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Government
of Canada

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Sixth Annual Report

Canada's Crimes Against Humanity and War Crimes Program

2002–2003



Department of Citizenship and Immigration
Department of Justice
Solicitor General Canada

Canada 

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CANADA'S WAR CRIMES PROGRAM

ACTIVITIES FOR THE PERIOD OF APRIL 1, 2002 TO MARCH 31, 2003

INTRODUCTION

The policy of the Canadian Government is unequivocal: Canada is not and will not become a safe haven for persons involved in war crimes, crimes against humanity or other reprehensible acts regardless of when or where they occurred.

Since the mid-1980's Canada has undertaken significant measures, both within and outside of its borders to break the cycle of impunity enjoyed by persons who have committed atrocities. These measures include the enactment of new statutes and amendments to others to support and strengthen enforcement strategies.

The Crimes Against Humanity and War Crimes Program upholds the Government's "no safe haven" policy. The first Annual Report on the War Crimes program was issued in 1999. All of the previous published Annual Reports may be found at this website :

<http://www.cic.gc.ca/english/pub/index-2.html>

The production and distribution of an Annual Report on the War Crimes Program is part of the Government of Canada's commitment to deny safe haven to war criminals or other individuals who have committed reprehensible acts in time of conflict. Over the years, the Report has included a great deal of general information regarding the Program.

For the fiscal year 2002-2003, the Interdepartmental Operations Group which manages the War Crimes Program has adopted a new approach for the Program's Annual Report. A new website, soon to be available, will convey general information about the Program, the partners, the activities, and the Law. The Annual Report will focus on the yearly activities of the Program. It will be distributed in paper format and posted on the website.

This year's Annual Report does not cover changes that were made to Departments or development in cases after March 31, 2003. Those changes will be covered in the Annual Report for the fiscal year 2003-2004. We have also created a contact address at

wc-cdg@justice.gc.ca.

PROGRAM OVERVIEW

The War Crimes Program is delivered through the coordinated efforts of three partners: the Department of Citizenship and Immigration (CIC), the Department of Justice (DOJ) and the Solicitor General of Canada (RCMP)¹. The partners discuss and develop policy objectives common to all three departments to ensure proper cooperation at the day-to-day working level. Senior officials from specialized units in each department are active in the Interdepartmental Operations Group (IOG), which is responsible for managing the Crimes against Humanity and War Crimes Program.

The IOG ensures that the Government of Canada has properly addressed all allegations of war crimes and crimes against humanity against Canadian citizens or persons present in Canada. Another of its purposes is to ensure that Canada complies with its international obligations. This includes the investigation, prosecution and extradition or surrender of war criminals, and the investigation of the most serious crimes against humanity, as well as cooperation with the international tribunals. In order to meet this objective, the RCMP, with the support of DOJ, investigate allegations involving reprehensible acts that could lead to a possible criminal prosecution. CIC pursues the application of remedies under the *Immigration and Refugee Protection Act* (IRPA) and *Citizenship Act*, in cooperation with DOJ in all instances when these matters proceed to court.

Apprehending and dealing appropriately with persons who have allegedly committed or are complicit in crimes against humanity or war crimes requires a great deal of international effort and cooperation. To that end, Canada supports the work of many international bodies including the International Criminal Court, the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) and the hybrid Special Court for Sierra Leone.

Canada has ratified both the International Criminal Court Statute (ICC) and the protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. Canada was the first country to introduce comprehensive legislation incorporating the provisions of the ICC statute into domestic law with the proclamation of the *Crimes Against Humanity and War Crimes Act* on October 23, 2000. Canada ratified the ICC statute on July 7, 2000. The Statute entered into force on July 1, 2002, when the 60th country ratified.

¹ As mentioned, this sixth Report does not take into account any changes to Departments that occurred after March 2003.

ACTIVITIES 2002-2003

CITIZENSHIP AND IMMIGRATION

Citizenship and Immigration Canada's Modern War Crimes Program directly contributes to the objectives of *The Immigration and Refugee Protection Act* (IRPA) in preventing persons who have been complicit in war crimes or crimes against humanity from accessing Canadian territory, and by taking the necessary enforcement action against those who manage to come into Canada.

New Legislation

The Immigration and Refugee Protection Act (IRPA) came into effect on June 28, 2002. The provisions pertaining to war crimes and crimes against humanity that existed under the previous *Immigration Act* were maintained under IRPA. This means that persons who were complicit in war crimes, crimes against humanity or who were persons who were senior members of a regime designated by the Minister of Citizenship and Immigration as one that has been involved in gross human rights violations, war crimes or crimes against humanity are inadmissible to Canada.

