



Vigilance, Accountability and Security at Canada's Borders

**Standing Senate Committee
on National Security and Defence**

The Honourable Daniel Lang
Chair

The Honourable Grant Mitchell
Deputy Chair

June 2015

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MEMBERS

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The Honourable Grant Mitchell, *Deputy Chair*

and

The Honourable Lynn Beyak
The Honourable Jean-Guy Dagenais
The Honourable Joseph A. Day
The Honourable Colin Kenny
The Honourable Thanh Hai Ngo
The Honourable Carolyn Stewart Olsen
The Honourable Vernon White

Ex-officio members of the Committee:

The Honourable Senators Claude Carignan, P.C., (or Yonah Martin) and James S. Cowan (or Joan Fraser).

Other Senators who participated in the work of the Committee:

The Honourable Senators Douglas Black, Larry W. Campbell, Roméo Dallaire**, Pierre Claude Nolin, Hugh Segal**, David Tkachuk, and David M. Wells.

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ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Thursday, December 12, 2013:

The Honourable Senator Lang moved, seconded by the Honourable Senator Unger:

That the Senate Standing Committee on National Security and Defence be authorized to examine and report on the policies, practices, and collaborative efforts of Canada Border Services Agency in determining admissibility to Canada and removal of inadmissible individuals; and

That the Committee report to the Senate no later than December 31, 2014, and that it retain all powers necessary to publicize its findings until 90 days after the tabling of the final report.

After debate,

The question being put on the motion, it was adopted.

Gary W. O'Brien

Clerk of the Senate

Extract from the *Journals of the Senate*, Thursday, December 11, 2014:

The Honourable Senator Lang moved, seconded by the Honourable Senator Smith (Saurel):

That, notwithstanding the order of the Senate adopted on Thursday, December 12, 2013, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study on the policies, practices, and collaborative efforts of Canada Border Services Agency in determining admissibility to Canada and removal of inadmissible individuals, be extended from December 31, 2014 to June 30, 2015.

The question being put on the motion, it was adopted.

Gary W. O'Brien

Clerk of the Senate

EXECUTIVE SUMMARY

Following the ten year anniversary of the establishment of the Canada Border Services Agency (CBSA), the Senate Standing Committee on National Security and Defence Committee commenced a study of how the CBSA performs its responsibilities in identifying and denying entry to inadmissible persons, as well as removing those who have subsequently been found inadmissible after having gained entry to Canada.

The Committee learned of several policy and operational challenges facing the CBSA and other government actors involved in the process, including Citizenship and Immigration Canada (CIC), Canadian Security Intelligence Service (CSIS), and the Royal Canadian Mounted Police (RCMP). Primarily, the Committee believes it is necessary that relevant departments and agencies involved in the process of identifying and denying entry to inadmissible persons to Canada have access to timely, accurate and relevant information through clear information sharing arrangements and improved coordination.

In addition, the Committee heard from several witnesses who advocated for greater oversight of the process, as well as the need for recourse to review and complaints-assessment bodies to ensure that the security and rights to privacy of individuals are respected. In particular, concerns were raised about the lack of recorded interviews for refugee claimant cases and the serious consequences resulting from disputed interviews. The Committee is of the opinion that there is a need to establish an oversight body, as well as a body to handle reviews and civilian complaints, including investigations.

Other serious concerns raised during the hearings related to the enforcement of removal orders (e.g. the length of time to remove an inadmissible person), and the current backlog faced by the CBSA. Options the Committee considered to address these challenges include entry and exit reporting, and ensuring that those deemed inadmissible do not gain entry to Canada in the first instance. The Committee believes this could be achieved through more rigorous screening and pre-screening of those seeking immigration or temporary resident visas.

To address some of the associated problems including the use of genuine documents in fraudulent circumstances or by those other than the documents' rightful owner, and the exploitation of the admission process by high risk entities and individuals, the Committee explored several options. These included: improving CIC's screening referral process; the increased use of CSIS and the RCMP information for screening; better intelligence sharing and interagency cooperation; more face-to-face interviews; and the collection and use of biometric data.

Finally, the Committee learned of the need for stronger intelligence capabilities within the CBSA, in particular, the leveraging of regional intelligence capabilities and greater availability of "lookouts" that provide accurate, up-to-date actionable intelligence in the databases, including the Canadian Police Information Centre (CPIC) database for use by CBSA Border Services Officers.

With these findings in mind, the Committee makes the following recommendations:

RECOMMENDATIONS

Recommendation 1 – The Government of Canada establish an oversight body for the CBSA to ensure appropriate compliance with legislation and policy, including adequate protection for Canadians’ privacy rights.

Recommendation 2 – The Government of Canada establish an independent, civilian review and complaints body for all Canada Border Services Agency activities.

Recommendation 3 – With respect to all interviews conducted by CBSA officers, the CBSA should ensure that interviews are audio and video recorded and that recordings be retained for a period of at least 10 years from the date of recording.

Recommendation 4 – Building on the Beyond the Border Initiative and in light of national security concerns, the Government of Canada move, as soon as possible, to implement a system to register the entry and exit of all travellers, Canadians and non-Canadians.

Recommendation 5 – With respect to hearings for persons deemed inadmissible, hearings by the Immigration and Refugee Board of Canada should incorporate technology such as video conferencing, while individuals are outside Canada, whenever possible.

Recommendation 6 – CIC, the CBSA, CSIS and the RCMP should work closely together to ensure all their databases are utilized in screening all visitors and immigrants to Canada.

Recommendation 7 – With respect to those seeking to immigrate to Canada (e.g. students, temporary foreign workers, refugees and permanent residents), CIC should establish a pilot project to examine the feasibility of using secure video conferencing and mobile teams of experienced Canadian immigration officers to conduct fully recorded face-to-face interviews, in the applicant’s country of residence. Adequate staffing should be put in place to ensure decisions on immigrant or temporary resident visas are always made by Canadian employees.

Recommendation 8 - The CBSA move to enhance regional intelligence capabilities and information sharing with frontline officers.

Recommendation 9 – Ensure that the CBSA front line officers are provided with the most relevant information on travellers at all times, including updated lookouts in the Integrated Customs Enforcement System database and access to the Canadian Police Information Centre (CPIC) database at primary inspection.

Recommendation 10 – The Government of Canada should fully implement a plan to collect biometric information from all foreign nationals arriving in Canada, subject to existing provisions in agreements with other governments. Further, the CBSA should use this biometric information to verify the departure of all foreign nationals, subject to privacy and security safeguards.

INTRODUCTION

On December 12, 2013, the Senate adopted an order of reference directing the Standing Senate Committee on National Security and Defence (hereafter referred to as “the Committee”) to execute a study on the policies, practices, and collaborative efforts of Canada Border Services Agency (CBSA) in determining admissibility to Canada and removal of inadmissible individuals. The Committee conducted a Fact-finding Mission to the National Targeting Centre in September 2014 and held eight hearings over a period of four months. During that time, it heard witnesses and received written submissions from relevant institutions, groups, and individuals, both within government and from civil society.

This study is timely, as modern modes of transportation, commercial airliners in particular, have greatly increased the volume and velocity of international migration. In 2012, Canada’s busiest 50 airports saw the enplaning and deplaning of 23,609,330 passengers from countries other than the United States, an increase of 3% over the previous year and 190% over the 12,660,777 passengers seen in 2003.¹ To better manage the risks involved in screening large volumes of persons arriving at major airports on short notice, Canada and close allies like the United States have adopted border control strategies that attempt to assess the potential threat posed by foreign nationals well before they arrive at Canadian ports of entry. Indeed, wherever possible, the goal is to identify and block inadmissible persons prior to departure from their host country.

