ENF 10 - REMOVALS

Active Operational Bulletins (OBs)
Most recent date of changes: 2025-02-03

Contents

Updates to Chapter

Listing by dates:

Date: 2025-02-03

The manual has been updated to display the following structure:
PART I Introduction
PART II Removal Program
PART III Removal Preparation
PART IV Escorted Removals
PART V Verifying Departure
PART VI File Closure

Procedure 6 outlines updates to the Definitions section

Procedure 7 amended to Information Management to include section 7.2 Retaining and Filing Information that provides guidance on retaining and filing electronic sources of information, including instant messages and emails

Procedure 8 Removal Priorities was updated to reflect levels of priority

Procedure 9 Vulnerable Persons was added including Gender Based Violence (GBV) guiding principles and reference information.

Procedure 10 Authority to remove from Canada was updated to include "actionable cases". 10.1 Types of Removal Orders Consolidates Procedures: 9, 24, and 30 from the previous version of the manual and includes Consequences of the different removal orders

Procedure 11 Statutory and Regulatory Stays procedure updated from "Legal impediments that may stay removal", and update to guidance in A50(b) that a conditional sentence order is not considered a term of imprisonment from which a foreign national can benefit from a stay of removal.

Procedure 12.11 Person under removal is subject of a conditional sentence order (CSO) updated to reflect the *Tran v. Canada* decision rendered on October 19, 2017

Procedure 13 Temporary Suspension of Removals (TSRs) and Administrative Deferral of Removals (ADRs) was updated to include Administrative Deferral of Removals.

Procedure 15 Interim Measures and Precautionary Measures Requests procedures updated, and wording change under American Declaration of the Rights and Duties of Man, from "that allow for", to "may request".

Procedure 20 File review and pre-removal interview was updated to include additional guidance for confirming identity, as well as information referring to the IRPR stipulations regarding the automatic cancellation of work and/or study permits once a removal order is enforceable.

Procedure 21 PRRA was updated (was previously Procedure 25), and includes information on PRRA eligibility, the new procedure outlining PRRA Bar applicability and

calculations, additional information to consider when calculating the bar, and exemptions.
Procedure 21.8 guidance is provided should the foreign national choose to withdraw from the PRRA process.

Procedure 21.11 updated with clear guidance for restriction assessment process and contacts at DANSC, NHQ.

Procedure 22 Obtaining travel documents updated to reflect roles and responsibilities.

Procedure 23 Seizure of documents updated referencing ENF12.

Procedure 24 Subsistence for persons under a removal order policy updated with guidance for requesting and releasing the funds, and maintaining accurate records.

Procedure 25 Medical Requirements necessary for Removal (MRR) procedure and contact information was updated.

Procedure 26 Notifying commercial transporters - Transporter liability (Air and Marine Mode) updated including procedure and documents required when the transporter is responsible for cost of removal.

Procedure 27 Notifications to LOs and RCMP was updated to reflect requirements to contact Liaison Officers.

PART IV - ESCORTED REMOVALS This section is currently under review.

PART V – Verifying Departure is a new part that includes amended procedures from Part III Scheduling Removal in the previous version.

Procedure 39 Confirmation of Departure was updated.

Procedure 40 When the departure is verified at the POE – R240(1) added.

Procedure 41 When a removal order is enforced by an officer outside of Canada (Canadian Mission) – R240(2) added.

Procedure 42 When a removal order is administratively enforced by an officer in Canada – R240(3) added.

Procedure 48 Repayment of removal expenses updated to reflect current guidance effective April 1, 2025.

APPENDIX references removed.

2017-02-24

A number of changes have been made throughout the chapter to reflect new policies as well as to correct and update information.

As well, content from ENF 11 has been incorporated into ENF 10.

2010-03-31

Changes were made to provide clarification to the definition of escort types throughout the chapters. Minor changes were made where appropriate.

Minor changes were made to reflect new title and number on forms.

Changes were made throughout the chapters to reflect the termination of the Reciprocal Arrangement between Canada and the U.S.

An intranet link was added to the delegation section for easy reference.

Section 9 – Amended to reflect the three types of removal orders.

Section 10.1 and 10.2 – Amended to remove the wording "under the IRPA" when referring to detention.

Section 11 – Links to court decision were added for reference purposes.

Section 13 procedure – Temporary Suspension of Removals (TSRs) has been added for reference.

Section 14 procedure – Sanctuary in places of worship has been added for reference.

Section 19 procedure – United Nations Interim Measures has been added.

2009-05-26

A number of changes have been made throughout the chapter to reflect new policies as well as to correct and update information and hyperlinks.

The Minister of Public Safety and Emergency Preparedness (PSEP) has been changed to Minister of Public Safety Canada (PS). The Immigration Warrant Response Centre (IWRC) has been changed to the Warrant Response Centre (WRC). CIC Medical Services Branch has been changed to CIC Health Management Branch.

Section 3 has been amended to include a reference to security certificates and protection of information, pursuant to Bill C-3 which received Royal Assent on February 14, 2008. The description of a security certificate as a removal order has been added.

The definition of voluntary compliance has been clarified in Section 6.

Section 12.11 has been revised to reflect the correct interpretation of IRPA regarding conditional sentence orders as a stay of removal under A50(b).

New instructions for seeking diplomatic assurances in death penalty cases is included in Section 14.1.

Section 33 has been updated to include instructions for closing certain cases in FOSS with a "GUF5."

2006-01-19

Changes were made to reflect transition from Citizenship and Immigration Canada (CIC) to the Canada Border Services Agency (CBSA). The term "delegated officer" was replaced with "Minister's delegate" throughout text, references to "departmental policy" were eliminated, references to the CIC and CBSA officers and the Citizenship and Immigration (C&I) Minister

and the Public Safety and Emergency Preparedness (PSEP) Minister were made where appropriate, and other minor changes were made.

2004-10-28

Section 11.2 has been updated to replace a link to the list of countries for which there is a TSR. The old link was no longer operational.

Sections 22 and 22.1 have been completely replaced to reflect new procedures that were put in place in May 2004 and were published on the Investigations and Removals website. Procedure, position titles and contacts have been updated.

Section 24.1 has been updated as one of the positions referred to was outdated. Details of the procedure and contacts were also added to the last paragraph.

Section 25 has been updated to change the title "Immigration Control Officer" for "Migration Integrity Officer" as per the new procedure in Section 22.1.

Section 35.2 has been clarified to read "after a removal order comes into force" instead of the former "becomes enforceable."

2003-10-20

Appendix D - 1, Appendix D - 2, Appendix E - 1, Appendix E - 2, Appendix F and Appendix G have been updated.

2003-06-27

Links added.

2003-05-07

Among many changes to this chapter, the highlights include:

Section 5.1 has been updated to provide a web link to the Treasury Board Travel Guidelines which took effect October 1, 2002.

Section 6 introduces new definitions for Authorization to Return to Canada (ARC) and Previously Deported Person (PDP).

Section 9.3 has incorporated new procedures for determining the calculation of when a removal order comes under A49(2), specifically when a decision (formerly known as *deemed notification)* was mailed by the Refugee Protection Division.

Section 9.5 provides guidance when determining if a removal order is no longer in force and effect.

Section 10.1 has removed the guidelines for deemed notification. For further information on determining when a removal order comes into force for decisions delivered by mail, refer to the new instructions in section 9.3.

Section 11.2 provides a direct web link for a list of countries to which CIC is currently not removing (TSRs).

Section 12 has been modified to assist in the application of A50(a) which deals with stays of removal. Note: This section is currently under review and further details will be provided as they become available.

Section 15 provides amendments to the guidelines for the Pre-Removal Risk Assessment (PRRA) program.

Section 17 has been amended and provides a link to chapter ENF 11 - Verifying Departure Chapter (sections 10 and 11) for the procedures in determining whether a person should be removed through voluntary compliance or removal by the Minister.