Some amendments were made to improve and strengthen the way that all criminals, including war criminals are dealt with under IRPA. These include:

- access to the Immigration Appeal Division (IAD) and the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) is prohibited to all serious criminals, including war criminals. Under the former *Act*, even serious criminals had access to the IAD on questions of fact and law, although not on humanitarian and compassionate grounds;
- it is no longer necessary for the Minister of Citizenship and Immigration to declare that it is contrary to the national interest to deny access to the RPD to persons involved in serious criminality. A finding by the Immigration Division of the IRB that a person belongs to such a category is sufficient for this purpose;
- the threshold for removing persons to their country of origin, if they have been found to be a Convention refugee, but have also been found to be serious criminals has been changed from "danger to the security of Canada" to "danger to the security of Canada or because of the nature and severity of the acts committed";
- a person who is found to be inadmissible on grounds of serious criminality cannot obtain refugee protection by making a Pre-Removal Risk Assessment (PRRA) application. They can only obtain a stay of a removal order to the country for which protection is claimed and only if the PRRA application is successful;
- the protection of confidential information, which was previously possible before the IAD and Federal Court hearings has been extended to hearings of the new IAD of the IRB;
- there is a provision to allow for the detention of persons if there is sufficient evidence to satisfy the Immigration Division (ID) of the IRB that the Minister is taking

- necessary steps to inquire into a reasonable suspicion that they are inadmissible on grounds of security or for violating human or international rights; and
- the provision of the *UN Refugee Convention* excluding persons who fall under Sections E or F of that *Convention* from availing themselves of the refugee determination process in Canada has been built right into IRPA.

The *Immigration Regulations* which support IRPA includes a provision that proscribes senior officials in the service of a government, and allows for the inclusion in this category of persons who have benefited from their position in relation to the government.

New Branch

The 2002-2003 fiscal year was the first full year of operation following the tragic events of September 11, 2001. In response to that event, bringing together the intelligence resources at National Headquarters, CIC formed an Intelligence Branch. This more focused approach to dealing with security issues and working with partners in the intelligence community both within and outside Canada includes modern war crimes and crimes against humanity issues. CIC continues to work diligently with intelligence partners to deny access to its borders by persons who have committed atrocities and who might seek a safe haven in Canada.

Realignment of work within the Modern War Crimes/Crimes Against Humanity Unit

In July of 2002, CIC's Modern War Crimes/Crimes Against Humanity RZT/W unit at national headquarters realigned and moved two of its officers into a newly formed sub-unit (the VITS unit) to handle visitor visa screening of suspected war criminals and persons who may have committed crimes against humanity. The VITS unit screens applications from students, workers and visitors. The change enabled the RZT/W unit to provide a more efficient service in dealing with visitor cases, and allowed the remaining analysts to concentrate on the immigrant and more complex cases.

Cases handled by RZT/W

Visitor and immigrant cases are processed in a similar fashion. If an applicant is from a country that has been a theatre of conflict, or a country that has a history of human rights abuses, whether by the government or other groups, a visa officer sends a request to RZT/W providing them with basic information on the individual. The case is reviewed by a VITS officer or analyst and the visa office is informed whether there are indicators to suggest that the person may have been involved in war crimes or crimes against humanity. Visitor cases are usually processed within 10 days. The processing time for immigrant cases varies, depending on the complexity of the case.

Between April 1, 2002 and March 31, 2003, 1,299 visitor applications were referred to RZT/W. Of those cases, 173 potential war criminals were refused visas to come to Canada. A total of 804 immigrant cases were investigated, 506 of which were referred to

RZT/W for further review and analysis. There were 182 immigrant cases where the applicants were refused visas to immigrate to Canada as a result of such reviews, whether they were originally referred in this fiscal year or previously. Refusals include persons who were complicit in war crimes or crimes against humanity, persons who withdrew their application in the face of further questioning and persons whose applications were refused for other reasons.

Prevention Abroad

During the fiscal year of 2002-2003, CIC prevented a total of 355 persons from coming to Canada due to allegations of war crimes or crimes against humanity. This includes persons whose applications were refused directly on allegations of war crimes or crimes against humanity, or who were investigated for possible war crimes or crimes against humanity but were refused admission to Canada on other grounds, as well as persons who withdrew their applications after being questioned on their backgrounds. The total number of cases investigated in Canadian missions abroad was 2,103, and 17% of those cases resulted in refusals.