In Canada, the grounds for inadmissibility cover a range of possibilities and are defined in sections 34 to 42 of the *Immigration and Refugee Protection Act* (IRPA).² A person can be found to be inadmissible for reasons of national security; human and international rights violations; serious criminality; criminality; organized criminality; health; insufficient financial means; misrepresentation; cessation of refugee protection; non-compliance with IRPA; or, subject to certain provisions, having an inadmissible family member. The IRPA also indicates how the responsibility for determining inadmissibility is shared between Citizenship and Immigration Canada (CIC) and the CBSA.

Early identification of inadmissible persons, however, is contingent upon early availability of accurate information and intelligence. For example, applicants provide the majority of information upon which immigration officers base their decisions. Other factors complicate the task of separating those who should be granted entry from those that must be turned away. Immigration officers may be presented with genuine passports which were issued on the basis of false documentation. Commercial airlines can fail to submit complete passenger manifests in a timely manner, and asylum seekers who make their claim in Canada are not always in a position to bring identity documentation with them when they flee persecution.

As a consequence, a certain percentage of persons will enter Canada prior to information coming to light that renders them inadmissible. For that matter, there will also be instances where a temporary or permanent resident loses their right to reside in Canada by engaging in criminal activities while here. In either scenario, if a removal order has been issued, these persons must be located and removed from Canada. Again, information and intelligence will be key to enforcing these removals.

¹ Statistics Canada, “[Table 1-2: Passengers enplaned and deplaned on selected services – Top 50 airports by sector](#),” *Air Carrier Traffic at Canadian Airports*, 20 December 2013; and “[Table 1.2: Enplaned plus deplaned passengers by sector](#),” *Air Carrier Traffic at Canadian Airports*, 2 December 2004, p. 10.

² [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27 [IRPA].

Under the IRPA, the CBSA is responsible for enforcement of removal orders and warrants issued against persons deemed inadmissible to Canada. The persons against whom these removal orders or warrants have been issued may have already been detained by the CBSA because a Border Services Officer had concerns about their admissibility at a point of entry or, as noted above, they may have been permitted to enter Canada and are residing somewhere within the country.

To better understand and assess how CIC and the CBSA execute their respective IRPA responsibilities pertaining to admissibility, the following report will examine the issue of oversight and accountability of the process of identifying and denying entry to inadmissible persons to Canada. It will also examine the CBSA's current approach to the screening and removal of inadmissible persons. The report will consider how CBSA obtains, evaluates, shares and acts upon information and intelligence concerning the arrival and departure of people to and from Canada. And finally, it will address the increasing use of biometric information and the potential utility in detecting inadmissible individuals seeking to gain entry to Canada.

CBSA ACCOUNTABILITY, OVERSIGHT AND CIVILIAN REVIEW

Accountability and Oversight

Following the attacks on the World Trade Center on September 11, 2001, the Canada Border Services Agency (CBSA) was created with border and enforcement personnel from the Department of Citizenship and Immigration Canada (CIC), the former Canada Customs and Revenue Agency and the Canadian Food Inspection Agency (CFIA). The CBSA is responsible for providing integrated border services that support national security and public safety priorities and facilitate the free flow of persons and goods, including animals and plants that meet all requirements under the program legislation.³

With its 13,000 employees, which include 7,200 uniformed officers,⁴ the CBSA is the front-line agency responsible for administering the entry and exit of approximately 100 million travellers, 70 million of whom arrive through the Canada-US land border. The agency collects, analyzes and disseminates information and intelligence about individuals and shipments at borders, air terminals and ports. The CBSA also administers more than 90 statutes, regulations and international agreements and enforces the *Immigration and Refugee Protection Act* (IRPA).

In addition to the CBSA, several government agencies play key roles in managing cross-border movements. Citizenship and Immigration Canada processes immigration applications for permanent residents and temporary resident visas for visitors, students and workers. The Canadian Security and Intelligence Service (CSIS) reviews all citizenship applications of permanent residents, as well as all refugee claims made in Canada; the Service will review visa applications of persons of interest as required, while the Royal Canadian Mounted Police (RCMP) enforces relevant laws and provides criminal background checks. The Department of Foreign Affairs, Trade and Development (DFATD), Transport Canada, and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) gather intelligence relating to immigration and border transit.

With so many departments involved in the intelligence and enforcement processes connected to immigration, it is necessary to establish clear information-sharing arrangements between them. As air travel to Canada is projected to increase by five percent per year,⁵ it is essential that Canadian intelligence and enforcement agencies collaborate and exchange information with key stakeholders, such as the airline industry and our allies.

The attacks of September 11, 2001 – and a deepening recognition of the lessons of the June 1985 Air India terror-bombing⁶ – triggered changes in Canada’s immigration policies and practices, with greater emphasis being placed on national security and public safety. Today, intelligence and enforcement agencies must continue to strive to eliminate bureaucratic “silos” and encourage improved coordination. While better coordination

³ Canada Border Services Agency, [Who We Are](#), “Mandate”.

⁴ Canada Border Services Agency, [Canada Border Services Agency Annual Report 2012-2013](#).

⁵ Senate, Standing Committee on National Security and Defence (SECD), [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

⁶ See Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182, [Air India Flight 182: A Canadian Tragedy](#). Final report, June 17, 2010.

between government agencies is vital, robust oversight, review and complaints-assessment bodies are necessary to ensure that Canadians' security and privacy rights are respected.

Expanded responsibilities require expanded accountability. In the report of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, Justice Dennis O'Connor drew a distinction between review and oversight of government functions and activity. He noted that review bodies scrutinize institutional practices after the fact. Oversight, on the other hand, involves the more or less "real-time" overseeing or monitoring of executive systems of control and management relating to compliance with policy, regulations and law. The Commission report recommended a review and complaints body for intelligence and law enforcement functions concerned with immigration, but stopped short of recommending the implementation of an oversight regime.⁷

The Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 recommended a stronger coordination role for the National Security Advisor and that the position be given statutory authority.

The Committee notes that previous recommendations to create an Independent Complaints and National Security and Review Agency (ICRA), to expand the mandate of the Security Intelligence Review Committee, and to establish by statute the office and mandate of the National Security Advisor, have yet to be adopted by the government.

Immigration intelligence and enforcement includes a complex network of domestic departments and agencies making it difficult to coordinate and oversee intelligence sharing. For this reason, the Committee believes there is a need for an oversight body for the CBSA which will ensure appropriate senior management compliance with legislation and policy. This would also ensure that the privacy rights of Canadians are protected and safeguarded, especially in the complex operations relating to immigration and international travel.

Recommendation 1 – The Government of Canada establish an oversight body for the CBSA to ensure appropriate compliance with legislation and policy, including adequate protection for Canadians' privacy rights.

Accountability and Civilian Review

The CBSA is responsible for managing 117 land border crossings and operates in all 13 international airports in Canada. Border Services Officers also undertake operations at major marinas, mail processing centres and rail sites. The CBSA is active at hearings before the Immigration and Refugee Board of Canada (IRB) where its Minister's Delegates make representations before the Immigration Division (ID), the Immigration Appeal Division (IAD), the Refugee Protection Division (RPD) and the Refugee Appeal Division (RAD). In short, the CBSA has a broad range of multi-jurisdictional and multi-departmental responsibilities.

⁷ See Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, [A New Review Mechanism for the RCMP's National Security Activities](#), Recommendation 9 and Recommendation 10, 2006, pp. 558–580.