Section 18 is a new section on entering data on Previously Deported Persons (PDP) onto CPIC. This section provides on overview of the PDP initiative, provides the procedures to complete the PDP screen in FOSS after a person's departure has been verified, as well as the criteria for the PDP information to be downloaded to CPIC.

Section 19.4 is a new section outlining the circumstances for returning seized documents to refugee claimants.

Section 20 has been amended to provide clarification on obtaining travel documents.

Section 24.1 has been amended to provide discretion to officers when contacting Medical Services at NHQ in cases where persons with medical conditions who are subject to removal from Canada claim that inadequate treatment or facilities are available in their destination country.

Section 31 provides clarification to the guidelines on repayment of removal expenses for persons removed at the expense of CIC.

2003-05-05

Section 18, Entering Previously Deported Persons onto CPIC. New sections provide details on the scope of the PDP initiative and guidance to officers after enforcing removal orders. These sections provide details on how to complete the new PDP document in order to enable the PREV.DEP flag in FOSS and identify a record for download to CPIC-PDP database.

PART I – Introduction

1 What this chapter is about

This chapter describes how to remove foreign nationals from Canada who have contravened the *Immigration and Refugee Protection Act* (IRPA) and its Regulations and who are the subject of an enforceable removal order. It is designed to assist officers in planning, organizing and directing the removal of foreign nationals from Canada who are the subject of departure, exclusion or deportation orders. This also includes the process to verify/confirm departure of foreign nationals who are at a port of entry (POE) or a visa office outside Canada and are the subject of enforceable removal orders.

In addition, the latter part of this chapter, to be read in conjunction with the general removal policies and procedures, outlines specific procedures for the removal of foreign nationals to the United States.

2 Program Objectives

The objectives of Canada's immigration policy concerning removals are to maintain and protect public order, health and security in Canada;

- to ensure that all the legal rights accorded to foreign nationals being removed are observed;
- to conduct their removal effectively and equitably;
- verify the removal of foreign nationals efficiently and expeditiously;
- ensure that foreign nationals required to leave Canada actually do so;
- ensure that foreign nationals who are the subject of enforceable removal orders leave Canada immediately and that the removal order is enforced as soon as possible; and
- allow the Canada Border Services Agency (CBSA) to update their records to indicate that a case has been concluded and no further enforcement action is required.

3 The Act and Regulations

Officers responsible for the removal of foreign nationals from Canada should be familiar with the legislative and regulatory authorities contained in IRPA and its Regulations. The following are referenced authorities that should assist officers.

Provision	Section
Foreign national	A2(1)
Permanent resident	A2(1)
Enforceable removal order	A48(1)
Effect of an enforceable removal order	A48(2)
When a removal order comes into force: non-refugee protection claimants	A49(1)
When a removal order comes into force: refugee protection claimants	A49(2)
Stay of removal: decision made at a judicial proceeding/Public Safety Canada (PS) Minister given an opportunity to make submissions/if directly contravened by the enforcement of a removal order	A50(a)
Stay of removal: sentenced to a term of imprisonment in Canada	A50(b)

Stay of removal: duration of stay imposed by the Immigration Appeal Division (IAD) or any other court of competent jurisdiction	A50(c)
Stay of removal: duration of stay under A114(1)(b)	A50(d)
Stay of removal: duration of stay imposed by the PS Minister	A50(e)
Authorization to Return to Canada after an enforced removal order	A52(1)
Arrest and detention with a warrant	A55(1)
Arrest and detention without a warrant	A55(2)
Detention by the Immigration Division	A58(2)
Order for the delivery of inmate at the end of the period of detention	A59
A security certificate that has been determined to be reasonable is a removal order that is in force	A80
Arrest and detention of a permanent resident or foreign national named in an A77(1) certificate	A81
Release by the PS Minister from detention for removal from Canada	A82.4
Exceptions for Pre-Removal Risk Assessment (PRRA) protection	A112(2)
Persons granted PRRA protection but restricted from being conferred refugee protection	A112(3)
Unenforced removal order – no visa shall be issued	R25
Conditions for stay of removal – pre-removal risk assessment (under R232)	R162 and R163
PRRA application received within 15 days must not be decided until at least 30 days after notification was given	R164
Requirements to return to Canada - departure order	R224(1)
Departure order becoming a deportation order	R224(2) / R224(3)
Requirements to return to Canada - one-year exclusion order	R225(1)
Requirements to return to Canada - five-year exclusion order	R225(2) / R225(3)
Requirements to return to Canada - deportation order	R226(1)
Stay of removal: temporary suspension for generalized risk	R230
Stay of removal: judicial review of an RAD decision	R231
Stay of removal: PRRA	R232
Stay of removal: humanitarian and compassionate (H&C) or public policy considerations	R233
Application of A50(a)	R234
Modality of enforcement: voluntary compliance or removal by the Minister	R237
Requirements for voluntary compliance	R238(1)
Voluntary compliance: choice of country	R238(2)
Requirements for removal by the PS Minister	R239
When a removal order is enforced - requirements	R240(1)
Circumstances when a removal order is enforced outside Canada	R240(2)
When a removal order is enforced by an officer in Canada	R240(3)
Country of removal when removed by the PS Minister	R241(1)

Circumstances when the Minister selects the country of removal	R241(2)
Mandatory removal by the PS Minister and the PS Minister selects a country of removal	R241(3)
Transferred under the *Mutual Legal Assistance in Criminal Matters Act*: not authorized to enter another country (order not enforced)	R242
Requirements to return to Canada: payment of prescribed removal costs if removed by the PS Minister	R243
Notifying commercial transporter	R276
Relief from obligations	R277

3.1 Transitional provisions

IRPA and its Regulations establish a transitional correspondence between the removal provisions of the former *Immigration Act*, 1976, and IRPA. Each transitional provision having an impact on the removals program is outlined below.

Application of IRPA
Under the transitional provision of A190, every application, proceeding or matter under the former Act that was pending or in progress immediately before the coming into force of this section shall be governed by IRPA on that coming into force.

Stays
Under the transitional provision of A197 and despite A192, if an appellant who has been granted a stay under the former Act breaches a condition of that stay, the appellant shall be subject to A64 and A68(4).

Decisions made under former Act
Under the transitional provision of R317(1), a decision made under the former Act that was in effect immediately prior to the coming into force of IRPA continues to be in effect after that coming into force.

Removal orders
Under the transitional provision of R319(1), a removal order made under the former Act that was unexecuted continues in force and is subject to the provisions of the IRPA.

Stay of removal
Under the transitional provision of R319(2) and (3), the enforcement of a removal order that had been stayed under paragraph 49(1)(c), (d), (e) and (f) of the former Act continues to be stayed until the earliest of the events described in R231(1)(a), (b), (c), (d) and (e).

This provision does not apply if the subject of the removal order was determined by the Convention Refugee Determination Division not to have a credible basis for their claim; or the subject of the removal order is inadmissible on grounds of serious criminality, or resides or sojourns in the U.S. or St. Pierre and Miquelon and is the subject of a report prepared under A44(1) on their entry into Canada.

Conditional removal order
Under the transitional provision of R319(4), a conditional removal order made under the former Act continues in force and is subject to A49(2).

Enforced removal order
Under the transitional provision of R319(5), A52 applies to a person who was outside Canada after a removal order had been enforced against them.

Warrants
Under the transitional provision of R325(1), a warrant for the arrest and detention made under the former Act is a warrant for arrest and detention made under IRPA.

Removal not prohibited
Under the transitional provision of R326(3), a person whose removal was allowed by the application of paragraph 53(1)(a), (b), (c) and (d) of the former Act is a person referred to in A115(2).