Enforcement Action in Canada

If a person who has been involved in war crimes or crimes against humanity manages to enter Canada, officers in Canada may take action against that person whether they are in the refugee stream, the immigration process, the citizenship process, or if they have already become a Canadian citizen but they hid their war crimes activities when they originally immigrated to Canada.

During this fiscal year, over 3,225 Personal Information Forms completed by persons claiming refugee status, were reviewed for possible war crimes or crimes against humanity. As a result of this screening, CIC filed 242 interventions before the Refugee Protection Division (RPD), on persons who were suspected of having committed war crimes or crimes against humanity. Of the intervention cases reviewed by the RPD this year, 73 people were excluded from the refugee determination process for involvement in war crimes or crimes against humanity.

Twenty-five removal orders were issued and 48 removals were effected, which is two more removals than were carried out last year. This leaves a cumulative total of 183 removal orders that remain to be effected.

Removals can be impeded when a person does not report for removal and as a result, an arrest warrant is issued; CIC encounters difficulty in obtaining travel documents in order to return someone to their country of origin; or the person is permitted to remain in Canada pending the outcome of a litigation matter. Despite these delays, departmental officials are working hard to effect more removal orders.

A total of 21 new arrest warrants were issued this fiscal year, and five of those were executed. There remain a cumulative total of 59 warrants from previous years, for a total

of 75 outstanding warrants. Of those, three have reportedly returned to their own countries, but the warrants remain active in the event that they return to Canada; one is serving a 25-year jail sentence, and the warrant will be executed when the person is ready for release from prison. The remaining warrants are for persons who either failed to report for immigration proceedings or for removal from Canada.

Some of the allegations referred to RCMP\DOJ for possible criminal investigation concern Canadian citizens. Should the RCMP investigate and discover evidence that would support a case for revocation of citizenship, it will be referred to CIC for action.

Research

The former Modern War Crimes Intelligence Co-ordination Unit of CIC evolved into the Intelligence Coordination and Research Division (RZI). Whereas the initial focus for this unit was specifically related to war crimes, world events necessitated that their role be expanded to include organized crime and security review related matters. RZI processed approximately 800 requests for information relating to war crimes or crimes against humanity issues from analysts in the RZT/W unit this year. In addition, either screening aids, country reports or chronologies of events were produced for 17 countries during this time period.

Training

Due to the coming into force of the new *Immigration and Refugee Protection Act* on June 28, 2002, it was necessary to update the existing war crimes and crimes against humanity training packages to comply with the new *Act*. During 2002-2003, two of these war crimes/crimes against humanity training packages were delivered: one in Ottawa, and the other in Toronto, with a combined total of 46 participants in attendance. In addition, half-day seminars were delivered to Migration Integrity Officers and Visa Officers assigned to Canadian missions abroad. Modern War Crimes analysts also provided country specific briefings to approximately 30 Visa Officers during this past year.

Support to the International Criminal Tribunals

CIC's extensive experience in screening for modern war crimes makes the department a valuable partner to the International Tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Tribunal for Rwanda (ICTR). CIC is a participant in the Government of Canada's activities to support international tribunal prosecutions and investigations.

Outreach

In order to foster a better understanding of Canada's war crimes and crimes against humanity policies, part of the strategy involved in implementing Canada's "no safe haven policy" is to communicate with a broad spectrum of interested parties both domestically and internationally.

In this fiscal year, CIC hosted a three-day visit of officials from the former US State Department. They were given an overview of CIC's Modern War Crimes Program and its functions, with a strong focus on overseas prevention.

CIC also participated in a visit, hosted by the RCMP, from officials of the new Scotland Yard. CIC gave presentations on its role in the Modern War Crimes Program.

Introduction of Technology

In the first three years of the program, CIC developed a database, called the Modern War Crimes System (MWCS) to support the sharing of information on modern war crimes issues. The roll out of this open source electronic database, took place this year, with the installation of the database in regional and local offices in Canada in July 2002, and in every Canadian mission abroad with immigration processing service in December 2002. The system is maintained by the Modern War Crimes Resource and Information Management Centre of the Modern War Crimes/Crimes Against Humanity Section (RZT/W) at National Headquarters. With the approval of the RZT/W unit, information on persons, events and organizations involving war crimes and crimes against humanity are input into the database. Researchers in the Modern War Crimes Research and Information Management Centre are responsible for the maintenance and populating of MWCS.

Summary of CIC's Activities

Since the inception of the program, a total of 2366 persons complicit in war crimes or crimes against humanity have been refused visas to come to Canada. CIC intervened on behalf of the Minister at the IRB in 1028 cases, and 382 cases, thus far, having been excluded from the refugee determination process by the IRB. A total of 281 persons complicit in war crimes or crimes against humanity have been removed from Canada to date.

