
EXPEDITIOUS DEPORTATION OF REFUGEES ENGAGED IN DRUG TRADE

TO: COMMUNITY POLICING COMMITTEE March 31, 1999

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE:

**SUBJECT: EXPEDITIOUS DEPORTATION OF REFUGEES
ENGAGED IN THE DRUG TRADE**

PURPOSE: To report on the proposed changes to the *Immigration Act* as they pertain to the Community Policing Committee's concerns regarding provisions to deal with refugees engaged in the drug trade.

RECOMMENDATIONS:

1. **THAT** the Mayor, on behalf of Council, be asked to write to the Federal Minister of Citizenship and Immigration to:

- a) express support for the proposals put forward in the document *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation*, as they pertain to the City's concerns regarding refugees engaged in the drug trade, and
- b) request that these changes, once implemented, be monitored to ensure that they are effectively addressing the aforementioned concerns.

REPORT

1.0 BACKGROUND

At its meeting of 1999 January 14, the Community Policing Committee requested that the Mayor and Council forward a letter to the Minister of Citizenship and Immigration expressing the concern of this City about refugees engaged in the drug trade, and that changes be made to the *Immigration Act* which would permit the expeditious deportation of these individuals.

Subsequent to this motion, it was learned that the Federal Government had launched a comprehensive review of the *Immigration Act*. This is the first comprehensive review since the Act was introduced in 1978. The review began in 1997 with the Legislative Review Advisory Group (LRAG), followed by ministerial consultations in 1998. More than 2,200 written submissions were received during this initial period of consultation. The second phase of the consultation process, underway now, had a deadline for submissions of 1999 March 31. However, Federal representatives were informed that a Burnaby submission would not be provided until April, 1999.

The document *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation* outlines the ten broad directions that will guide the Federal Government's immigration and refugee policies and legislation in the future. Key areas of review include the following:

- strengthening and supporting family reunification
- modernizing the selection system for skilled workers and business immigrants
- easing the entry of highly skilled temporary workers

- strengthening the protection of genuine refugees
- maintaining the safety of Canadian society.

This report focuses on the recommended changes to the legislation which address the Community Policing Committee's concerns regarding refugees engaged in the drug trade.

2.0 PROPOSED CHANGES FOR IMMIGRATION AND REFUGEE PROTECTION LEGISLATION AND POLICY

The key recommendations from the *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation* that pertain to the Community Policing Committee's concerns are discussed below.

2.1 Strengthening the Resettlement Program

While the document proposes that Canada's humanitarian tradition of resettling refugees and people in refugee-like situations be maintained, it acknowledges that the current resettlement program for refugees is convoluted and subject to abuse. One feature of the current refugee determination system is the many layers of decision making, each of which can consume considerable time and is subject to judicial review. The resulting delays in the determination of a claim harm those in need of protection and undermine the integrity of the system by allowing those who abuse it to remain in Canada for several years.

In addition, some economic migrants apply for refugee status because they know that this avenue allows entry and possibly a lengthy stay in Canada, during which time they are permitted to work or receive social assistance if needed. This undermines the credibility of Canada's refugee determination system and diverts limited resources from the original purpose, which is to protect genuine refugees through an expeditious adjudication of their claim.

There are several changes proposed to alleviate these problems. A more responsive overseas resettlement program is proposed which would work more closely with non- governmental organizations in identifying, pre-screening and resettling refugees.

It is also proposed that the consideration of grounds for protection be centralized in a single body, the Immigration and Refugee Board. This would result from the consolidation of three existing decision layers (refugee status determination, post-determination risk review, and risk-related humanitarian review). The Board would assess in a single decision the need for protection (considering such instruments as the Geneva Convention). A pre-removal risk assessment would still be available in appropriate circumstances.

In addition, the process would be streamlined and the eligibility criteria made more rigorous. A claim would have to be presented within 30 days of arrival in Canada, subject to exceptions in compelling circumstances. Refused claimants returning after 90 days would have access only to the pre-removal risk review and not to the complete process. It is also proposed to give priority to the processing of unfounded claims, including people who come from countries that are clearly not refugee-producing (safe countries of origin), and others whose claim to refugee status is clearly related to reasons having nothing to do with a need for protection. In order to maintain the integrity of the protection process, greater use would be made of recourse to applications for loss and annulment of refugee status.

2.2 Claimants Without Identification Documents

Another significant problem is that more than half of refugee claimants do not present a passport or other legitimate travel document or identification at the time of their claim status. The inability to establish identity adds to the already difficult task of determining whether such people represent a threat to Canada's security or are inadmissible for other reasons, such as a criminal history. Further, as those without identification documents have the same access to Canada's determination systems as claimants with documents, there is no incentive to cooperate in establishing identity.