Judicial review
Under the transitional provision of R348(1), any application for leave to commence an application for judicial review and any application for judicial review or appeal from an application that was brought under the former Act and is pending or in progress before the Federal Court or the Supreme Court of Canada is deemed to have been commenced under Division 8 of Part 1 of IRPA and is governed by the provisions of that Division and section 87.

3.2 Forms

The forms required are shown in the following table.

Form Title	Form number
Certificate of Departure	IMM0056B
Order for Detention	BSF304
Detained Sticker	BSF578
Denial of Authorization to Return to Canada	IMM1202B
Authorization to Return to Canada	IMM1203B
Removal Costs Payable by Transporter	BSF501
Notice to Transporter	BSF502
Direction to Leave Canada	BSF503
Envelope: Removal Documents	BSF582
Direction to Return to the United States	BSF505
Notice of Removal and Profile	BSF560
Notice of Issuance of Permit	IMM1443B
Removal Checklist and File Audit	BSF522
Single Journey Document	IMM5149B
Withdrawal of a Claim for Refugee Protection Prior to Referral to the Refugee Protection Division	IMM 5317B
Criminality	BSF571
Use of Force Incident Report	BSF586

4 Instruments and delegations

Recognizing their respective mandates, the Minister of Immigration, Refugees and Citizenship Canada (IRCC) and the Public Safety (PS) Minister may designate persons or class of persons as officers to carry out any purpose of any provision of IRPA; delegate their powers and functions under IRPA, unless otherwise provided.

While the PS Minister and the CBSA has the policy lead for enforcement with respect to IRPA, IRCC continues to be responsible for screening applicants for inadmissibility and for acting on that responsibility, according to their delegated authority.

Pursuant to A6(1) and A6(2), the Minister [IRCC or PS] has designated persons or class of persons as officers to carry out any purpose of any provision, legislative or regulatory, and has specified the powers and duties of the officers so designated. Refer to the Designation of Officers and Delegation of Authority documents in IL 3 for more details.

5 Procedure: Office responsibilities for removal

5.1 Responsibilities of an inland CBSA removals office

Inland Enforcement officers are responsible for making removal arrangements for:

- persons ordered removed by the Immigration Division;
- persons ordered removed by a Minister's delegate; and
- persons ordered removed at a POE but could not be removed by the POE.

5.2 Responsibility for POE cases

Border Services Officers (BSO) are responsible for making removal arrangements for cases where the person is issued a removal order and the removal order can be enforced immediately (e.g. denied entry into Canada, can be removed on the next available flight, etc).

For all other cases where a removal order has been issued at a POE to persons who cannot be removed immediately, BSOs must transfer the file as soon as possible to their nearest Inland Enforcement removal office. The file should be accompanied with a summary of the case and the reason why the file is being transferred.

6 Definitions

Actionable	Actionable is defined as cases that are PRRA-barred and no stays, impediments, or active immigration warrants exist.
Accompaniment Escort	Occurs when management has identified that there is no risk, but due to airline, in-transit or foreign rules there is a requirement for an officer presence. This is for facilitation purposes only.

Authorization to return to Canada (ARC)	Written authorization by an officer, in prescribed circumstances, to allow a person to return to Canada after their removal order has been enforced.
Certificate of Departure	This document confirms that the person named on the removal order has appeared before an officer at the POE to verify their departure, that they have departed from Canada, and have been authorized to enter their country of destination. This document also confirms the enforcement of a removal order outside Canada or the enforcement of the removal order in Canada when the officer confirms that the foreign national has departed from Canada.
Enforceable removal order	A removal order that has come into force and is not stayed.
Enforced removal order	A removal order is enforced only after the requirements of R240(1), R240(2), or R240(3) have been met.
Escorts	When it has been determined that an enforcement presence is required when the individual under a removal order is being transported, accompanied or escorted due to risk.
Gender-based violence (GBV)	Violence committed against someone based on their gender, gender expression, gender identity or perceived gender, and is a violation of human rights. It takes many forms, including physical, economic, sexual, as well as emotional (psychological) abuse.
Foreign national	A person who is not a Canadian citizen or permanent resident, including a stateless person.
Permanent resident	A person who has acquired permanent resident status and has not subsequently lost that status under A46.
Pre-Removal Risk Assessment (PRRA)	A process which assesses risk prior to the removal of a person who is eligible to apply for a PRRA.
Previously deported person (PDP)	A person whose deportation order has been enforced and requires authorization to return to Canada by an officer pursuant to A52(1).
Removal by the Minister	The PS Minister must enforce a removal order where the foreign national does not or cannot avail themselves of enforcement by voluntary compliance, a negative determination is made under R238(1), or the foreign national's choice of destination is not approved under R238(2).

Removal order comes into force	A removal order made with respect to a person who is not a refugee protection claimant comes into force on the latest of the dates set out in A49(1). With respect to a person who has made a claim for refugee protection, the removal order is conditional and comes into force on the latest of the dates set out in A49(2).
Risk-based Escort	When an enforcement officer travels outside Canada to effect a removal where management has determined that sufficient risk exists to justify it.
Stay of removal	The PS Minister cannot remove a person from Canada in circumstances where IRPA or the Regulations specify that the removal is prohibited, or where there is a valid court order prohibiting the person's removal.
Transport Escort	Occurs when an individual under a removal order is being: • transported from one location to another within Canada; • transported to the last departure point in Canada; • transferred by land to the United States POE. Security guards contracted by the CBSA will do this work where services are available.
Unenforced removal order	A removal order that has not been enforced in accordance with IRPA and the Regulations.
Voluntary compliance	A person who is not a danger to the public, a fugitive from justice in Canada or another country, or seeking to evade or frustrate the cause of justice in Canada or another country may voluntarily comply with a removal order before an officer and satisfy the officer that the requirements of R238(1)(a) and (b) and R238(2) have been met. The foreign national must be in a position to obtain their own travel documents and pay for all removal arrangements.

7 Procedure: Information Management

7.1 Removals Wiki

Officers should regularly visit the Removals Wiki site developed and updated by the Removals Program Management Unit at NHQ.

This site provides assistance and instructions to officers performing removal functions and includes:

- current policy instructions;
- the list of countries to which removal has been temporarily suspended;
- removal statistics;
- operational updates
- other useful links for other governments or agencies in Canada and abroad.

7.2 Retaining and Filing Information

All records, documents, officer notes, and correspondence including electronic sources of information, regardless of medium or format, such as emails and instant messages that pertain to a foreign national's removal must be added to the foreign national's file and retained as outlined in the *Program, Policy and Operational Direction – Retention and Disposition Schedule* and guided by the CBSA's Enterprise Information Management Division.

The *CBSA Program Policy and Operational Direction Retention Schedule* provides:

- descriptions of records created, used and received at the Agency;
- standards for how long each record series should be kept;
- direction on how to dispose of records when retention periods are complete;
- links to applicable legislation, corporate policies and industry guidelines;
- inventory of personal information banks held by the Agency.

The records retention schedule applies equally to paper and electronic records as well as structured databases.

Case files **other than** A34, A35, A36(1) and A37 of IRPA must be retained for 10 years after one of the following conditions is met: departure of foreign national has been confirmed, person concerned becomes Canadian citizen, person concerned is removed under the *Extradition Act*, Convention Refugee status has been ceased/vacated.

Serious case files relating to persons known or suspected of engaging in activities contrary to sections A34, A35, A36(1) and A37of IRPA should continue to be retained for 65 years or until the foreign national reaches 120 years of age after one of the following conditions is met: departure of foreign national has been confirmed, person concerned becomes Canadian citizen, person concerned is removed under the *Extradition Act*, Convention Refugee status has been ceased/vacated. Once this period has elapsed, the serious case files must be transferred to Library and Archives Canada and cannot be destroyed.

More information can be found in the *Program, Policy and Operational Direction – Retention and Disposition Schedule* accessible on CBSA Atlas.

