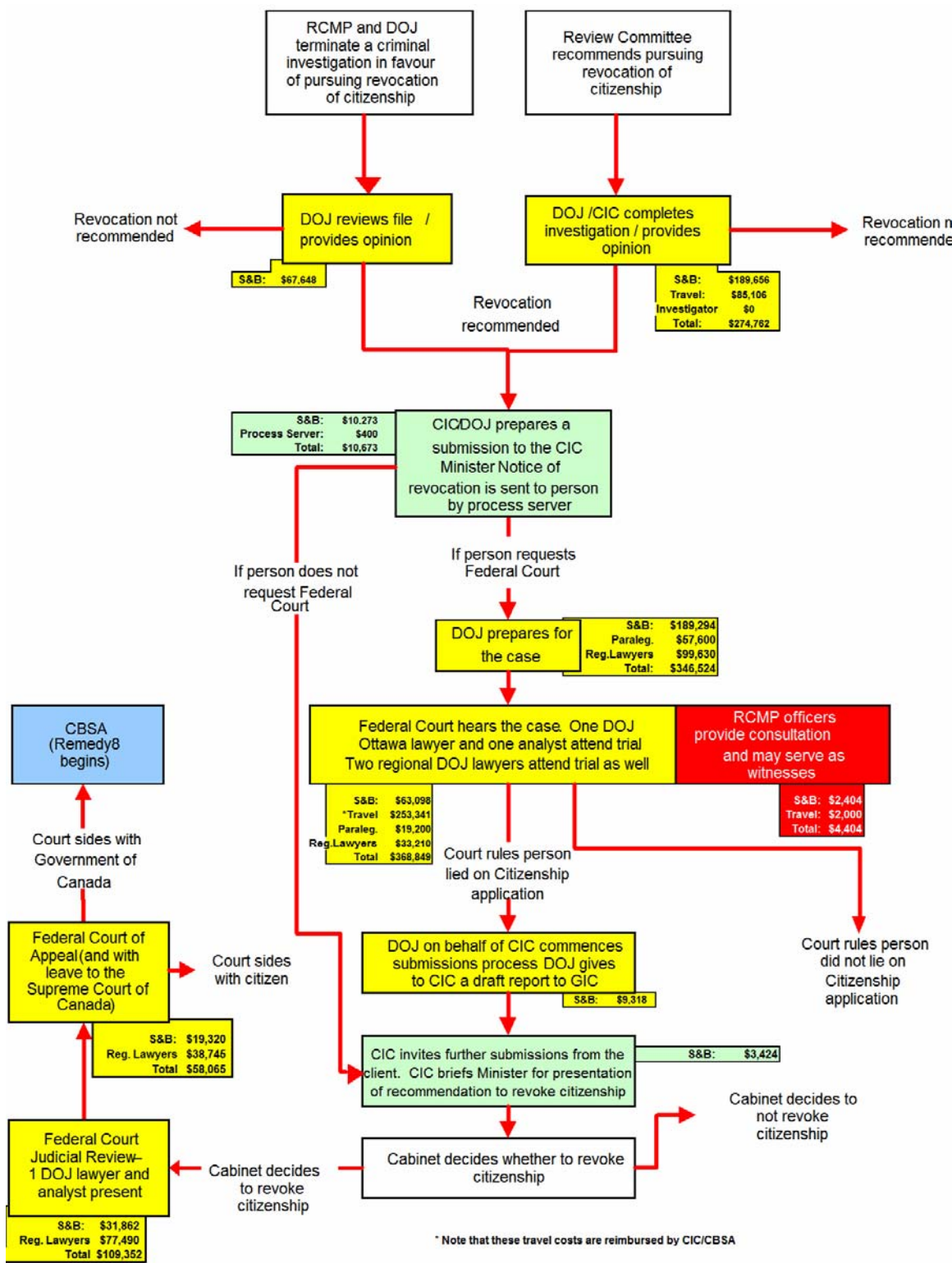


**Notes:**

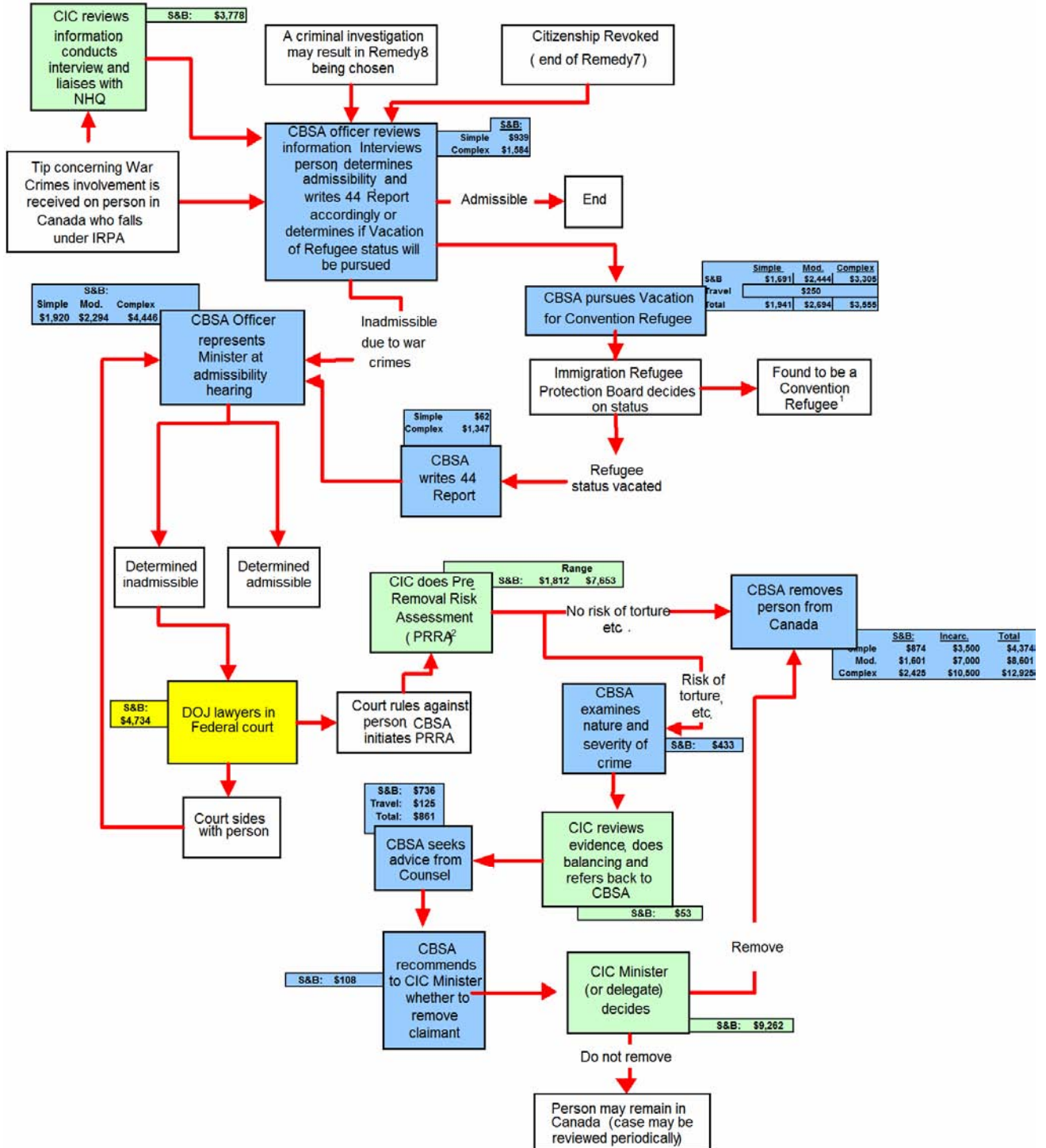
Much of IAG's activities associated with the War Crimes Program fall outside of the nine remedies. These activities include providing assistance to International Criminal Tribunals such as Yugoslavia and Rwanda (for example, providing testimony from people living in Canada).