CIC² will continue to work to prevent persons complicit in war crimes or crimes against humanity from coming into Canada, and to remove persons of this background who have managed to enter Canada from another country.

CIC³ will continue to concentrate on building and refining the tools and information made available to staff on war crimes issues. In addition, the department will seek to improve its capacity to respond to situations involving persons complicit in war crimes or crimes against humanity.

CIC will work closely with DOJ and the RCMP to identify, investigate and revoke citizenship from war criminals who managed to immigrate to Canada and subsequently become Canadian citizens.

² As of December 2003, part of the Canadian Border Services Agency's responsibilities.

³ Ibid.

In looking at the results to date, utilizing the tools of its Modern War Crimes Program, CIC is effective in preventing persons who were complicit in war crimes or crimes against humanity from coming to Canada. CIC has also been successful in removing persons of this background who have managed to enter Canada.

This is in keeping with the policy of the Canadian government that Canada is not and will not become a safe haven for persons involved in war crimes, crimes against humanity or other reprehensible acts, regardless of when or where they were committed. CIC's Modern War Crimes Program also upholds Canada's commitments in the International community with respect to war crimes and crimes against humanity. Canada's War Crimes Program is a model that other countries look to in establishing their own Modern War Crimes programs.

ROYAL CANADIAN MOUNTED POLICE

The Royal Canadian Mounted Police is Canada's national police force with responsibility for enforcing all federal statutes including the *Crimes Against Humanity and War Crimes Act*. The RCMP also provides investigatory support to citizenship revocation and deportation proceedings which are administered by CIC and litigated by DOJ. The RCMP War Crimes Section is located in Ottawa where full-time police investigators are assigned to World War II and Modern War Crimes cases. Support for the Section is provided by RCMP forensic laboratories as well as RCMP personnel stationed throughout Canada and abroad. Assistance involving other Canadian and foreign police forces as well as the International Criminal Police Organization (“INTERPOL”) is coordinated through the RCMP.

The RCMP has responded to allegations of war crimes and crimes against humanity from victims, witnesses, foreign governments, ethnic communities, non-governmental organizations (NGO), open source information as well as allegations which may have come to light through refugee, immigration and citizenship applications.

The RCMP works closely with the DOJ Crimes Against Humanity and War Crimes Section to investigate allegations arising out of World War II. This process requires that investigators, relying on archival research by DOJ historians, confirm the presence of suspects in Canada and develop initial witness lists. Working with DOJ counsel, RCMP officers arrange and conduct witness interview trips with the assistance of foreign governments and police officials under bilateral Memoranda of Understanding; these trips are mainly to central and eastern Europe. The investigation results are then reviewed by DOJ counsel and RCMP investigators to determine if there is sufficient evidence to bring criminal charges. If not, a further analysis of the evidence is conducted and, if warranted, revocation and/or deportation proceedings are initiated. Since 1996, the RCMP has investigated a number of suspects alleged to have committed war crimes/ crimes against humanity during World War II. Many of these files are concluded because the suspects have died or are in poor health. Other files have been concluded due

to a lack of evidence. The majority of the most recent WW II allegations fall within the latter category.

With respect to modern crimes against humanity, the RCMP War Crimes Section has received allegations regarding persons from Afghanistan, Angola, Bosnia, Burundi, Chile, China, Colombia, Croatia, El Salvador, Ethiopia, Guatemala, Honduras, Iraq, Lebanon, Nigeria, Peru, Philippines, Rwanda, Senegal, Serbia & Montenegro, South Africa, Sri Lanka and Sudan. In essence, individuals assigned to internal security duties in countries known to violate basic human rights are potential targets for investigation if they elect to come to Canada. Additionally, as a result of one RCMP investigation, a Canadian citizen has been criminally charged with the hostage taking of U.N. observers during the Bosnian conflict; this case is currently before the Canadian courts. Other individuals alleged to have engaged in crimes against humanity from recent conflicts might not be prosecuted; nevertheless, the information acquired by the RCMP regarding these individuals is often instrumental in their exclusion from refugee protection and removal from Canada.

The challenges in pursuing these allegations are significant; distances from Canada, long periods of elapsed time since commission of the offences, national borders and linguistic barriers all complicate investigations. While information can be derived from archives with respect to WW II investigations, the same cannot be said for crimes of more recent origin. Some of the suspects under investigation were not part of formally structured organizations and may have operated in specific locations for very limited periods of time. With little documentary evidence of these atrocities, emphasis is placed on finding witnesses capable of identifying the perpetrators and relating what transpired. To facilitate this process, the RCMP has entered into special cooperation agreements with police departments and public offices in some of the countries where these witnesses are located. There is an ongoing effort to conclude agreements with all countries where witnesses may be located, either for current or future investigations.