PART II – Removal Program

8 Procedure: Removal Priorities

Consistent with CBSA priorities, the removals program focuses on cases that pose the greatest risk to the safety and security of Canadians and ensuring the integrity of Canada's immigration program. In this regard, while all removals are to occur as soon as possible, specific cases are considered a greater priority. Below are the three tiers of case priority with corresponding IRPA sections:

- Tier One – Safety and Security grounds, specifically, foreign nationals inadmissible for security (s. 34); international or human rights violations (s. 35); criminality (s. 36); and organized crime (s.37). Failed refugee claimants (s.41(a)), who entered Canada between official POEs (irregular migrants) are also considered tier one due to their impact on the asylum system;

- Tier Two – Regular failed refugee claimants (s.41(a)), who entered Canada through a designated POE; and

- Tier Three – All other inadmissibilities.

It should be noted that all removal cases are a priority, but an officer's efforts should first be directed to cases in tier one. Note, a detained case in any of the three tiers will always be considered a tier one priority.

9 Vulnerable Persons

It is an overall goal of Canada's immigration program to treat all persons with dignity and respect. In exercising their IRPA authorities, officials must approach all cases in a nonjudgmental manner, remain sensitive to the potential needs and limitations of vulnerable persons, and recognize that a person they are dealing with may have experienced some form of violence, abuse or trauma.

When making removal arrangements, officers need to be sensitive to the fact that a person they encounter may have been subjected to specific violence, trauma, or abuse based solely on the **gender, perceived gender, gender identity or gender expression,** as well as **sexual orientation**. This is referred to as gender-based violence (GBV), which is a human rights violation.

It is important to note that GBV can take many forms, including physical, economic, sexual, as well as emotional (psychological) abuse.

Officers should be aware that certain individuals face a greater risk of experiencing GBV including: women, girls, 2SLGBTQI+ people and people living with disabilities. Moreover, the risk of GBV may be increased with the intersection of any two or more of these characteristics.

In the context of removals, vulnerable persons may include, but are not limited to:

- minors (under 18 years of age), including unaccompanied minors;
- elderly persons;
- individuals with severe medical conditions or physical disabilities;
- persons with a suspected or known mental illness;

- persons who have suffered traumatic experiences that resulted in some degree of vulnerability, including:
    - persons who may face hardship for sexual or gender based reasons or who may be victims or survivors of gender-based violence. victims/suspected victims of trafficking in persons (VTIPs) or family violence.

Depending on their cultural background, victims of GBV may be reluctant to disclose their experiences in order to not "shame" their families or communities.

In the context of removals, victims and survivors of GBV may be encountered both at the port of entry or inland. In such cases, officers should be alert to such cases and will ensure to the extent possible that accommodations are made during removal arrangements (e.g., for female victims, have a female officer either conduct or be present during an interview, and arrange, if possible, for a female interpreter).

For further resources on GBV, please refer to the Government of Canada's Gender Based Violence Knowledge Centre (Canada.ca).

Note: Officers should keep in mind that there are specific policy guidelines in place for vulnerable individuals without status that may be victims of family violence. If a foreign national is in Canada, currently seeking permanent residence, which is contingent on upon remaining in a genuine relationship with the suspected abusive partner or spouse, the CBSA will work with IRCC to ensure the person is processed under the GBV guidelines.

For more information, refer to the Removals Wiki Temporary Resident Permit (TRP) for victims of family violence.

10 Procedure: Authority to remove from Canada

10.1 Types of removal orders

IRPR s.223 describes the three types of removal orders that can be issued to persons who are found inadmissible under the IRPA:

1. *Departure orders*

Departure orders are issued primarily to refugee claimants. For additional information on when a conditional departure order comes into force see section 9.3.

Foreign nationals who are issued departure orders must confirm their departure from Canada within 30 days after the order becomes enforceable. If the foreign national does not depart Canada within that period, the order automatically becomes a deportation order (deemed deportation). This will affect the person's requirements to return to Canada. If the removal order is enforced as a departure order that has become a deportation order, the foreign national will require an Authorization to Return to Canada by an officer [A52(1)].

The foreign national must be counselled on the requirements of R240(1)(*a*), (*b*) and (*c*) and present themselves before an officer at a POE. Failure to meet these requirements will result in the departure order becoming a deportation order under R224(2). Departure orders that have been enforced at a POE within the 30-day applicable period under R224(1) do not require a foreign national to obtain authorization to return to Canada under A52(1).

Calculation of the applicable period for departure orders

For persons issued departure orders who remain in Canada under an unenforced removal order, officers must, when verifying departure, consider and calculate the 30-day period. In calculating the applicable period for departure orders, officers must determine if there are any statutory or regulatory stays of removal or whether the person is detained under IRPA during the 30-day applicable period. Either of these circumstances will have the effect of "stopping the clock" and suspending the 30-day period.

To ensure that the applicable 30-day period is applied consistently, officers must become familiar with the calculation periods and be aware that the applicable period is suspended when:

- the removal order against the person is stayed; or
- the person is detained under IRPA.

Under R224(3), the 30-day applicable period is *suspended* until the foreign national's release or when the stay is lifted. The applicable period *resumes* the day following the release or the removal of the stay. The number of days during the applicable period before the detention or stay is then subtracted from the time remaining in the original 30-day applicable period.

Calculation of the applicable period for detained persons on a departure order

In cases where a foreign national is the subject of a departure order and has been detained in Canada, the 30-day applicable period is suspended under R224(3) until the foreign national's release from detention. Once the foreign national is released, the remaining time, if any, resumes the day following the person's release.

It is very important that the GCMS/NCMS systems are updated when a person is detained or released under IRPA.

Example: Detained on a departure order within the 30-day applicable period: A departure order becomes enforceable on August 6, 2013. The foreign national is detained under IRPA on August 23, 2013. The foreign national is then released from detention on September 2, 2013. From August 6, 2013 to August 23, 2013, there are 17 days that are counted against the departure order. The clock resumes on September 3, 2013, and the foreign national has 13 days remaining to depart Canada and enforce the departure order. The detention period is not calculated as part of the 30-day applicable period. The foreign national should yield to the departure order by September 15, 2013, in order to avoid a deportation order.

Example: Detained on a departure order within the 30-day applicable period: A departure order becomes enforceable on July 1, 2013. The foreign national is detained under IRPA on July 10, 2013. The foreign national is released from detention on August 31, 2013. Even though the foreign national was detained for a period of more than 30 days, the person is not considered to be under a deportation order. From July 1, 2013 to July 10, 2013, there are nine days that are counted against the departure order. The clock resumes on September 1, 2013, which is day 10 of the applicable period. The foreign national has 20 days to depart from Canada before the departure order becomes a deportation order.

When departure is verified, it is very important for officers to accurately indicate on the IMM0056B and in GCMS/NCMS whether the removal order is a departure or deportation order.

Calculation of the applicable period for a stayed departure order

If a foreign national is the subject of a departure order that is stayed, the officer must consider whether the person is on a valid stay or whether the stay has been lifted. If the stay has been lifted, the officer must calculate the 30-day applicable period, during the time there was no stay of removal in effect. If this calculation shows that the person's time in Canada exceeds 30 days, the order becomes a deportation order. If the time period is within the 30-day applicable period, the order remains a departure order.

Example: Stay of departure order: A departure order becomes enforceable on January 2, 2015. The departure order is stayed on January 8, 2015. The stay is lifted on March 21, 2015. From January 2, 2015 to January 8, 2015, there are six days that are counted against the departure order. From January 8 to March 21, 2015, there are 72 days where the removal was stayed. This period is not calculated as part of the 30-day applicable period. The clock resumes on March 22, 2015, and the foreign national has 24 days remaining from this date to depart Canada and enforce their departure order. The departure order must be enforced by April 14, 2015, in order to avoid a deportation order against the foreign national.