The CBSA is vested with powers of arrest, detention, search and seizure. Its officers can, under law, stop travellers for questioning, take blood and breath samples, search, detain and arrest citizens and non-citizens without a warrant. These responsibilities exceed those of a peace officer.

Despite having broad powers, the CBSA is not subject to assessment by an independent review body or by an entity charged with independently processing public complaints. The CBSA's Recourse Directorate handles complaints about incidents but is not an independent complaints agency. The Directorate also has no authority to launch independent reviews of policy and procedure, the sorts of review that might provide insights into best-practices.

The CBSA collects and disseminates intelligence-related information, both with domestic and foreign partners. In some cases, the CBSA officers share information about refugee claimants with individuals in the country of origin, a situation fraught with hazard for claimants and their families. The Committee heard testimony that the CBSA officers have been known to call numbers that they find on refugee claimants' cell phones without regard to the safety of the claimant or the family in the country of origin, a claim confirmed by Janet Dench, the Executive Director of the Canadian Council for Refugees.⁸

In response to claims of mishandling intelligence sharing and mistreatment of refugee claimants while in custody, witnesses appearing before the Committee recommended an independent review and complaints body for the CBSA.⁹ The Committee agrees and recommends for the government's consideration, three necessary components for an effective CBSA civilian review and complaints body.

First, a civilian review and complaints body should deal with public complaints about the CBSA's conduct. The government might extend this to a third-party, given the vulnerabilities of most applicants.

Second, the civilian review and complaints body should have a mandate to conduct investigations in a manner it deems necessary.

Third, this body should have a capacity for investigation into critical and serious incidents, as these types of incidents could include serious harm, including sexual assault and deaths in custody connected to the CBSA's activities. To minimize conflicts of interest and time delays, these investigations could, where necessary, be conducted by independent, civilian organizations such as the Ontario Special Investigations Unit or the Independent Investigations Office in British Columbia.

Recommendation 2 – The Government of Canada establish an independent, civilian review and complaints body for all Canada Border Services Agency activities.

During testimony, both the Table de concertation des organismes au service des personnes réfugiées et immigrantes (TCRI) and the Canadian Council of Refugees (CCR) raised concerns about cases in which refugee claimants' applications failed due to individuals'

⁸ SECD, [Evidence](#) (Dench), 2nd Session, 41st Parliament, 7 April 2014.

⁹ SECD, [Evidence](#) (Paterson), 2nd Session, 41st Parliament, 31 March 2013; SECD, [Evidence](#) (Goldman), 2nd Session, 41st Parliament, 7 April 2014.

inability to provide a recorded transcript of claimants' statements to CBSA officers. The Federal Court has ruled against claimants in instances in which CBSA officers and claimants produced conflicting accounts of conversations.¹⁰ This situation risks introducing confusion and possibly injustice into the process.

Other concerns were raised about interviews conducted within Canada (referred to as inland interviews). According to the TCRI and the CCR, refugee claimants who are already in Canada and who are detained by the CBSA are often subject to repeated interviews about all aspects of their claims. In this case – as with Ports of Entry interviews – the CBSA officer's notes can be used, often by another CBSA officer, at hearings before the Immigration Division of the Immigration and Refugee Board of Canada (IRB). Issues dealt with at such hearings may result in detention, declaration of inadmissibility, or exclusion from refugee protection.¹¹

The Committee notes these concerns and, in response, recommends that CBSA officers record their interviews with prospective immigrants or asylum-claimants, and make such recordings available to interviewees in order to establish a common factual basis for use in any future immigration or other proceedings. This practice should begin as soon as possible.

Recommendation 3 – With respect to all interviews conducted by CBSA officers, the CBSA should ensure that interviews are audio and video recorded and that recordings be retained for a period of at least 10 years from the date of recording.

¹⁰ SECD, [Evidence](#) (Goldman), 2nd Session, 41st Parliament, 7 April 2014.

¹¹ *Ibid.*

REMOVALS, WARRANTS AND ENTRY/EXIT REGISTRATION

In 2013, the CBSA deemed 16,736 travellers inadmissible to Canada, down from 27,906, the year before; and warrants were issued for 4,534 individuals.¹² With regard to procedure, removal orders are issued when a foreign national or a permanent resident who has entered Canada has been found to be inadmissible. In instances where a person has failed to comply with a removal order, the CBSA is responsible for enforcement and issues immigration warrants,¹³ accordingly. The enforcing of removal orders is a complex issue as many individuals do not wish to leave Canada or for various reasons fail to appear for the removal process. At present, the CBSA's warrants-database contains information on approximately 44,000 inadmissible individuals who did not comply with removal orders, although the agency is unclear about the number of individuals who are still in Canada at present.¹⁴

The CBSA claims it is closing as many warrants as it is opening, however, the Committee remains concerned about the large number of inadmissible individuals who the agency is unable to locate and or remove from Canada. The Committee took note of the possibility that Canada may face increased problems in the future due to temporary foreign workers who may not leave despite the government's introduction of a four year limit to their work permits, as there currently is no tracking system of those overstaying.¹⁵

In trying to understand why there were so many inadmissible individuals in Canada, the Committee asked CIC officials why people who are believed to be inadmissible are being permitted to enter Canada. The Committee heard that current legislation limits the authority of the CBSA to turn people away; however, these legislative limitations are not absolute. Acting on the authority of the Minister of Citizenship and Immigration, the CBSA has some powers to issue removal orders at the port of entry. As Maureen Tsai, Acting Director General, Admissibility Branch, CIC, explained:

For foreign nationals, the Minister's Delegate can issue a removal order ...for very specific circumstances, for example, on grounds of in-Canada criminality, misrepresentation related to revocation of refugee status, certain acts of non-compliance and being a family member of an inadmissible person.¹⁶

Recent legislative changes also mean CBSA officers have greater powers to detain people who they have grounds to believe are inadmissible, owing to serious criminality, security issues, or human and international rights violations. However, as Ms. Tsai also noted, "All other alleged inadmissibilities have to be referred to the immigration division of the Immigration and Refugee Board."¹⁷

¹² Canada Border Services Agency, document submitted to the Standing Senate Committee on National Security and Defence, 2 May 2014.

¹³ IRPA, section 55.

¹⁴ SECD, [Evidence](#) (Soper), 2nd Session, 41st Parliament, 10 February 2014.

¹⁵ SECD, [Evidence](#) (Bissett), 2nd Session, 41st Parliament, 24 March 2014.

¹⁶ SECD, [Evidence](#) (Tsai), 2nd Session, 41st Parliament, 5 May 2014.

¹⁷ *Ibid.*

Although the appeals process has been streamlined under recent IRPA reforms, CBSA officials indicated that a removal order marks the start of another series of enforcement challenges for the agency. As the CBSA's Vice President of Operations, Martin Bolduc, reminded the Committee, "people facing removal may have no desire to comply."¹⁸

When people fail to appear for their removal from Canada, the CBSA issues a warrant.

Inland Enforcement, the responsible division, has struggled in the past to locate those who fail to appear. Fortunately, the majority of these cases are low-risk. As the CBSA's Director General Post-Border Programs, Peter Hill, reported to the House of Commons Standing Committee on Public Safety and National Security:

The majority of them – in the range of 80% of those cases – are failed refugee claimants without any criminality or security concerns. They have absconded – they have not shown up for an immigration process or they have not shown up for their removal...¹⁹

However, this leaves individuals in Canada who may pose a threat because they are inadmissible on the grounds of security, war crimes or organized criminality. Even if the CBSA places a high priority on removing "high risk" individuals, the number of people who are in Canada illegally and who have been deemed inadmissible on such serious grounds, is cause for concern. At present, it takes the CBSA an average of 851 days to remove a person found inadmissible.²⁰ This is a long and costly process.