Proposed changes to the *Immigration Act* include the following:

- enhancing measures to intercept improperly documented people before they arrive in Canada;
- clearly defining who is inadmissible to Canada;
- creating new inadmissible classes (including members of a government against which Canada has approved sanctions pursuant to a resolution of the United Nations or other multilateral body, people smugglers, and people who make false declarations on their application for permanent residence);
- increasing passenger disembarkation checks;
- removing the current restrictions on prosecuting people who aid and abet illegal migration in addition to further sanctions against people who contravene the *Immigration Act*;
- working with other countries to develop a system of data collection on illegal migration;
- enhancing the security features of Canadian visa and travel documents; and
- the ability to detain asylum seekers who refuse to cooperate in establishing their identity.

2.3 Improving the Effectiveness of the Immigration Appeal System and the Removal Process

The current process of administrative appeals is lengthy and complex, and delays can impair the integrity of the system. Delays are a particular concern for removal cases, where individuals who have been ordered deported for serious crimes may have their removal stayed as a result of their appeal, sometimes to commit further crimes. The current removal system also provides up to five layers of decision making, which can be slow and resource-intensive.

There is a very strong public expectation that when a person other than a citizen commits a serious crime, that person will be removed from Canada. The proposed changes to the *Immigration Act* recognize that the public interest would be better served by a deportation system for criminals that focuses on transparent, objective factors, such as the nature of the offence, rather than more subjective factors such as the likelihood of future criminal behaviour.

It is proposed that the capacity to remove people who do not have a right to establish

themselves in Canada be enhanced. The removals system would be made more effective through the following means:

- elimination of a layer of appeal for serious criminals (as well as people who obtained permanent resident status by misrepresentation);
- reinforcing the fundamental premise in the Immigration Act that removal orders must be carried out as soon as practicable by describing a more limited set of circumstances under which the execution of an effective removal order may be stayed, and
- transferring the power to issue a removal order from Immigration and Refugee Board adjudicators to senior immigration officers in uncontested cases and in straightforward criminal cases (i.e. convictions by Canadian courts) where no weighing of evidence is involved.

The proposals also outline clear consequences for less serious criminals who have been given a “second chance” through a stay of removal, but who reoffend. The stay of removal order would be canceled without further reference to the Appeal Division or to an adjudicator where the order has been issued for a person convicted of a criminal offence, and the person is subsequently convicted of a new offence that constitutes grounds for the removal.

2.4 Refocusing Discretionary Powers

There are currently several exemptions permitted for individuals who may not meet the established criteria for obtaining refugee status, where the individual circumstances are compelling and the health and safety of Canadians and national security will not be risked. For example, the Minister may grant rehabilitation to people barred from Canada because of a conviction for a criminal offence (or more than two less serious offences) five years after the termination of the sentence imposed for the offence.

It is proposed to introduce a range of measures to redefine the use of discretionary powers, increase the transparency and effectiveness of the system, and better protect Canadian society against abuse and crime without constraining flexibility or increasing complexity. Access to the humanitarian or compassionate decision-making process by unsuccessful refugee claimants will be limited to the period immediately following a negative decision by the Immigration and Refugee Board. Also, the process will not include a review of the protection issues already decided by the Board. People who have had an unsuccessful hearing will, therefore, not be able to delay their departure from the country.

Furthermore, it is proposed that access to humanitarian or compassionate applications be denied to the following:

- war criminals and people who have committed crimes against humanity;
- people who are a danger to national security;
- members of criminal organizations;
- members of governments who engage in systematic or gross violations of human rights; and
- people convicted of serious crimes.

3.0 RESPONSE TO PROPOSED CHANGES

The RCMP have outlined several concerns with the current Federal *Immigration Act* which have resulted in individuals either remaining in Canada after having been convicted of crimes (due to the prolonged appeals process), or gaining access into Canada after having been deported.

The Burnaby RCMP have examined the proposed changes to the *Immigration Act* and are of the opinion that many of these changes will alleviate the problems associated with refugees and their criminal activity once in Canada. The proposed changes will increase diligence in the screening process, expedite the processing of legitimate claims for protection, as well as strengthen the integrity of the system by eliminating the possibility of remaining in Canada for several years while the claim works through the many levels of appeals.

4.0 CONCLUSION

The Community Policing Committee has requested that the Mayor and Council forward a letter to the Minister of Citizenship and Immigration expressing the concern of this City about refugees engaged in the drug trade, and that changes be made to the *Immigration Act* which would permit the expeditious deportation of these individuals. Having examined the proposed changes as outlined in the document *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation*, staff and the Burnaby RCMP are of the opinion that many of the changes, as outlined, will address the situation.

It is, therefore, recommended that the Mayor, on behalf of Council, write to the Minister of Citizenship and Immigration to express support for the proposals put forward in the document *Building on a Strong Foundation for the 21st Century: New Directions for Immigration and Refugee Policy and Legislation*, as they pertain to concerns regarding refugees engaged in the drug trade. It is further recommended that these changes, once

implemented, be monitored to ensure that they are effectively addressing the aforementioned concerns.

D.G. Stenson, Director
PLANNING AND BUILDING

KSF

cc: City Manager
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OIC - Burnaby RCMP
Director Parks, Recreation and Cultural Services