When departure is verified, it is very important for officers to accurately indicate on the IMM0056 and in GCMS/NCMS whether the removal order is a departure or deportation order.

2. Exclusion orders

Exclusion orders are issued primarily for less serious immigration violations.

Exclusion orders with a one-year ban under R225(1) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return within one year after their removal order was enforced.

Exclusion orders with a five-year ban under R225(2) require a foreign national to obtain authorization to return to Canada under A52(1) if they wish to return within five years after their removal order was enforced.

3. Deportation orders

Deportation orders are issued primarily for more serious immigration violations.

Deportation orders permanently bar a person from returning to Canada. Under R226(1), all persons who are the subject of an enforced deportation order always require authorization to return to Canada under A52(1). A departure order becomes a deportation order, through operation of law, under R224(2) if the foreign national does not meet the requirements to enforce their removal order under R240(1)(*a*), (*b*) and (*c*) within 30 days after the order becomes enforceable.

Requirement to return for accompanying family members

Foreign nationals included in removal orders (exclusion or deportation orders) that have been made on the basis that the person is an accompanying family member under A42(*b*) will not require authorization to return to Canada under A52(1). Officers should counsel these persons accordingly pursuant to R225(4) and R226(2).

The files of persons removed under A42(*b*) must not be downloaded into the previously deported person database and will not be placed in CPIC.

10.2 When a removal order comes into force – non-refugee protection claimant

Under A49(1), a removal order for a non-refugee protection claimant will come into force on the latest of the following dates:

- the day the removal order is made, if there is no right to appeal [A49(1)(a)];
- the day the appeal period expires, if there is a right to appeal and no appeal is made [A49(1)(b)]; or
- the day of the final determination of the appeal, if an appeal is made [A49(1)(c)].

10.3 When a removal order comes into force – refugee protection claimant

With respect to a refugee protection claimant, the removal order does not come into force under A49(2) until specific events have passed. At the time the removal order is made, it is not in force and is conditional until it comes into force on the latest of the following dates:

- the day the claim is determined to be ineligible under A101(1)(e) if the claimant came directly or indirectly to Canada from a country designated by the Regulations, other than a country of their nationality or former habitual residence [A49(2)(a)];
- in all cases other than A101(1)(e), seven days after the claim is determined to be ineligible [A49(2)(b)]; or
- 15 days after notification that the claim has been rejected by the Refugee Protection Division (RPD) if no appeal is made, or by the Refugee Appeal Division (RAD) if an appeal is made [A49(2)(c)];
- 15 days after notification that the claim is declared withdrawn or abandoned [A49(2)(d)] by either the RPD or RAD; or
- 15 days after proceedings have been terminated as a result of a notice that the claim was based on misrepresentation under A104(1)(c) or the claim was not the first one made by the claimant under A104(1)(d) [A49(2)(e)].

For the purposes of A49(2)(c) and A49(2)(d), the Refugee Protection Division Rules and Refugee Appeal Division Rules define when a decision is considered to be received, and whether that decision is given in person or made in writing. After a decision takes effect, there is a 15-day period under A49(2)(c) and A49(2)(d) for the removal order to come into force.

Either party may withdraw a claim or an application to vacate or to cease refugee protection by one of the two methods below, depending on the status of the application.

1. No substantive evidence accepted by the RPD:

Withdrawal of a claim or application may occur under RPD rule 59(2) if the claimant informs the RPD orally or in writing that they no longer want to continue their claim. In these cases, substantive evidence must not have been accepted at the RPD proceeding. If no evidence has been submitted, the Registrar of the RPD may withdraw the claim, usually on the day the person requests to withdraw. When the claim is withdrawn, the Registrar of the RPD will complete form RPD.12 "Notification confirming the withdrawal of a claim for refugee protection [rule 59(2)]" and notify the parties.

2. Substantive evidence accepted by the RPD:

When a claim or application for refugee protection is withdrawn under RPD rule 59(3) and substantive evidence has been submitted to the RPD, the person must make an application to the RPD to withdraw their claim. A hearing is conducted, either orally or in writing, and the RPD member(s) will make a decision on the application. If the application is granted, the RPD Registrar will complete form RPD12.3 "Notice of decision Application to withdraw [rule 59(3)]" and notify both the claimant and the CBSA that the claim is withdrawn.

Decisions delivered by regular mail

The RPD and RAD Rules provide the timelines for determining when a decision is considered to be received if it was delivered by regular mail. For A49(2)(c) and A49(2)(d) cases only, a document that is delivered by regular mail to a party in the proceeding is considered to be received seven days after the day it was mailed. If the seventh day is a Saturday, Sunday or other statutory holiday, the document is considered to be received on the next working day [RPD rules 41(2) and 41(3); and RAD rules 35(2) and 35(3)].

For the purposes of the RPD Rules, a decision is provided through a notice of decision [RPD rule 67(1)] and is considered to be a document under RPD rule 31. Similarly, for the RAD, a decision is provided through a notice of decision [RAD rule 50(1)] and is considered a document under RAD rule 27. Notification under A49(2)(c) and A49(2)(d) is the delivery date of a notice of decision.

For the purpose of the RPD and RAD Rules, *regular mail* does not include decisions that are delivered by a means other than the Canada Post regular standard mail service. In cases where a decision is delivered by means other than regular mail (i.e., fax, courier service, e-mail), the decision takes effect when the person receives the decision. For these cases, proof of service will establish the date on which the decision was received.

Example: Calculation of the notification period for a decision sent by mail

An appeal of a negative RPD claim was rejected by the RAD on July 31, 2015, and the decision was mailed on the same day using a regular mailing service provided by Canada Post. The seven-day calculation period for the delivery of the decision begins on August 1 and ends on August 7. As the appeal of the negative claim was rejected by the RAD, the removal order will come into force on August 22, 2015, which is 15 days after the person was notified of the decision. If there is no stay of removal, a departure order comes into force and the person must depart Canada within 30 days. If the refugee claimant was issued an exclusion or deportation order and if there is no stay of removal, the removal order would become enforceable and the person must leave Canada immediately [A48].

There is a simple way to calculate the notification period for the majority of decisions sent by regular mail: there is a seven-day mailing period plus a 15-day period before the removal order comes into force. This equals 22 days from the date of mailing of a decision for the removal order to come into force. It is important to remember that in cases where the seventh day falls on a statutory holiday, the calculation of time for when the removal order will come into force must be adjusted accordingly.

Decisions delivered in person

When a decision is made at an RPD or RAD hearing, the decision takes effect when the Division member or a three-member panel states the decision orally and, if applicable, gives reasons for the decision.

Decisions made in writing

When a decision is made by the RPD or RAD in writing, it will take effect when the Division member or a three-member panel signs and dates the reasons for the decision.

10.4 When a removal order becomes enforceable

A removal order is enforceable under A48(1) after the removal order has come into force and is not stayed. If a removal order is enforceable, the foreign national must leave Canada immediately and the order must be enforced as soon as possible.

10.5 When a removal order is actionable

Actionable is defined as cases where the pre-removal risk assessment has been completed, if eligible, and no stays, impediments, or active immigration warrants exist. It is incumbent upon each CBSA removal officer to ensure these cases are removed as soon as possible in coordination with the priorities for removal (see section 8).

10.6 Removal orders no longer enforceable – Pardons/Acquittals on appeal

If a Canadian criminal conviction is pardoned or acquitted on appeal, a removal order based solely on that conviction must not subsequently be enforced. If the pardon or acquittal is later revoked or overturned pursuant to the *Criminal Records Act*, the removal order may become enforceable again.

There will be some cases where the inadmissibility report contained more than one allegation or there was more than one conviction. It may be necessary to review the transcript of the admissibility hearing to determine which allegations formed the basis of the removal order. If there was a finding of inadmissibility for any other allegation, or for other convictions which have not been pardoned or acquitted, the removal order remains enforceable. The order becomes unenforceable only if all of the convictions reflected in the removal order have been pardoned or acquitted.