Entry and exit reporting offers a solution to the challenge of knowing whether an inadmissible person, or someone facing an outstanding warrant, has left the country.

The Committee heard that Canada still does not have a system "for knowing who has left the country" and that a mechanism should be developed to ensure the CBSA is alerted when a temporary resident visa holder enters and leaves.²¹ Mr. Bolduc told the committee:

Right now we could issue an arrest warrant for an individual [and] that person could decide on their own to leave the country. [T]hat information would not come to [the] CBSA. By introducing exit controls, when that person leaves the country we will be able to reconcile that with our own warrants inventory and be able to close the file. That will be beneficial to the CBSA and will help us greatly to manage that number, which, you're right, seems fairly significant. In fact, that led to our launching the CBSA initiative. Now, for those high-profile people we want to locate, we put their picture and description out to the public like most police agencies do.²²

¹⁸ SECD, [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

¹⁹ House of Commons, Standing Committee on Public Safety and National Security, [Evidence](#) (Hill), 1st Session, 41st Parliament, 16 February 2012, p. 12.

²⁰ Canada Border Services Agency, document submitted to the Standing Senate Committee on National Security and Defence, 2 May 2014.

²¹ SECD, [Evidence](#) (Taub), 2nd Session, 41st Parliament, 31 March 2014.

²² SECD, [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

The Committee supports the Canada–U.S. Beyond the Border Action Plan and its priorities: addressing threats early; trade facilitation, economic growth and jobs; cross-border law enforcement; and critical infrastructure and cyber-security. The Committee heard from Ms Tsai in relation to the various initiatives of the Border Action Plan that the implementation of the electronic travel authorization²³ was on schedule, that the CBSA had the first two phases of the four-phase program implementation of entry/exit information sharing between Canada and the United States and both countries have already begun sharing limited biographic and biometric immigration information.²⁴ However, the Auditor General, in its Spring 2015 Report on information technology projects at the CBSA found that, as a result of inadequate adherence to internal project management framework requirements, some projects – such as the Interactive Advance Passenger Information and Entry/Exit initiative – are at risk of not delivering what was expected.²⁵ The recording of entry and exit between the two countries offers a valuable template for enhanced traveller reporting. It has become clear that over 145 Canadians have gone abroad to support terrorist groups and approximately 80 have returned.²⁶ Without entry and exit registration this poses a significant challenge to law enforcement agencies and the CBSA. In this scenario, it is vitally important for Canada’s national security that the government be aware of everybody who is entering or leaving Canada.

In addition to recording of entry–exit, more effort should be placed on ensuring those who are deemed inadmissible, do not enter Canada in the first place.

Recommendation 4 – Building on the Beyond the Border Initiative and in light of national security concerns, the Government of Canada move, as soon as possible, to implement a system to register the entry and exit of all travellers, Canadians and non-Canadians.

²³ The electronic travel authorization is a screening tool required for citizens of visa-exempt countries. Voluntary enrolment will start as of August 1, 2015. [SOR/2015-77](#).

²⁴ SECD, [Evidence](#) (Tsai), 2nd Session, 41st Parliament, 5 May 2014.

²⁵ Office of the Auditor General of Canada, [2015 Spring Reports of the Auditor General of Canada, Report 5 – Information Technology Investments – Canada Border Services Agency](#), pp. 11-13.

²⁶ SECD, [Evidence](#) (Yaworski), 2nd Session, 41st Parliament, 14 October 2014.

SCREENING OF IMMIGRANTS AND TRAVELLERS TO CANADA

The Committee is concerned about the screening and pre-screening of non-Canadians who enter Canada, either as immigrants or on temporary resident visas.

From a risk-management perspective, it is best to determine a foreign national's admissibility to Canada before they board the aircraft or ship which will transport them to this country. Preventing the entry of inadmissible persons prior to their departure saves Canadian resources that would otherwise be consumed in the appeals and removals processes.

CIC and the CBSA are jointly responsible for administering the admissibility provisions of the IRPA. CIC establishes immigration policy and is responsible for issuing visas enabling foreign nationals to enter Canada.²⁷ For its part, the CBSA enforces IRPA and is responsible for providing IRPA-related intelligence. In this regard, the CBSA draws upon intelligence and information from other departments and agencies, including CSIS and the RCMP.

Visa applications are increasingly submitted and processed electronically. Application forms are available through the CIC website, numerous U.S.-based Application Support Centers and 130 private sector operated Visa Application Centres (VACs) located in 90 countries.²⁸ VACs have no decision-making function but ensure that applications are complete, answer applicant questions in the local language, transmit application documentation securely and, where necessary, capture and securely transmit digital facial photographs and fingerprint biometrics.

Through its overseas Liaison Officer program, the CBSA seeks to prevent the passage of persons attempting to enter Canada using fraudulent documents. According to Mr. Bolduc, “[Liaison Officers], who are trained document examiners, work with local authorities and airlines to verify the validity of travel documents and to prevent those who are inadmissible or pose a security threat from reaching Canada.”²⁹ In explaining the role of liaison officers in identifying and mitigating border-related threats, it was confirmed that CBSA “Liaison Officers are involved in approximately 6,000 cases of improperly documented travel each year”,³⁰ representing only a small fraction of the millions of international visitors welcomed to Canada in 2012.³¹

In addition, as part of the pre-screening effort, a great deal of responsibility for confirming the identify and validity of documents used by travellers rests on the shoulders of airline employees, who are being asked to detect fraudulent documentation as they process passengers through the check-in and boarding processes. Highlighting the challenge faced by those on the front lines of passenger screening, recent studies suggest even experts

²⁷ [Section 20\(1\) of IRPA](#) requires all foreign nationals to obtain a visa prior to coming to Canada. Exceptions for visitor visas exist in the regulations.

²⁸ According to Citizenship and Immigration Canada's website, not all visa application centres offer biometric services for visa applicants. At some unspecified point in 2014, all VACs are expected to be biometric collection enabled. See Citizenship and Immigration Canada, [Visa application centres](#).

²⁹ Senate, Standing Committee on National Security and Defence, [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

³⁰ Senate, Standing Committee on National Security and Defence, [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

³¹ See Canadian Tourism Commission, [Infographic – Under the microscope: who came to Canada in 2012?](#)

trained at identifying documents struggle to determine if a passport photo matches the face of the person presenting it.³²

Considering issues of efficacy and of safety, the Committee questions the desirability of relying on airline staff to screen passengers. There are also concerns about privacy issues, the security of passenger information, including third party access, and who the CBSA liaison officers are training in the techniques of identifying false documentation.

In the process of screening prior to arrival, more needs to be done. The Committee considered some of these options.

Criminal and Security Screening

While CIC has sole responsibility to determine if an applicant is inadmissible on financial, public health or misrepresentation grounds, it will seek the advice of the RCMP or CSIS if questions are raised about criminality or the national security threat an applicant might pose.

There are two categories of concern – the first are those entering Canada as immigrants, with the intent of settling here. The second are those who are visiting Canada for a temporary period.