Finally, international criminal investigations are a two-way street; the RCMP War Crimes Section also provides assistance to foreign police and international law enforcement authorities such as the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda.

DEPARTMENT OF JUSTICE

The Crimes Against Humanity and War Crimes Section of Canada's Department of Justice (often referred to as DOJ's War Crimes Section) is located in Ottawa. The section is a multi-disciplinary team consisting of lawyers, historians/analysts, paralegals, a historical support group, legal assistants and support staff. The section also hires contract analysts and related experts on an *ad hoc* basis as required.

Modern Day Cases

Canada has shown leadership in the manner in which it has dealt with war criminals that reach its shores and in the actions it has taken in supporting international efforts to ensure that war criminals are brought to justice.

With the adoption of the *Crimes Against Humanity and War Crimes Act*, Canada can choose the most effective enforcement action in a given situation, be it criminal prosecution or extradition of suspected war criminals in Canada, their surrender upon request to international criminal tribunals or the future International Criminal Court or the application of immigration remedies. As a result, Canada remains a world leader in the fight to ensure that people who commit atrocities are accountable for their actions. Canada is therefore well placed to face the challenges of further unrest and strife that could result in suspected war criminals seeking refuge in Canada.

The Department of Justice has an inventory of files involving war crimes or crimes against humanity committed since WW II, also known as modern war crimes files.

DOJ's War Crimes Section supports the RCMP in their investigation of allegations under the *Crimes Against Humanity and War Crimes Act*. These investigations target individuals in Canada who are alleged to have participated in crimes against humanity or war crimes anywhere in the world.

During the Fiscal Year 2002-2003, DOJ continued to work with the RCMP to develop operational protocols respecting the investigation of war crimes. Internally, the section continued to implement its transition plan to further develop a body of expertise to support both WW II and modern investigations and litigation. An expert on Rwanda was hired and geographically centred teams were created to focus on ongoing file development. More lawyers with expertise in criminal law were hired to address the potential for criminal prosecution under the new Act. A senior lawyer with expertise in Immigration and International Law was appointed to occupy the position of Manager of the law. During 2002-2003, the manager of the law gave legal advice on war crimes matters across CIC. He also assumed the role of team coordinator for DOJ personnel supporting the RCMP in their investigation of modern cases.

World War II Cases

In the World War II Program, the War Crimes Section's focus is dealing with allegations that could lead to criminal prosecution or to revocation of citizenship and eventual removal, the latter in co-operation with CIC, notwithstanding the passage of time that renders this work more and more difficult.

Since the beginning of the work in the DOJ Section, over 1600 files have been opened and examined. As of December 2003, 70 WW II files were still under active

investigation and 124 initial allegations were being examined. 1,494 files were inactive or closed.

Since 1995, 19 revocation and deportation cases have been initiated. As of March 31, 2003, the Government had been successful in six denaturalization cases before the Federal Court of Canada (Bogutin, Katriuk, Kisluk, Oberlander, Odyinsky, Baumgartner). In two other cases (Csatory, Maciukas), the respondents did not contest the proceedings. Their citizenship was revoked and they left the country voluntarily. Defendants have been successful in three cases before the Federal Court of Canada (Vitols, Dueck and Podins). In six cases, suspects passed away during the course of the legal proceedings (Bogutin, Kenstavicius, Tobiass, Nemsila, Nebel and Kisluk). On March 31, 2003, the program was awaiting one Judicial Review decision (Oberlander) from the Federal Court. Two cases were concluded and waiting for a decision (Obodzinsky and Fast⁴). Deportation proceedings were pending in one case (Oberlander). Proceedings are ongoing in one Denaturalization case (Seifert). This last case is also the object of an extradition proceeding.

Support to the International Criminal Tribunals and Foreign Governments

DOJ's War Crimes Section continues to strengthen its working relationship with the Tribunals and European governments. DOJ began working with European governments and police officials on a response to the issue of the movement of war criminals across borders and the sharing of best practices. The section is also actively involved in providing support to the RCMP in several on-going investigations in Europe and Africa.