The pardon or acquittal does not have the effect of erasing the deportation order from the record or rendering it invalid. If the pardon is revoked or ceases to have effect, the removal order will become enforceable again as a result. A pardon is prospective: the intent is to eliminate any negative consequences of the conviction after the time of the pardon. However, it does not erase the conviction or any resulting consequences that occurred before the pardon was granted.

This policy reflects the jurisprudence in *Smith* v. *Canada (Minister of Citizenship and Immigration)* (1998), a valid deportation or exclusion order may not be enforced after a pardon has been granted for the offence in question, the conviction has been revoked under the *Criminal Records Act,* or there has been a final determination of an acquittal.

Former Permanent Residents

If the removal order was issued against a permanent resident, then the person lost that status under section 46(1)(c) on the day the removal order came into force. Following a pardon or acquittal, there is no provision in IRPA for the person to regain permanent resident status, despite the removal order becoming unenforceable. The person remains a foreign national and may reapply for permanent residence in the normal manner. The valid removal order is simply deferred until permanent residence is granted. Although the person may no longer be inadmissible, it does not change the fact that they were inadmissible at the time the removal order was issued. Therefore, their permanent residence status was lost.

Officers should prepare a letter to the person outlining that:

As a result of a pardon/acquittal on [*insert date of pardon/acquittal*] at [*Correctional Services Canada or court and location of acquittal*] of a conviction of [*insert offence name and section number of the offence*], the [*insert type of removal order and document number*] issued on [*insert date of removal order issuance*] will not be enforced. On the day that your removal order came into force, your status became that of a foreign national. You may obtain an application for permanent residence by accessing the IRCC Web site at www.cic.gc.ca, or by contacting the Call Centre at 1-888-242-2100. Please note that any further evidence of inadmissibility, including any future convictions, could result in enforcement action.

Updating NCMS and GCMS

After court records have been reviewed to confirm the pardon or acquittal, the case should be closed in GCMS with remarks specifying which convictions have been pardoned or acquitted and that the removal order is not enforceable. This information will assist with any future encounters with the individual by the CBSA.

The removal order disposition in GCMS should be left at "IN FORCE." A pardon or acquittal is not a finding that the removal order was issued in error or that the removal order is quashed. If the pardon or acquittal is subsequently revoked or overturned, the removal order becomes enforceable and removal procedures can resume.

In NCMS, the removal process should be "Terminated," with notes to indicate which specific convictions have been pardoned or acquitted and that the removal order is not enforceable at this time.

In the event that a person applies for permanent resident status after the pardon or acquittal is granted, the removal process stage in NCMS should indicate "Pending Landing." Should the person receive permanent resident status, the removal process stage in NCMS should indicate "PC Landed." This disposition will conclude the Removal process.

Note: Please refer to OP 1, section 6 for instructions on procedures regarding pardons or acquittals after a removal order has been enforced.

11 Procedure: Statutory and Regulatory Stays

A48(2) imposes an obligation such that if the removal order is enforceable, the foreign national against whom it was made must leave Canada immediately and it must be enforced as soon as possible.

Statutory and regulatory stays of removal are outlined in A50, and R230 to R234. The courts may also impose stays of removal in individual cases. IRPA has made provision for such stays in A50(a), where removal cannot contravene a judicial order, and in A50(c), concerning a stay imposed by a court of competent jurisdiction. An undertaking given on behalf of the PS Minister during the course of litigation also constitutes a stay of removal.

In some cases, the enforcement of removal orders can be stayed through the statutory and regulatory provisions of IRPA and its Regulations as well as through court-ordered stays. When a stay of removal is applied, through operation of law, the stay renders the removal order not enforceable under A48(1), and the CBSA must postpone removal. As a result, the person must not be removed from Canada until they are subject to a removal order that has come into force and is not stayed.

It is essential for the GCMS and/or NCMS systems to be updated when a stay of removal is in place and when it is lifted. Accurate information is paramount to ensuring that a person who is the subject of a stayed removal order is not removed.

There will be occasions when an officer will be uncertain whether a stay of removal applies in a specific removal case. Should this situation arise, officers should consult their supervisor for direction. If the issue is complex, the supervisor may refer the officer to a regional program specialist or regional Justice Liaison Officer (JLO) as the case may be. Sometimes, these contacts can bring other issues to an officer's attention that may have been overlooked.

The following charts should assist officers in determining when a stay of removal may be appropriate and when stay provisions do not apply, and any exceptions that may be associated with the statutory, regulatory or court-ordered stays.

11.1 Statutory stays of removal

A50 contains provisions to stay the removal of foreign nationals who have been issued a removal order. When a statutory stay is imposed under IRPA, the removal order is not enforceable.

Authority	When a stay applies	When a stay does not apply
A50(a)	**Decision at a judicial proceeding directly contravenes the enforcement of a removal order, and the PS Minister is given the opportunity to make submissions** A stay of removal applies if a decision made in a judicial proceeding would be directly contravened by the enforcement of a removal order. This stay applies where the PS Minister was given the opportunity to make submissions. For guidelines and scenarios in which an A50(a) stay of removal applies, refer to section 12.	For guidelines and scenarios in which an A50(a) stay is not applicable, refer to section 12.
A50(b)	**Imprisonment in Canada** A stay of removal applies when a foreign national is sentenced to a term of imprisonment in Canada. Officers must not enforce a removal order if the foreign national is an inmate of a penitentiary, jail, reformatory or prison.	The stay of removal is effective until the sentence being served is completed. The sentence is completed when the foreign national is released from imprisonment by reason of expiration of sentence, commencement of statutory release or grant of parole. Unless the parole is suspended, terminated or revoked, the removal can take place. A conditional sentence order served outside a prison is not considered a term of imprisonment under paragraph 36(1)(a) of IRPA. A foreign national serving a conditional sentence order does not benefit from a stay of removal.

A50(c)	**Stay of removal granted by the Immigration Appeal Division (IAD)** A removal order is stayed under A66(b) and A68 until the stay is no longer in force.	There is no stay of removal when: • a permanent resident or foreign national who is on a stay of an appeal against an inadmissibility finding under A36(1) or A36(2) is subsequently convicted of another offence under A36(1) and the stay is cancelled; • the appeal is dismissed; or • the IAD may, on application or on its own initiative, reconsider the appeal and lift the stay of removal.
A50(c)	**Stay of removal by any other court of competent jurisdiction** A removal is stayed if the Federal Court or the Supreme Court of Canada issues an order to stay the enforcement of a removal order or to bar the PS Minister from carrying out the removal order. The stay order will be in effect until the conditions specified in the order are satisfied. If the provincial court issues an injunction or a stay to prevent removal, removal may be stayed pursuant to A50(a) and possibly A50(c). The stay will be in effect until the conditions of the stay order are satisfied or the order is rescinded. For more information on applications for stays, court-imposed stays and undertakings not to remove, refer to ENF 9, section 4 and section 5.	An application for a stay of removal does not trigger or constitute a stay of removal.
A50(d)	**Duration of stay under A114(1)** There is a stay of removal when there is a positive decision to allow the protection of a person described in A112(3). These persons are: • inadmissible on grounds of security, violating human rights or international rights, or organized criminality; • inadmissible on grounds of serious criminality punished by a term of imprisonment of at least two years; • refugee claimants rejected on the basis of section F of Article 1 of the Refugee Convention; or • persons named in an A77 certificate.	A stay of removal is cancelled if the Minister of IRCC re-examines the case and determines that the circumstances under which the application was allowed have changed and dismisses the application.