CSIS is called upon to screen all individuals who are in the immigrant category, usually prior to approval of citizenship. For all other applicants, Dan Faughnan, CSIS's director general of security screening, told the Committee that the Service screening decision is based on referrals from Citizenship and Immigration Canada.³³ Mr. Faughnan went on to describe the volume of screening it undertakes on behalf of CIC, saying "We've seen an increase in the number of temporary resident visas that have come in. Canada's a popular place to visit, and we're trying also to enhance our ability to take higher volumes on the visa side as well."³⁴

RCMP Superintendent Shirley Cuillierrier described the following support relationship to the CBSA and CIC:

[W]e assist with the confirmation of identity and in some instances conduct criminal record checks. We may also be called on to contact foreign law enforcement agencies to confirm foreign arrests or convictions. Clearly stated, the RCMP's role is to provide the information to Citizenship and Immigration Canada, and they make the determination [on admissibility].³⁵

In trying to sort out the pre-arrival screening process, it should be understood that CIC does not always refer files directly to CSIS or the RCMP. CIC only refers refugee claimant and

³² For example, a recent study conducted by the University of Aberdeen that examined the ability of an Australian team of passport office staff to match a person to a passport they were carrying recorded a 15% error rate. When considered in the context of the over 9 million non-U.S. foreigners who crossed the border into Canada in 2013, this error rate could result in several thousand persons carrying fake passports being admitted to Canada. See University of Aberdeen, "[Passport study reveals vulnerability in photo-ID security checks](#)," News release, 18 August 2014.

³³ SECD, [Evidence](#) (Faughnan), 2nd Session, 41st Parliament, 24 February 2014.

³⁴ *Ibid.*

³⁵ SECD, [Evidence](#) (Cuillierrier), 2nd Session, 41st Parliament, 24 February 2014.

citizenship application files, while requests for additional screening of permanent resident and temporary resident visa applications are directed to CSIS or the RCMP through the CBSA. As Mr. Faughnan noted, CSIS provides “information on threats” to help CIC identify any files that require further screening.³⁶

The Committee was unable to ascertain how CIC chose to refer files for further screening. Regardless, the description of the process by which CIC makes security screening referral decisions, leads the Committee to believe that it could be improved.

In this day and age, it is reasonable to assume that CIC and the CBSA should be able to request a query of permanent resident and temporary visa applicants against RCMP criminal and CSIS intelligence databases, and a consolidated Canadian intelligence community list of persons of interest, to see if they generate a hit. Verifying applicant names through applicable security and foreign intelligence databases could provide an essential backstop to checks for criminal records maintained in the Canadian Police Information Centre (CPIC). As previously noted, not all human threats have criminal records. However, their names (or aliases) might well be known to intelligence agencies.

Improving Screening

The CBSA's ability to screen immigrants is dependent on the information it receives from CIC, CSIS and the RCMP. In screening visa applicants, CIC and through them, the CBSA, relies on the information provided by the applicant. Two former law enforcement officials with intimate and long-standing knowledge of transnational organized crime and immigration fraud –Garry Clement and Sandy Boucher – told the committee that their current work in the private sector indicates that targeting of Canada's immigration system by organized crime groups continues unabated.³⁷

Both Mr. Boucher and Mr. Clement saw increased intelligence sharing and interagency cooperation as essential to combating this threat, as it is a threat that reflects a great degree of adaptability and ingenuity.

The Committee received materials from the CBSA that indicated the following efforts at improving the screening process:

Since 2011, the CBSA has been working with CIC and CSIS to transform the security screening program with the aim to focus in on the cases of highest risk to national security and program integrity. The work started in 2011 on the [Temporary Resident] security screening program which has seen a 21% decrease in the number of screening referrals and a 103% increase in the number of inadmissibility recommendations provided to CIC.

As various initiatives to transform the [Temporary Resident] screening program were implemented, the work to transform the [Permanent Resident] program began. The volume of [Permanent Resident] cases being submitted for security screening to [the] CBSA has remained small and fairly static.

³⁶ SECD, [Evidence](#) (Faughnan), 2nd Session, 41st Parliament, 24 February 2014.

³⁷ SECD, [Evidence](#) (Boucher), 2nd Session, 41st Parliament, 12 May 2014.

However, the CBSA has, over the last three years, seen over a 300% increase in the number of cases identified as inadmissible to Canada from this small number of screening referrals. [The] CBSA, CIC and CSIS are currently working on a revised [Permanent Resident] screening processing model with the aim to have CBSA do more comprehensive screening on [Permanent Resident] applicants similar to the temporary resident and refugee claimant model.³⁸

The Committee understands that these transformation efforts are uncovering more instances of inadmissibility. However, it may be that the process could be enhanced by the CBSA through consultation with CSIS.

In addition, concerns remain about how immigrants to Canada are screened. The Committee heard from witnesses who expressed concern that CIC has subsequently turned the immigrant visa application process into a “paper-based exercise” where very few face-to-face interviews are held. On this matter, Martin Collacott, a former ambassador, and now spokesperson for the Centre for Immigration Policy Reform, said:

Such interviews are important for a number of reasons. A face-to-face interview not only assists a Canadian visa officer to get a better idea of whether an applicant is likely to constitute a security threat to Canada – whether they are likely, for example, to have extremist views which are in conflict with Canadian views, values and objectives – but such an interview also provides an opportunity to give a prospective immigrant important and accurate background on what to expect in terms of job opportunities and integration into Canadian society.³⁹

The Committee notes that given the complexity in screening potential citizens to Canada, face-to-face interviews may provide an important opportunity for assessment.

Mr. Collacott also suggested that there is a danger in relying on locally-engaged staff to render decisions on immigrant or temporary visa applications, saying:

[W]hen I was ambassador to Syria, [I was in charge] of a visa section of nine Canadian-based officers, three from Quebec... There is a problem of locals being pressured by relatives or being offered bribes. We've had very good locals in most of our posts, but certain things have to be done by Canadian-based officers if you're going to be sure you get the right information. There are no shortcuts.⁴⁰

The Committee is also concerned that only between nine and fifteen percent of immigrants are interviewed by a visa officer before they come to Canada.⁴¹

³⁸ Canada Border Services Agency, document submitted to the Senate Standing Committee on National Security and Defence, 2 May 2014.

³⁹ SECD, [Evidence](#) (Collacott), 2nd Session, 41st Parliament, 31 March 2014.

⁴⁰ *Ibid.*

⁴¹ SECD, [Evidence](#) (Quartermain), 2nd Session, 41st Parliament, 5 May 2014.

While Canada received 386,698 temporary foreign workers and 495,191 foreign students between 2009 and 2013, a small percentage were screened by CSIS based on referrals from CIC and the CBSA.⁴²

It appears much more can be done to screen the millions of tourists and other classes of foreign nationals who enter Canada each year. Retired ambassador James Bissett said the CBSA and CIC are overwhelmed by the large number of people seeking to come to Canada, either as immigrants or visitors. He states: “because of high volumes, we are not paying attention to the personal interview and for human intelligence to play a role in screening, More importantly, Mr. Bissett told the Committee, “the security screening itself is minimal” and noted that visitors and temporary resident applicants are “not being interviewed or very few of them screened for security.” He added, “I think [Canada is] taking a serious risk.”⁴³

When it comes to screening, RCMP’s Director of External Relations, Superintendent Shirley Cuillierrier, told the Committee about an RCMP focus program with CIC with teams based in three countries, Russia, Mexico and Ukraine. According to Ms. Cuillierrier, these countries “are vetted simply based on volumes and the number of resources that we have. We place priority on the greatest threat based on our intelligence.”⁴⁴ The Committee believes the RCMP and CSIS need to do more to support CIC and the CBSA.

The Committee believes the Minister of Citizenship and Immigration should direct the Immigration and Refugee Board of Canada to conduct hearings for those deemed inadmissible, outside Canada, rather than running the risk and high cost of allowing these individuals into the country in the first place. This will reduce the burden on the CBSA and Canadian taxpayers.

To improve pre-screening, the Committee recommends the following measures.

