TO: CITY MANAGER   June 21, 2000

FROM: DIRECTOR PLANNING AND BUILDING   OUR FILE: 15.312.8

SUBJECT: **FOREIGN GOVERNMENT REQUESTS FOR INFORMATION REGARDING REFUGEE CLAIMANTS**

PURPOSE: To provide Council with information on Immigration Canada's policy/practice in response to requests from foreign governments for information regarding refugee claimants.

RECOMMENDATION:

1.   **THAT** copies of this report be forwarded for information to:

      a. the Community Policing Committee
      b. the Community Issues & Social Planning Committee

REPORT

1.0   BACKGROUND

At its meeting of 2000 February 7, Council considered correspondence from the Criminal Division of the RCMP regarding drug trafficking problems in and around Metrotown Skytrain Station. Arising from the discussion, Council requested a staff report outlining Immigration Canada's policy in response to requests from foreign governments for information about refugee claimants. The request was prompted by a then-recent article in the *Vancouver Sun* in which the Honduran Consular Affairs Chief expressed frustration with Immigration Canada's refusal to provide the Honduran government with information on Hondurans arrested in Vancouver on drug charges, many of whom have applied for refugee status in Canada. According to the article, the Honduran government is under pressure to take steps to stop the exploitation of Honduran young people by drug cartels.
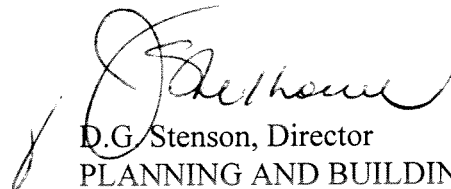
This report responds to the request by Council.

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2.0   THE LEGAL CONTEXT FOR IMMIGRATION CANADA'S PRACTICE

Under the Vienna Convention, to which Canada is a signatory, persons arrested by foreign authorities have the right to meet with their own government representatives, if they so request. If the foreign citizen does not make a refugee claim and does not request contact with his/her government, Canadian privacy legislation prohibits Immigration Canada from providing information to the foreign government, except to facilitate repatriation. If the foreign citizen does make a refugee claim, Immigration Canada staff advise that it is unlikely, for reasons of personal and family safety, that s/he will wish contact with the government of their home country while the claim is under review. Once a refugee claim has been made, therefore, there is no legal avenue for Canada to co-operate with a foreign government in providing information, unless such co-operation is requested by the refugee claimant. Under the terms of the Vienna Convention, Immigration Canada will contact the foreign government only if the refugee claim is abandoned or withdrawn, or if refugee status is denied. That contact concerns only arrangements for travel documentation in order to repatriate the foreign citizen; no details on the person's activities in Canada are divulged other than that s/he has been in the country illegally.

On a related note, Bill C-31, " an Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger", was introduced in the House of Commons by the Federal Minister of Citizenship and Immigration on 2000 April 6 and has received First Reading. The proposed new Immigration Act attempts to strike a balance between facilitating the reunification of families and protecting Canadian society from foreign criminals. It is generally being perceived by those involved in immigration issues as taking a tougher stance than the existing Act against refugee claimants with criminal backgrounds and/or who engage in criminal activities in Canada. If passed, the new Act is expected to change the way Immigration Canada deals with individuals. It will not, however, change the way Immigration Canada liaises with foreign governments. Those interactions will continue to be governed by the Vienna Convention and Canadian privacy legislation.

This report is for the information of Council.

D.G. Stenson, Director
PLANNING AND BUILDING

JS:sa

cc: Deputy City Manager, Corporate Services
        City Solicitor
        OIC- RCMP

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