A50(e)	**Duration of stay imposed by the Minister** This provision could include discretionary stays where the PS Minister imposes the stay of removal. These stays will be determined on a case-by-case basis and will be assessed by NHQ in accordance with the instruments of delegation. In addition, A50(e) provides for the authority of the PS Minister to impose a stay of removal for temporary suspension under R230 where the country or place presents a generalized risk. For more information on R230, refer to section 10.2 below.	

11.2 Regulatory stays of removal

In addition to the stays provided for in A50, A53(d) provides authority for the Regulations to stay a removal order. When the Regulations provide for a stay of removal of foreign nationals, the removal order cannot be enforced.

Authority	When a stay applies	When a stay does not apply
R230	**Temporary suspension of removals (TSR) and administrative deferral of removals (ADR)** A TSR or ADR will be imposed where return to a specific country or place presents a generalized risk that the PS Minister considers dangerous and unsafe to the entire general civilian population of that country or place. The PS Minister will make the decision by a formal process. When a decision is made to suspend removals to a particular country, this decision will be announced to all offices. For a list of the countries under a TSR or ADR refer to: http://www.cbsa-asfc.gc.ca/security-securite/rem-ren-eng.html?wbdisable=true *Note: Generalized risk is different from Individualized risk assessed during Immigration and Refugee Board (IRB), H&C, and PRRA assessments.* *Section 13.3 describes the differences between the two.*	The stay of removal under this provision does not apply to classes of persons who: • have been found inadmissible on grounds of security under A34(1); • have been found inadmissible on grounds of human or international rights violations under A35(1); • have been found inadmissible on grounds of serious criminality under A36(1) or on grounds of criminality under A36(2); • have been found inadmissible on grounds of organized crime under A37(1); or • have been excluded by the Refugee Protection Division by reason of section F, Article 1 of the Refugee Convention. • wish to return to their country of risk and inform the Minister in writing that they consent to their removal. Under R230(2), the PS Minister may cancel the stay if the circumstances of generalized risk to a specific country or place no longer pose a risk to the entire civilian population of that country or place.

R231	**Judicial review of a Refugee Appeal Division decision** A stay of removal will occur when a person files an application for leave to commence judicial review of a decision of the Refugee Appeal Division. The stay of removal will continue to apply until leave is granted and until the court of last resort has disposed of the judicial review proceeding, if applicable. The removal is stayed when the person or their counsel presents an officer with a certified copy of an application for leave to commence judicial review of a RAD decision or when the officer is so advised by the Department of Justice. This stay pursuant to R231 will normally be reflected in the GCMS litigation (LIT) screen as a stay required by the Act/Regs.	The stay provision does not apply to classes of persons who: • is a designated foreign national; • are the subject of a removal order because they are inadmissible on grounds of serious criminality under A36(1); • reside or sojourn in the United States or St. Pierre and Miquelon and are the subject of a report under A44(1) at the POE only; or • have filed an application for an extension of time to file a leave application. The stay of removal is effective until the earliest of the following: • the application for leave is refused; • the application for leave is granted, the application for judicial review is refused and no question is certified for the Federal Court of Appeal; • a question is certified by the Federal Court and the appeal is not filed within the time limit; • a question is certified by the Federal Court, the Federal Court of Appeal dismisses the appeal, and the time limit to file an application for leave to the Supreme Court of Canada (SCC) has expired and no application has been made; • an application for leave to appeal a decision of the Federal Court of Appeal to the SCC is made, and the application is refused; or • the application to the SCC is granted, but the appeal is not filed within the time limit or the SCC dismisses the appeal. • For further information on judicial review processes, refer to ENF 9.

R232	**PRRA** A stay of removal applies when an officer notifies a person that they are eligible to make an application for protection under A112(1) of the Act for the PRRA program. A person is notified that they can make an application for PRRA when: • an officer provides the person with a PRRA application form in person; or • seven days have elapsed since the application form was mailed to the person at the last address they provided to the CBSA. In order for the stay of removal to continue, an application for protection must be received by IRCC within 15 days after the notification is given pursuant to R162.	The stay of removal is effective until the earliest of the following dates: • when an officer receives written confirmation from the person that they do not intend to make an application; • the person does not make an application within 15 days after being notified; • a negative decision of the application has been made; or • a person receives a positive PRRA decision and receives permanent resident status or their application for permanent resident status is refused. Subsequent PRRAs will not benefit from a stay. Note: This applies to cases where the PRRA was previously declared withdrawn or abandoned. PRRA applications filed at the POE will not result in a stay of the removal.
R233	**H&C or public policy considerations** A stay of removal occurs when the grounds for H&C considerations on an application for permanent residency have been approved in principle. *Note: Public policy considerations are an element of immigration policy.* *Public policy may be included in the consideration of exceptional cases.*	There is no stay of removal where: • there is only an intention to apply for H&C; or • there is an outstanding H&C application that has not been approved in principle by the IRCC Minister. The stay of removal is effective until the person is granted, or refused, permanent resident status.

12 Procedure: Application of A50(a) stays of removal

12.1 Overview of A50(a) stays of removal

A50(*a*) will affect whether the CBSA can enforce removal orders where there are other judicial proceedings pending against a person subject to a removal order. A50(*a*) was not enacted to extend a benefit to persons who may be subject to probation orders, interim release orders as a result of pending criminal charges or other court orders. Its purpose is to provide direction to officers where there is a conflict between removal orders and decisions made in judicial proceedings. By virtue of A50(*a*), the enforcement of a removal order is deemed subservient or secondary to a decision made in judicial proceedings and to the proper administration of justice.

In order for A50(*a*) to apply, the following conditions must be met:

- a decision was made (including final judgements and interlocutory orders);
- in a judicial proceeding (a proceeding in a legally constituted court);
- at which the PS Minister was given the opportunity to make submissions; and
- this decision would be directly contravened by the enforcement of the removal order.

If these conditions do not exist, then an A50(*a*) stay of removal is not in effect and the removal order should be enforced as soon as possible. In order to determine whether the decision that was made at a judicial proceeding would be directly contravened by the enforcement of a removal order, officers must review the individual circumstances, on a case-by-case basis, to determine whether removal would contravene the decision. To ensure consistency in the application of an A50(*a*) stay with respect to decisions made at judicial proceedings, officers should contact their manager, supervisor or regional JLO for further guidance.

Since each case must be evaluated on its individual circumstances, officers should be aware of the complexity of A50(*a*) and must also consider R234 when determining the applicability of the stay provision.

When making removal arrangements, officers may encounter situations where persons will invoke the statutory stay provisions in A50(*a*) in an effort to prolong their stay in Canada or avoid removal altogether. In order to ensure that removals are not unduly delayed or unlawfully carried out, officers should carefully assess each situation to ensure proper and correct processing. The following case circumstances should be used as a guideline only and may be of assistance when determining the applicability of A50(*a*). If the case scenario is not described below, officers should consult their regional JLO, regional program specialist, manager or supervisor for assistance to ensure the consistent application of A50(*a*).

For more information on the application of A50(*a*) to different scenarios, see the examples in sections 12.2 to 12.13 below.

12.2 Person under removal is the subject of a probation order

Note: A50(a) does not apply.

The Federal Court of Appeal decision in *MCI v. Cuski* decided that the goal of the enforcement of a removal order is to remove persons from Canada as soon as possible. The goal of removing persons

who are the subject of a removal order is more important than the need to satisfy the terms of probation orders, the purpose of which is to integrate people back into the community.
When removing a person subject to a probation order, officers should take the following steps:

- advise the person and/or counsel that probation orders do not create a situation where a statutory stay exists, and then proceed with removal arrangements; and
- ensure that the regional Department of Justice is contacted if counsel indicates that they intend to file before the Federal Court to stay the removal.

12.3 Person subject to a removal order has pending criminal charges

Note: A50(a) may apply.

If there is an indication that the person has pending criminal charges, officers should communicate with the provincial or federal Crown, as the case may be, to determine if a statutory stay exists pursuant to A50(*a*).