The International Assistance Group (IAG) of the Department of Justice Federal Prosecution Service assists the RCMP and the Department of National Defence in their support to the investigations and prosecutions of the International Criminal Tribunals for Rwanda and the Former Yugoslavia. Additionally, IAG reviews requests for mutual legal assistance under *Mutual Legal Assistance in Criminal Matters Act* from foreign governments in the investigation and prosecution of modern day war crimes. Such assistance is also available to the International Criminal Tribunals for the Former Yugoslavia and Rwanda.

Outreach

In April 2002, DOJ's War Crimes Section organized a conference titled *Combatting International Crimes Domestically* that included guests from the other partners in Canada's War Crimes Program and from other countries that face similar challenges in investigating and prosecuting war crimes. Information was provided concerning relevant criminal, immigration and extradition legislation, as well as any legislation or powers enabling the states to provide assistance to the two *ad hoc* international criminal tribunals and the (then) coming International Criminal Court.

⁴ Since then decided in favour of the Government.

Members of the Section also participated in domestic and international conferences to share and gain knowledge on the fight to combat impunity for crimes against humanity and war crimes. The Section continued its dialogue with NGO's, interest groups and other stakeholders to discuss the War Crimes Program.

APPENDIX 1

CASE SAMPLES

Below is a sampling of the types of cases dealt with this year:

- Citizen of Iraq who applied at a Canadian mission for a visa to visit Canada in September 2002. The applicant admitted to being a senior ranking member of the Iraqi army in the 1990's. A subsequent CIC war crimes investigation concluded that the applicant was complicit in crimes against humanity perpetrated against the civilian population during his military career. The application was refused for complicity in war crimes as well as for being a senior official of a designated regime.
- Citizen of Afghanistan who applied for permanent residence status at a Canadian mission in 2001. The file was referred to CIC's War Crimes unit for further investigation, where it was determined that the subject was a senior official of a designated regime in Afghanistan. During his period of military service, it was established that he was working for Khad as a senior communications officer. The application was refused in March 2003.
- Citizen of Bosnia-Herzegovina who applied for an Immigrant Visa at a Canadian mission in 2000. War crimes concerns were identified during processing and the file was forwarded to CIC's War Crimes unit for investigation. After a review of the file, it was determined that the applicant was complicit in crimes against humanity for being involved in ethnic cleansing, the shelling of civilians, looting of minority properties, extrajudicial executions, rape and the transfer of prisoners to concentration camps. The application was refused in November 2002.
- Citizen of El Salvador who applied for a temporary resident visa to visit Canada in December 2002. A war crimes investigation by CIC concluded that there were reasonable grounds to believe that the applicant was an infantry commander during the civil war in El Salvador, where his troops were committing crimes against humanity. The applicant was refused a TRV⁵ later in December 2002. In the next week, the individual applied at two other embassies, committing misrepresentation on both applications and was advised that he must wait two years before being able to re-apply, pursuant to the Act. In April 2003 the applicant attempted to enter Canada at two different ports of entry, but both times was refused entry and issued with an exclusion order.
- Citizen of Ethiopia who had applied for a Permanent Resident visa in Canada in 1997. Applicant was an elite body-guard to senior officials under Mengistu, he was also involved in training other soldiers of the Dergue army, an organization known to have committed crimes against humanity. The applicant was refused based on complicity in the commission of crimes against humanity.

⁵ Temporary Resident Visa

- Citizen of Iraq who made a refugee claim in Canada, and was excluded under Article 1F(a) by the then Convention Refugee Determination Division (CRDD) for crimes against humanity. The claimant sought judicial review of that decision, the Federal Court Trial Division (FCTD) granted judicial review, set aside the decision and referred the case back to the CRDD for re-determination. The Minister⁶ appealed the FCTD decision to have the case referred back for re-determination. The client cross-appealed. The Minister's appeal was allowed and the cross appeal was dismissed. The exclusion stands.

- Citizen of Columbia who claimed refugee status at the Canada/US border. He had graduated from military school and was posted as a 1st lieutenant in command of a 40-man unit at Valledupar. He was later transferred to Battalion 13 in Cundammacca. Both Valledupar and Cundammacca had significant guerilla presence. He claims he later began receiving threatening calls from FARC (Forces Armées Révolutionnaires de Colombie – Revolutionary Armed Forces of Columbia) requesting that he provide information on others, so he resigned from his job in the armed forces and found a career in finance, but remained a reserve officer. He claimed that FARC continued to bother him, therefore, he decided to leave the country. The Minister's representative introduced evidence that showed that the Columbian Army was an organization that committed international offences and crimes against humanity as a regular part of its operation. It was an organization with a limited brutal purpose and the claimant had knowledge of the army's activities, but he did not leave at the earliest opportunity. The RPD excluded the claimant under Article 1F(a) of the UN Convention and determined that he was not a Convention refugee or a person in need of protection under Section 98 of IRPA. A pre-removal risk assessment was conducted and it was determined that he would not be at risk if removed to his country of origin.