Recommendation 5 – With respect to hearings for persons deemed inadmissible, hearings by the Immigration and Refugee Board of Canada should incorporate technology such as video conferencing, while individuals are outside Canada, whenever possible.

Recommendation 6 – CIC, the CBSA, CSIS and the RCMP should work closely together to ensure all their databases are utilized in screening all visitors and immigrants to Canada.

Recommendation 7 – With respect to those seeking to immigrate to Canada (e.g. students, temporary foreign workers, refugees and permanent residents), CIC should establish a pilot project to examine the feasibility of using secure video conferencing and mobile teams of experienced Canadian immigration officers to conduct fully recorded face-to-face interviews, in the applicant’s country of residence. Adequate staffing should be put in place to ensure decisions on immigrant or temporary resident visas are always made by Canadian employees.

⁴² ["Facts and figures 2013 – Immigration overview: Temporary residents"](#), Citizenship and Immigration Canada, 31 December 2014.

⁴³ SECD, [Evidence](#) (Bissett), 2nd Session, 41st Parliament, 24 March 2014.

⁴⁴ SECD, [Evidence](#) (Cuillierrier), 2nd Session, 41st Parliament, 24 February 2014.

Electronic Travel Authorizations for Visa-Exempt Countries and Advance Passenger Information

At present, 64 countries and territories do not require a visa to travel to Canada. However, as a result of amendments to IRPA introduced under the *Jobs and Growth Act, 2012*, with the exception of U.S. citizens, all visa-exempt foreign nationals will soon be required to obtain electronic travel authorization (eTA) prior to entering Canada. Applications for an eTA are to be made online and will in most cases be approved through an electronic processing system within minutes. According to Chris Gregory, CIC's Director of Identity Management and Information Sharing, in the future, it is expected that airlines will provide the CBSA with passenger manifests at least 72 hours prior to departure, with the names of people who are getting on planes, so the agency can verify that person is admissible to Canada. Upon confirmation of the passenger's status, the airline will be advised with a board or a non-board message.⁴⁵

The Committee notes that this is a positive development, which can only benefit from greater integration of information sharing amongst Canada's security agencies.

⁴⁵ SECD, [Evidence](#) (Gregory), 2nd Session, 41st Parliament, 5 May 2014.

CBSA – THE NATIONAL TARGETING CENTRE AND LOOKOUTS

Intelligence provides warnings about known high-risk entities and individuals. It provides specific names, aliases and images, which, if accurate, can be acted upon with high confidence.

In 2007, the Office of the Auditor General reported issues with the data CBSA was using to target incoming traffic. In Chapter 5 of its Fall Report, entitled “Keeping the Border Open and Secure – Canada Border Services Agency,” the Auditor General said:

Despite its information sharing mandate, the Centre does not have ready access to all the intelligence databases available to the Agency. While it has access to various intelligence products, it does not receive any national security intelligence products to guide its targeting activities. The Agency told us that discussions are under way to enhance collaboration between its intelligence directorate and the National Risk Assessment Centre [NRAC].⁴⁶

The Auditor General said that the NRAC, now known as the National Targeting Centre, was unable to function effectively because the CBSA’s risk assessment process was not informed by all the intelligence and information its intelligence directorate had at its disposal. The Committee believes that greater internal cooperation in information sharing would assist with more effective targeting.

Regional intelligence collection and analysis by the CBSA may have been providing a critical piece of a larger puzzle. While these regional units ran algorithms to target high-risk people and traffic requiring closer inspection at the border, it was clear that many of these intelligence officers also had developed a deep understanding of the local border threat environment. In other words, they brought an intelligence perspective that could not be captured by an algorithm developed elsewhere.

The CBSA has chosen to eliminate its regional intelligence capabilities and consolidate these resources in Ottawa. The logic behind this restructuring is unclear. According to the Customs and Immigration Union’s president, Jean-Pierre Fortin, intelligence activities saw the most significant reductions. Mr. Fortin cautioned the committee against reducing CBSA’s intelligence personnel and front-line capabilities. He noted:

[W]hen you’re not replacing an intelligence officer, you are cutting his position, and that’s a concern, especially in this world where information is crucial to be effective on the front line; you cannot go and catch these members.⁴⁷

According to Mr. Fortin, “having an accurate, well maintained and technologically supported “persons of interest lookout database which provides information when and where it is needed, is a cornerstone of border security and public safety.”⁴⁸ Other witnesses echoed the

⁴⁶ Office of the Auditor General of Canada, “[Chapter 5 – Keeping the Border Open and Secure – Canada Border Services Agency](#),” *2007 October Report of the Auditor General of Canada to the House of Commons*, p. 18.

⁴⁷ SECD, [Evidence](#) (Fortin), 2nd Session, 41st Parliament, 24 March 2014.

⁴⁸ *Ibid.*

call for increasing intelligence capabilities. As in the case of police, there is a logical requirement for front line border service officers to have information as soon as possible about individuals whom they are engaging.

The Committee agrees with the need for stronger intelligence capabilities within the CBSA. Significant investments have already been made in arming CBSA officers. However it is important to provide them complete access to the most relevant intelligence information on travellers.

Recommendation 8 – The CBSA move to enhance regional intelligence capabilities and information sharing with frontline officers.

Lookouts

The CBSA's intelligence products such as lookouts, alerts, scientific reports and threat and risk assessments inform, support and enhance the agency's screening and targeting capabilities and other CBSA programs (such as Admissibility Determination, Criminal Investigations and Immigration Enforcement). A lookout is defined as a reliable, accurate and actionable intelligence on actual or suspected infractions or criminal activities that may result in the interception of inadmissible people, goods, and shipments. A lookout takes the form of an electronic file record. A lookout "hit" will "flag" or identify particular individuals, including corporations, and specific goods, conveyances or shipments. A lookout "hit" requires a mandatory referral to a secondary examination.⁴⁹

These lookouts are maintained on the CBSA database called the Integrated Customs Enforcement System (ICES) that amongst other things, contains information about Canadians who have come into contact with CBSA or individuals who pose a risk and might seek to enter the country.

While ICES is able to record actions taken on lookout targets, the Auditor General found that, except for one region, the CBSA was only using ICES to record interceptions based on customs-related lookouts.⁵⁰ Moreover, despite the fact that ICES can be used to communicate lookouts, the Auditor General found that the CBSA had no formal policy requiring input of lookout information into both ICES and Field Operation Support System.⁵¹ This lack of integration of the various databases Border Service Officers consult when screening people, goods and conveyances arriving at the border, suggests that, more than a decade on from its creation, the CBSA continues to struggle to achieve coherence across its enforcement mandate.

On September 16, 2013, the Government of Canada issued its response to the second report of the House of Commons Standing Committee on Citizenship and Immigration, "Protecting Canada and Canadians, Welcoming the World: A Modern Visa System to Help

⁴⁹ ["Access to Information and Privacy – Info Source – Sources of Federal Government and Employee information 2014"](#), CBSA, 20 May 2015.

⁵⁰ Auditor General of Canada, "[Chapter 5 – Preventing Illegal Entry Into Canada](#)," *Fall 2013 Report of the Auditor General of Canada*, November 2013, pp. 13–14.

⁵¹ The Field Operation Support System was decommissioned at the end of 2014.