### Remedy 7: Revocation of Citizenship

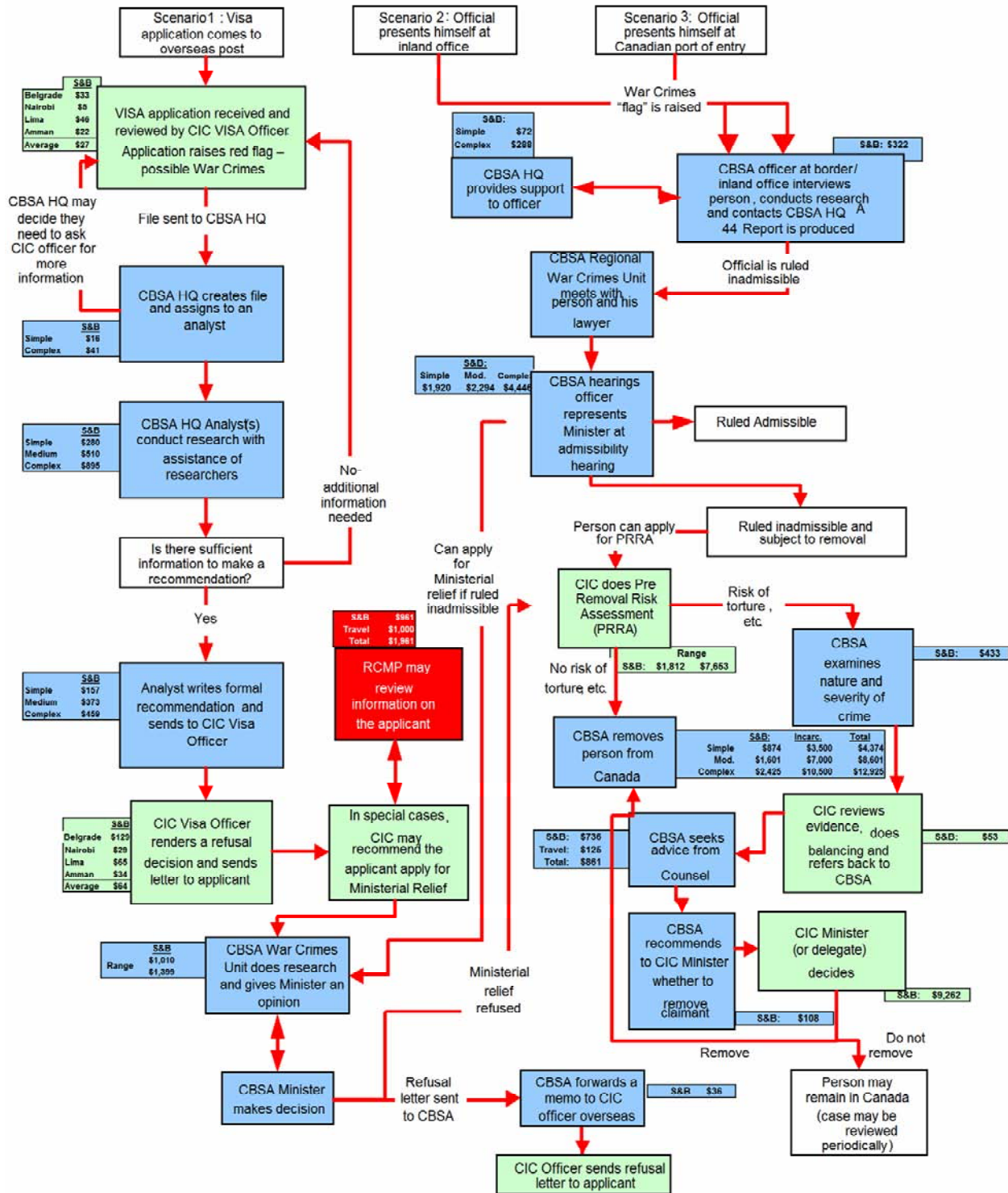


## Remedy 8: Inquiry and Removal from Canada under the Immigration and Refugee Protection Act



**Notes:**  
 1 In rare cases, the Minister may submit a Judicial Review  
 2 A reviewable stay of removal can be reviewed from time to time with a change of country condition.

## Remedy 9: Denial of Status to Senior Officials from Governments Considered to Have Engaged in Gross Human Rights Violations under 35(1) b of IRPA



**APPENDIX E:**  
**Research Methods and their Limitations**

## Research Methods and their Limitations

This Appendix briefly examines each of the key research methods used during the evaluation and assesses the level of coverage and response rate of each method. It also assesses any limitations of the methods and their impact on the validity of the evaluation findings taken as a whole.

### Interviews

As Table 1 below indicates, members of the Evaluation Advisory Committee (EAC) identified a total of 108 potential interviewees to be interviewed during the evaluation. The evaluation team was able to contact, schedule and interview a total of 75 interviewees from the identified list. The participation rate in the interviews was just over 70 percent.

Many of those who were not available or declined indicated that another person who was available for the interview had the necessary experience to provide relevant answers. Most importantly, all of the identified organizational units taking part in or cooperating with the Program in some way were interviewed.

**Table 1: Comparison of Interviewees Identified vs. those Interviewed**

Group	Interviewees Identified	Interviewed
Participating Departments	37	26
Other Government Departments	12	10
External Canadian Stakeholders	25	20
International Stakeholders	34	19
<b>Total</b>	<b>108</b>	<b>75</b>

### Survey of Participating Departments

The response rate for the survey of program staff was 82 percent. A total of 93 staff responded from all four departments, including a cross section from those managing headquarters Crimes Against Humanity and War Crimes units to those staffing regional offices or working in Canadian Embassies and High Commissions abroad.