- Citizen of Bosnia-Herzegovina arrived in Canada in July 2000 and made a refugee claim stating that he was forcibly recruited into the Bosnian Armed Forces where he was taken to the Croatian border where he served as a soldier and guard. He was an active member of the Bosnian Armed Forces, a.k.a. the Bosnian Muslim Army from 1992-95, engaged at the Croatian border. These forces are known perpetrators of war crimes and crimes against humanity during those years. The Minister's representative intervened on the basis that the applicant should be excluded under Article 1F(a) of the UN Convention. The claimant had a US Notice of Intent to Deny Asylum, which he claimed erroneously stated that he had joined the army willingly. Information on the US application he completed stated that he was an infantryman with the 10th Strike Brigade of the Bosnian Army 5th Corps, who was engaged in frequent combat. The Minister's representative introduced exhaustive documentation on the Bosnian Armed Forces and the 5th Army Corps that supported evidence that the 5th Corps members were involved in crimes against humanity, including beating and torturing prisoners. Evidence indicated that atrocities were committed by soldiers and guards of the Bosnian Muslim Army at the 27th July Barracks, including the brutal treatment of POWs and civilians. A number of other reports alleged the

⁶ Minister of Citizenship and Immigration

operation of private prisons controlled by various Bosnian Muslim forces where atrocities were committed against individuals. The RPD Panel determined that the claimant was not a Convention Refugee and was excluded from the definition of a Convention Refugee under Article 1F(a) of the UN Convention as there were serious grounds for considering he was complicit in the commission of crimes against humanity and war crimes. He was found not to be a Convention Refugee or a person in need of protection under Section 98 of IRPA.

- Citizen of Sierra Leone arrived in Canada in August 2001 and made a refugee claim. He indicated that in 1998, rebels broke into his home and took him and 4 boys who were forced to join them. He stated that others killed, raped and set homes and cars on fire. He claimed that he never killed anyone, but did set fires because he would have been killed if he had not done so. He said that he then escaped and went to his father's home and they then moved. While his father was away on business, he claimed that he went out to buy food and was forcibly recruited into the Revolutionary United Front (RUF) under threat of death. He remained with RUF longer than with the first group. He admitted to committing rapes and cutting off of people's limbs. He claimed he escaped to his father's home across the country and RUF went to his home and knifed his father. The Minister's representative introduced evidence that RUF committed atrocities in 1999, during the time that the claimant was a member. The RPD Panel found that the claimant was excluded from the Convention Refugee definition by virtue of Article 1F(a) as there were serious grounds to consider that he had committed crimes against humanity or war crimes. He was found not to be a Convention Refugee or a person in need of protection under Section 98 of IRPA.

Selected World War II Case Files⁷ :

Walter Obodzinsky: Mr. Walter Obodzinsky was served with a Notice of Intent to Revoke Citizenship in August 1999. He then requested that the matter be referred to the Federal Court - Trial Division for adjudication pursuant to the *Citizenship Act*. A Statement of Claim was issued against and served on the defendant on February 1, 2000. The Federal Court – Trial Division and the Federal Court of Appeal both dismissed Mr. Obodzinsky's request to stay the case on medical grounds and the Supreme Court of Canada denied him leave to appeal on this issue. The trial was completed before March 31, 2003.

Jacob Fast: Mr. Jacob Fast was served with a Notice of Intent to Revoke Citizenship on September 30, 1999. Mr. Fast requested that the matter be referred to the Federal Court - Trial Division for adjudication pursuant to the *Citizenship Act*. A Statement of Claim was served on Mr. Fast's counsel on March 7, 2000. The Trial was completed before March 31, 2003.

⁷ Information as of March 31, 2003.

Revocation		
References now before the Federal Court	1	Seifert
Awaiting decisions from Federal Court ⁸	2	Obodzinsky and Fast
Decisions rendered by Federal Court in favour of the Minister of Citizenship and Immigration since 1995	6	(Bogutin, Katriuk, Kisluk, Oberlander, Odynsky, Baumgartner,)
Deportation		
Before the Adjudication Division, Immigration And Refugee Board (Immigration Inquiry)	1	(Oberlander)
World War II Cases Concluded		
Removed or left Canada voluntarily	2	(Csatory, Maciukas)
Proceedings concluded due to successful defence by Respondent/Defendant	3	(Dueck, Podins, Vitols)
Deceased during proceedings	5	(Kenstavicius, Tobiass, Nemsila, Bogutin and Nebel) (Kisluk died during proceedings in Fiscal Year 2001-2002)

World War II Cases - Inventory⁹

Category	Sub-Total	Total
Allegations:		
Allegation received, initial checks and surveys being undertaken		124
Active Files		
Active files -- development stage		63
Active files -- proceedings ongoing (Federal Court & Immigration and Refugee Board)		4
Inactive files		
a) membership only	227	
b) insufficient evidence to support commencement of proceedings	56	

⁸ As of March 31, 2003.