Canada Seize the Moment.” In response to the Committee’s recommendation that the Government of Canada equip CIC and CBSA officers with the tools they need to monitor immigration lookouts on all intercepted lookouts, the Government indicated that it was already working on the issue and that:

Lookouts currently housed in the CIC Field Operations Support System (FOSS) will be transferred to CBSA systems prior to the decommissioning of FOSS. At that point, those lookouts will be managed and maintained by the CBSA according to its Lookout Policy.⁵²

The minister responsible for the CBSA, the Minister of Public Safety and Emergency Preparedness, the Honourable Steven Blaney, submitted a response to the House of Commons Standing Committee on Government Accounts’ report on the Auditor General’s 2013 Fall Report. Minister Blaney’s response indicated that:

[A] quality assurance process has been implemented to improve the way border services officers record the outcome of examinations that were conducted as a result of a lookout, as well as enhance the CBSA’s capacity to track, monitor and report on the status of all existing lookouts. As part of these improvements, the CBSA has established a performance reporting process, updated its policy on lookouts, and developed new procedures aimed at providing guidance to staff and ensuring consistency in the way lookouts are administered and monitored.⁵³

This aligns with the feedback problem identified by the Auditor General. However, the Government response goes on to articulate two other measures being undertaken by the CBSA to improve its lookout system. These two steps, which focus in part on ensuring the integrity of data entered in the lookout system, raise a concerning issue.

According to the Government response, an internal CBSA audit of the lookout system discovered more than 19,000 outdated lookout records. It appears that the CBSA had been receiving updated lookout information from CSIS and the RCMP but had not ensured that this information was being properly entered in its own systems.⁵⁴ This is a problem that should have since been remedied.

However, the Spring 2015 Report of the Auditor General of Canada on Information technology investments at the CBSA found some ongoing concerns related to the FOSS replacement project and stated “As a result, issues identified with lookouts by the Agency’s internal audit function and the Office of the Auditor General’s fall 2013 chapter on preventing illegal entry into Canada will not be addressed until the project is completed. Until the issues

⁵² [Government of Canada Response to the Second Report of the Standing Committee on Citizenship and Immigration. “Protecting Canada and Canadians. Welcoming the World: A Modern Visa System to Help Canada Seize the Moment”](#), 16 September 2014.

⁵³ House of Commons, Standing Committee on Public Accounts, [Government Response to the Report of the Standing Committee on Public Accounts entitled “Chapter 5, Preventing Illegal Entry into Canada, of the Fall 2013 Report of the Auditor General of Canada”](#).

⁵⁴ It is also possible that some of the responsibility for outdated lookouts may lie with CSIS and the RCMP who, after all, are the originators of this data and may not have been conducting adequate quality assurance at their end. However, neither the Auditor General’s report nor Minister Blaney’s response to it refer to this possibility.

with lookouts are addressed, there is still a risk of incomplete immigration lookout information and unknown status of lookouts.⁵⁵

Recommendation 9 – Ensure that the CBSA front line officers are provided with the most relevant information on travellers at all times, including updated lookouts in the Integrated Customs Enforcement System database and access to the Canadian Police Information Centre (CPIC) database at primary inspection.

⁵⁵ Office of the Auditor General of Canada, [2015 Spring Reports of the Auditor General of Canada, Report 5 – Information Technology Investments – Canada Border Services Agency](#), pp. 12.

BIOMETRICS

As stated by CIC on its website, “Biometrics is the measurement of unique physical characteristics, such as fingerprints and facial features, for the purpose of verifying identity with a high level of certainty.”⁵⁶ The collection of biometrics at the time of application fixes a client's identity and allows the verification of that identity when this individual seeks entry at the border.⁵⁷ The current effort under the Canada–U.S. Beyond the Borders initiative to collect and share biometric data from people applying for temporary residence is a response to the challenge posed by fraudulent travel documents.

Canada already has experience, through the NEXUS trusted traveler program, in collecting and using biometrics in a border context. Since 2013, Canada has required citizens from 29 countries and one territory to submit photographs and fingerprints when applying for a temporary resident visa. By 2019, this enrolment process will be extended to all permanent residents and countries for which Canada requires a visa.⁵⁸

While some of the concerns regarding the screening of immigrants and travellers to Canada can be addressed by reliance on new biometric-enabled, machine-readable “ePassports”, a significant number of people carry non-machine-readable passports. To complicate matters further, as was the case with traditional, non-machine readable passports, there is reason to question the overall security and integrity of the processes some countries are using to issue ePassports.⁵⁹ ePassports may use embedded chips that are digitally signed to prevent cloning, but even strong security measures such as these are useless if the passport has been issued on the basis of false identity documentation.⁶⁰ Canada and its allies struggle with this issue.⁶¹

Given the growing problem of genuine travel documents being issued in fraudulent circumstances, as well as blank-passport theft, it appears that inspection by either humans or machines may not be sufficient to determine with certainty the identity of the bearer of a document. Another challenge is that some individuals holding genuine documents might not be the true owners of those documents. According to Mr. Bolduc, the number-one trend the CBSA is seeing is “people using genuine documents obtained under false pretenses.”⁶²

In preparing to use biometrics for immigration and border control, Canada has joined over 70 other countries including the United States, United Kingdom, Australia, New Zealand,

⁵⁶ CIC, Corporate initiatives, “[Biometrics](#)”. Iris scans are also used, especially in the frequent traveller program entitled NEXUS, see s.8.4 Biometrics of the Enforcement manual [ENF 29 Alternative Means of Examination Programs](#).

⁵⁷ CBSA, [Access to Information and Privacy – Info Source – Sources of Federal Government and Employee information 2014, “Temporary Resident Biometrics Project”](#)

⁵⁸ Visa applicants who have already submitted photographs and biometric information to the United States will be exempted from having to resubmit this information to Canadian authorities.

⁵⁹ For example, passport issuance process integrity was raised at a November 2012 International Civil Aviation Authority regional conference Entitled “Machine Readable Travel Documents, Biometrics and Border Security,” held in Victoria Falls, Zimbabwe. See Mr. Barry Kefauver, International Organization for Standardization, [ePassport...Really?](#), PowerPoint Presentation, 27 November 2012. See also International Civil Aviation Authority, [Guide for Assessing Security of Handling and Issuance of Travel Documents](#), Version 3.4, January 2010.

⁶⁰ For a description of the security features found in Canadian ePassports, see Passport Canada, [Technical information about the Canadian ePassport](#).

⁶¹ See, for example, United States Government Accountability Office, [State Department: Pervasive Passport Fraud Not Identified, but Cases of Potentially Fraudulent and High-Risk Issuances Are under Review](#), GAO-14-222, 1 May 2014.

⁶² SECD, [Evidence](#) (Bolduc), 2nd Session, 41st Parliament, 10 February 2014.

and the European Union Schengen zone. According to Mr. Gregory, since 2013, persons from 29 designated countries,⁶³ as identified under the Temporary Resident Biometric Program,⁶⁴ typically go to a Visa Application Centre and, for a fee, provide their biometrics along with an application form.⁶⁵

Mr. Gregory said biometrics collected at VACs are sent to CIC and subsequently loaded into the RCMP's Automated Fingerprint Identification System (AFIS) to be checked for matches against previously stored fingerprints in connection to Canadian criminal record as a means of ensuring that a person who has been removed is not trying to come back with a new identity.⁶⁶

Biometric data will be made more broadly available to CBSA's frontline officers, enabling them to confirm that the person disembarking from an airplane is the same one who made the visa application. The Committee believes it would enable the CBSA to be automatically alerted when a foreign national has overstayed their visa and it enhances the reliability of the information on travellers to ensure Canada is protected.