**Table 2: Responses to the Survey of Participating Departments**

Group	Invited to Respond	Respondents
Canada Border Services Agency	54	45
Citizenship and Immigration Canada	14	12
Department of Justice	27	22
Royal Canadian Mounted Police	18	14
<b>Total</b>	<b>113</b>	<b>93</b>

### Case Studies

The evaluation team undertook the analyses of five different cases, each involving the use of a different program remedy through file and document reviews and interviews with key departmental personnel. The five cases studied covered:

- Case 1: Criminal Prosecution;
  - This case focused only on the processes involved in carrying out a generic criminal prosecution under the *Crimes Against Humanity and War Crimes Act*.
- Case 2: Revocation of citizenship and deportation;
- Case 3: Inquiry and removal under the *Immigration and Refugee Protection Act*;
- Case 4: Denial of visa; and
- Case 5: Denial of status under 35 (1) b of the IRPA.

The case studies were able to achieve their intended purpose of illustrating, in particular, the operation of cross-departmental coordination and information-sharing mechanisms of the Program. The completion of the process flow diagrams developed for the cost comparison allowed the evaluation to cross-check the results of case study interviews with the process steps illustrated in the diagrams.

### Country Studies

In particular, the case studies of national programs and institutions for dealing with crimes against humanity and war crimes in Australia, the Netherlands and the United States allowed the evaluation to examine the emphasis given different remedies in different jurisdictions. It also allowed for a comparison of the results achieved and of the level of integration across departments. Unfortunately, it did not allow for a comparison of costs either on a whole program or unit of output basis. The main reason for this has been the fact that each of the countries

chosen for comparison does not deal with war crimes through an integrated program with its own budget. In general, cost data on programs in other jurisdictions is not available since the costs are subsumed in the operating budgets of the departments involved.

### **Comparison of Remedy Costs**

The cost comparison began with a series of consultations with participating departments to develop the process flow diagrams presented in Appendix D. This was followed by the development of a costing table for each of the remedies subsequently circulated to the relevant staff in each of the participating departments. Finally, the evaluation was able to compile estimated costs for each separate step in the remedies available under the Program and to arrive at an estimated average total cost for each remedy (on a per-case basis). This could then be used in an assessment of program and remedy cost effectiveness.

### **Media Analysis**

The media analysis focused on a review of how specific crimes against humanity and war crimes cases were covered in Canadian media. It was not designed to assess the impact of media coverage on program awareness and opinions regarding war crimes issues among the Canadian public. The media analysis demonstrates, however, that high profile cases before the courts for criminal prosecution under the Act, or as part of the process of removing a suspect from Canada, generate virtually all media coverage of the Program and the issues.

### **Limitations**

In overall terms, the evaluation was carried out in accordance to the methods originally proposed in the study design and to access all, or very nearly all, of the data expected. There were some limitations in each of the methods but none undermined the overall validity of the evaluation findings.

- Although only just over 70% of identified interviewees were able to be interviewed, all relevant organizations and organizational units were able to participate in the interviews;
- The response rate to the departmental survey was very high at over 82%. Nonetheless it is important to note that, for any given question, sometimes the number of answers can be very small. If the respondents had been chosen through a statistically valid random sample process, this would severely limit the validity of the results. It is less of a concern with, as in

this case, a directed sample in which program staff identified those persons they felt were most knowledgeable of the issues.

- For the interviews, the staff survey and the case studies, there is an obvious risk of selection bias since the samples in all three were selected based on the advice of program staff. This was done to maximize the content available to the evaluation team. Since the interviewees and survey respondents represent very nearly a census of knowledgeable persons, this is less of an issue than for the case studies.
- The case studies were able to examine the changing nature of interdepartmental coordination and communications during the evaluation period since most of the cases were multi-year in duration. With only five case studies carried out, there is a real limit to generalizations drawn from the studies. They were not, however, intended to be representative of the Program as a whole, but to provide illustrations of some of the phenomena (such as the role of coordination) found in the broader based methods such as the interviews and staff survey.
- The country studies were able to illustrate very different national organizational and policy responses to the problem of war crimes, even though they did not provide cost data to allow for cost effectiveness comparisons across countries. Of course, they suffer from the same problem of limited sample size as the case studies.
- The comparison of estimated remedy costs did provide a very clear pattern of the differential in estimated remedy costs on a per case basis. Cost effectiveness estimates can be derived from this data but it requires qualitative weighting of the value of a given outcome. Higher costs do not automatically indicate lower cost effectiveness.