⁹ Up to date as of December 2003. No earlier statistics available.

c) suspect not located in Canada	54	
d) suspect no longer located in Canada	12	
e) no evidence of entry	24	
Total:		373
Inactive files -- routine investigative checks and surveys negative		175
I. Closed files		
a) suspects deceased	408	
b) date of birth pre-1906, no further investigation	14	
c) closed prior to 1998	<u>508</u>	
Total:		930
II. Closed files		
a) Criminal Proceedings (pre- 1995)		
i) cases stayed	2	
ii) cases lost	2	
b) Federal Court and/or Immigration & Refugee Board proceedings		
i) individuals deceased -- during revocation of citizenship -- during deportation	3 2	
ii) cases stayed	0	
iii) cases lost	3	
iv) completed cases and/or individuals no longer in Canada	<u>3</u>	
Total of Closed Files II:		<u>15</u>
Total number of individuals listed in inventory to date		1,684

APPENDIX 2

Summary Table

Reported Results - Relating to Modern War Crimes Cases Since the inception of the Modern War Crimes Program

Result	Definition	*1997/98	1998/99	1999/00	2000/01	2001/02	2002/03
Entries Prevented	Immigrant Cases Refused 35(1)(a) or (b)** or Visitor Cases Refused 35(1)(a) or (b)** or Cases Refused on other grounds	34	307	581	644	445	355
Refusals and Exclusions	As above plus exclusions by CRDD	199	332	596	697	496	428
Removals	Persons removed from Canada, Refugee and Immigrant	80	27	38	42	46	48
Cases Reviewed Abroad	Number of War Crimes Cases Reviewed/Investigated in Visa Offices 35(1)(a)/(b)** and 1F(a)	85	352	1008	2374	1797	2103
CIC Involvement in RD Hearings	Cases in Which the CIC Minister Intervened	24	58	127	227	350	242
Total MWC Cases	Number of Alleged Cases in Canada and Abroad	477	1620	3039	4246	3983	2406
Cases Under Investigation at end of fiscal year	Cases Under Investigation Abroad	51	45	125	300	170	357
	Refugee Cases Under CIC Investigation	3	9	363	311	292	150
	Immigration Cases Under CIC Investigation	82	71	135	208	205	125

* Data includes all activities up to and including fiscal year 1997/98.

** Prior to the implementation of *IRPA* on June 28, 2002, refusals were made under 19(1)(j) or (l) of *The Immigration Act*.

Breakdown Table 2

Overseas Cases April 1, 2002 to March 31, 2003

	Totals
Visitors	
Number of Visitor cases investigated	1299
Number of Visitor cases refused for 35(1)(a) or (b) or for other grounds	123
Number of Visitor cases withdrawn	50
Immigrants	
Number of immigrant cases investigated	804
Number of immigrant cases refused for 35(1)(a) or (b) or for other grounds	89
Number of immigrant cases withdrawn	93

Breakdown Table 1

In-Canada cases April 1, 2002 to March 31, 2003

	Totals
Immigrant Cases	
- The total number of cases investigated during the fiscal year 2002/03	151
- Number of Inquiries opened	25
- Number of persons found described by an adjudicator as being involved in war crimes or crimes against humanity or as being a senior member of a designated regime	15

- Number of persons not found described	1
- Number of cases under investigation as of March 31, 2003	125
Refugee cases	
- The total number of cases investigated during the fiscal year 2002/03	152
- Number of interventions filed before the CRDD	242
- Number of exclusions by the CRDD	73
- Number of cases withdrawn or abandoned	34
- Number of cases not excluded by the CRDD and found to be refugees	43
- Number of cases excluded by the CRDD and found not to be refugees	58
- Number of Cases under investigation as of March 31, 2003	150
Removals:	
- Number of removal orders issued	25
- Number of removal orders enforced	48
- Number of un-enforced removal orders (cumulative)	183
Warrants:	
- *Number of warrants issued	21
- Number of warrants executed	5