Biometrics Sharing and Retention

When it comes to biometrics, CIC has permission to commence sharing with the United States as early as the end of 2015. Mr. Gregory indicated that the sharing would occur early on in the process, saying that "[a]s [biometrics] are routed to the RCMP, they will be anonymously routed in the form of numeric hashes to the U.S. government as well."⁶⁷ He added the biometric data will also be used to search U.S. databases, explaining that, "[I]f the U.S. has derogatory immigration information on file, they will share that information with us."⁶⁸

He offered assurances the United States will not retain the biometric data Canada shares with it as part of the database search process. He said:

It is not so much that we're sharing fingerprints with the U.S. government. In fact, we are not. We are querying a U.S. government database using digitized fingerprints of ones and zeros. If there's a match, they will tell us the name associated with this print.⁶⁹

The RCMP will retain biometric data for a minimum of 15 years. Other Canadian law enforcement agencies have also been authorized to retrieve this data in the course of criminal investigations, such as for matches against latent fingerprints taken from crime

⁶³ The 29 countries and 1 territory are listed in the *Immigration and Refugee Protection Regulations* at [s.12.1](#).

⁶⁴ The Temporary Resident Biometric Program will apply to applications made by clients at overseas offices and Canadian ports of entry (POE). The record will contain biographical data and a facial photograph of the applicant. The introduction of biometrics in the temporary resident stream screening process will enhance the admissibility screening of applicants, fix a client's identity at the time of application and allow the verification of that identity when this individual seeks entry at the border. "[Access to Information and Privacy – Info Source – Sources of Federal Government and Employee information 2014](#)", CBSA, 20 May 2015.

⁶⁵ SECD, [Evidence](#) (Gregory), 2nd Session, 41st Parliament, 5 May 2014.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

scenes. While this provides a means to detect whether the holder of a Temporary Resident Visa engages in criminal activity while in Canada, it also raises questions about what would happen to these records should the individual, having not committed any crime, eventually become a permanent resident and then a citizen. The Privacy Commissioner of Canada has also raised concerns about Canada's ability to ensure biometric data shared with other countries will not be subject to inappropriate use.⁷⁰

Steven Bucci, Senior Fellow at the Heritage Foundation in Washington questioned the value of collecting biometric data if it is not married with intelligence-enriched biographical information and then used to identify security threats. On this issue, he offered the following observations:

The problem we have with biometric data is not that it's not useful; it can be quite useful if you use it....We'd rather see them focus on fixing the system and listening to the testimony and the questions you were asking and say, "Okay, so you're collecting data on all the people, against other Canadians and people that have committed crimes here, but you're not checking it against terrorists and the people we're really trying to keep out."⁷¹

Mr. Bucci's comment on the failure to check biometric data against intelligence held on terrorists is likely a reference to efforts made by the U.S. and allied militaries to collect biometric data from Afghans and Iraqis encountered on the battlefield or who applied for contract work with coalition forces and government organizations, as well as from such sources as latent fingerprints found near the vicinity of improvised explosive device attacks.

The Committee notes positively the observations made by Mr. Bucci with regard to marrying biometrics with intelligence and what Canada can learn from this experience by seeking opportunities to effectively utilize this information as part of the Five Eyes Partnership.⁷²

Like Mr. Bucci, Ms. Taub questioned the value of collecting biometrics from foreign nationals with temporary resident visas if the data collection is not fully exploited to enforce IRPA. She advocated that biometrics should form part of a system to crack down on visa overstays.⁷³ Biometrics can also be used to ensure the person who has entered Canada is indeed the same person who has departed.

Recommendation 10 – The Government of Canada should fully implement a plan to collect biometric information from all foreign nationals arriving in Canada, subject to existing provisions in agreements with other governments. Further, the CBSA should use this biometric information to verify the departure of foreign nationals, subject to privacy and security safeguards.

⁷⁰ SECD, [Evidence](#) (Bernier), 2nd Session, 41st Parliament, 28 April 2014.

⁷¹ SECD, [Evidence](#) (Bucci), 2nd Session, 41st Parliament, 5 May 2014.

⁷² The Five Eyes Partnership here refers to information sharing agreements between the United States, the United Kingdom, Australia, New Zealand and Canada.

⁷³ SECD, [Evidence](#) (Taub), 2nd Session, 41st Parliament, 31 March 2014.

Biometrics can be an important national security tool which is utilized in the management of entry and exit from Canada. At the same time, the Committee notes that the CBSA must be vigilant in protecting the privacy rights of individual Canadians. In considering the use of biometrics, the Committee stresses the need for greater oversight and civilian review, which will allow for an appropriate check on the expanding powers of the Canada Border Services Agency.

APPENDIX 1 – WITNESSES

Organization	Name/Title	Date Of Appearance
<i>41st Parliament – 2nd Session</i>		
As an individual	Sharryn J. Aiken, Associate Dean (Graduate Studies & Research) and Associate Professor, Faculty of Law, Queen's University	May 12, 2014
As an individual	Sandy Boucher, Former Detective Chief Inspector, Hong Kong Royal Police	May 12, 2014
As an individual	Garry Clement, Retired RCMP officer	May 12, 2014
Canadian Centre for International Justice	Jayne Stoyles, Executive Director	May 12, 2014
As an individual	Steven P. Bucci, Director of the Douglas and Sarah Allison Center for Foreign Policy Studies; and Senior Fellow, Homeland Security & Defense Issues, The Heritage Foundation	May 5, 2014
Citizenship and Immigration Canada	Chris Gregory, Director, Identity Management and Information Sharing	May 5, 2014
Citizenship and Immigration Canada	Mike MacDonald, Director General, Operational Management and Coordination	May 5, 2014
Citizenship and Immigration Canada	David Quartermain, Director, Program Integrity Division	May 5, 2014
Citizenship and Immigration Canada	Maureen Tsai, Acting Director General, Admissibility Branch	May 5, 2014
Office of the Privacy Commissioner of Canada	Chantal Bernier, Interim Privacy Commissioner	April 28, 2014
Office of the Privacy Commissioner of Canada	Christopher Prince, Strategic Policy Analyst	April 28, 2014
Canadian Council for Refugees	Janet Dench, Executive Director	April 7, 2014
Table de concertation des organismes au service des personnes réfugiées et immigrantes	Richard Goldman, Refugee Protection Coordinator	April 7, 2014

As an individual	Martin Collacott, former ambassador and spokesperson for the Centre for Immigration Policy Reform	March 31, 2014
British Columbia Civil Liberties Association	Josh Paterson, Executive Director	March 31, 2014
Canadian Civil Liberties Association	Sukanya Pillay, Executive Director and General Counsel	March 31, 2014
As an individual	Julie Taub, Immigration and Refugee Lawyer, former member of the Immigration and Refugee Board of Canada	March 31, 2014
Canadian Association of Refugee Lawyers	Lorne Waldman, President	March 31, 2014
As an individual	James (Joe) Bissett, former Canadian diplomat	March 24, 2014
Customs and Immigration Union	Jonathan Choquette, Communications Officer	March 24, 2014
Customs and Immigration Union	Jean-Pierre Fortin, President	March 24, 2014
Office of the Auditor General of Canada	Joanne Butler, Director	February 24, 2014
Royal Canadian Mounted Police (RCMP)	Superintendent Shirley Cuillierrier, Director General, Partnerships and External Relations	February 24, 2014
Canadian Security Intelligence Service (CSIS)	Dan Faughnan, Director General of Security Screening	February 24, 2014
Office of the Auditor General of Canada	Michael Ferguson, Auditor General of Canada	February 24, 2014
Office of the Auditor General of Canada	Nicholas Swales, Principal	February 24, 2014
Canada Border Services Agency	Martin Bolduc, Vice-president Operations	February 10, 2014
Canada Border Services Agency	Lesley Soper, Executive Director of Enforcement and Intelligence Program	February 10, 2014