If a statutory stay applies, then officers should ask the Crown to either withdraw or stay the criminal charges in order to allow for the expeditious removal of the individual concerned.

Officers should inform the Crown that the CBSA has an obligation to carry out removals as soon as possible (i.e. if such persons pose a danger to the public.) If the Crown agrees, in writing, to withdraw or stay the criminal charges, either before or after removal is confirmed, the officer will document the file accordingly and proceed with the removal arrangements. Under R234(*a*), a statutory stay does not exist where there is an agreement between the Attorney General and the CBSA to withdraw or stay criminal charges once the CBSA confirms that a subject has been removed from Canada.

If a statutory stay exists and the Crown does not stay charges, officers should document the file accordingly and update GCMS and NCMS to indicate that removal is stayed until the criminal matter is dealt with. Officers should monitor these files as the particular circumstances of the case may change and a statutory stay may no longer apply.

12.4 Person under removal is the subject of a subpoena to appear as a witness in criminal proceedings

Note: A50(a) provisions may apply.

Officers may also encounter situations where the person being removed is the subject of a subpoena or summons obliging them to appear as a witness at a criminal trial or in other criminal proceedings. A criminal subpoena/summons is a command by the court to the person to appear as a witness at subsequent criminal proceedings.

Before proceeding with removal in these circumstances, the officer in charge of the removal should obtain as much information as possible (from either the Crown attorney or defence counsel as the case may be) in order to determine whether removal is prohibited pursuant to A50(*a*) and, if so, whether it is possible to have the subpoena cancelled or, alternatively, whether the person's return to Canada after removal should be facilitated in order to allow the person to comply with the subpoena. The following should be considered:

- whether the Crown or defence would be willing to withdraw/cancel the subpoena or use alternative means of testifying. [R234(*b*) confirms that no statutory stay exists where there is an agreement between the Attorney General and the CBSA to cancel or withdraw a subpoena once the CBSA confirms that a subject has been removed from Canada];

- if defence counsel does not want to withdraw the subpoena, the CBSA may request that the Crown apply to quash the subpoena;

- if not, and the person is capable of returning to Canada at their own expense, the CBSA may consider whether officers will facilitate the person's return to Canada, with the appropriate conditions, for the purpose of complying with the subpoena. Before removing a person in this situation, officers should discuss the circumstances with the Crown; and

- if a statutory stay exists, then the file should be documented accordingly with appropriate remarks in GCMS and NCMS. The officer should monitor the file to ensure that the person concerned is removed from Canada after completing their testimony and/or is no longer required for the judicial proceeding.

Where there are compelling reasons to remove the person and it has been decided to proceed with removal and facilitate the person's return to allow compliance with the subpoena, the file will be documented accordingly. In addition, the appropriate entry will be made in GCMS or in NCMS, where available, and the file will be carefully monitored to ensure that removal is carried out at the appropriate time and without delay. As well, the person concerned, their counsel or the Crown attorney (as the case may be) will be kept informed, as required. In addition, the regional Department of Justice (Immigration Section) will be given advance warning of the removal arrangements in order to prepare for any anticipated stay motion before the Federal Court.

12.5 No subpoena but person under removal is required to appear as a witness in criminal proceedings

Note: A50(a) provisions do not apply.

Officers may occasionally encounter situations where the subject of the removal order is required as a witness in a criminal proceeding but is not subject to a subpoena or a summons. In some cases, the CBSA may receive written communication from either the Crown attorney or the defence counsel to the effect that the person to be removed is required to testify in a criminal proceeding. Prior to IRPA implementation, paragraph 50(1)(*b*) of the former *Immigration Act*, 1976, applied; however, this paragraph has not been incorporated into IRPA.

Consequently, it is the CBSA's position that since no court order exists, the provisions of A50(*a*) do not apply. The appropriate party and the Crown should be so advised, and removal will proceed in the normal manner. The regional Department of Justice (Immigration Section) will be given advance warning of the removal arrangements in order to prepare for any anticipated stay motion.

12.6 Person is subject of an appearance notice given by a peace officer in a criminal matter

Note: A50(a) provisions do not apply.

It is the CBSA's opinion that an appearance notice (Form 9 s. 493 of the *Criminal Code*) issued to a person by a peace officer does not create a stay pursuant to A50(*a*) as long as the appearance notice has not been reviewed by a judge. A peace officer in this specific case is not a *judicial officer*

for the purposes of A50(*a*) and thus their decision does not fall within the parameters of a judicial proceeding. In these specific cases, a foreign national has not been detained or charged for a crime nor has the foreign national gone before a judicial body or tribunal such as a justice of the peace. Instead, the foreign national is required to report to court to answer charges not yet laid against them.

If the person was issued an appearance notice and failed to comply with the conditions in Form 9, a bench warrant may be issued. If a bench warrant exists, officers should consult the Crown before removing such persons.

Should this specific type of case arise, officers should follow the procedures outlined in section 11.3 above and inform the person if the CBSA is proceeding with removal. Before removal, officers must discuss the case with a supervisor and/or contact the regional JLO. The appearance notice is currently under review and the case circumstances should be examined carefully before such persons are removed. Depending on the specific details of the case, a supervisor or regional JLO may ask the officer to contact Crown counsel to seek a stay of proceedings. If not, the officer should proceed with removal and keep the regional JLO advised if counsel indicates they will be filing a stay application to prevent removal.

12.7 Person under removal is subject of a civil summons or a subpoena

Note: A50(a) provisions may apply.

Periodically, officers may encounter situations where a person being removed is the subject of a subpoena or summons and is required to testify at a civil trial (non-criminal proceeding). The CBSA has taken the position that, where a summons or subpoena is issued by a court clerk or a registrar, it does not constitute a decision in a judicial proceeding, and a stay under A50(*a*) does not apply. However, the CBSA is reviewing other similar circumstances to determine whether a civil subpoena or summons would be considered a judicial proceeding in the application of A50(*a*).

Before proceeding with removal action, officers should carefully review the civil summons or subpoena to determine whether removal is prohibited pursuant to A50(*a*), taking into account the CBSA's position. If officers are uncertain as to whether a document constitutes a decision made in a judicial proceeding as contemplated by A50(*a*), they should consult their supervisors and/or refer such cases to their regional JLO, regional program specialist, manager or supervisor, as the case may be. In cases where it appears that a person is invoking this stay provision solely to delay the removal process, this information should be brought to the attention of the regional JLO, regional program specialist, manager or supervisor.

12.8 Person under removal is subject to a civil court order

Note: A50(a) provisions may apply.

In some cases, the person may be the subject of a court order requiring them to appear at a trial involving civil proceedings (i.e., relating to family and/or custody issues, etc.) or other civil court order which may affect the ability to remove them. As such, a civil court order will constitute "a decision made in a judicial proceeding," and A50(*a*) may apply, depending on whether enforcing the removal order will directly contravene this decision.

Before proceeding with removal action, officers should carefully review the civil court orders to determine whether removal is prohibited pursuant to A50(*a*), taking into account the interpretation outlined in this document. If officers are uncertain as to whether a document constitutes a decision

made in a judicial proceeding as contemplated by A50(*a*), they should consult their supervisors and/or refer such cases to their regional JLO. Cases in which it appears that persons are invoking this stay provision solely to thwart the removal process should be brought to the attention of the regional JLO.

12.9 Person under removal is subject of a notice of examination in a lawsuit (discovery process)

Note: A50(a) provisions do not apply.

In the case of *Shulgatov et al v. MCI* , a Federal Court judge dismissed a stay application by ruling that notices of examination in civil suits did not create a statutory stay pursuant to paragraph 50(1)(*a*) of the former *Immigration Act*, 1976. The principal applicant in this case was involved in a serious motor vehicle accident and was both the plaintiff and the defendant in the pending law suits. The judge ruled that a notice of examination during the discovery process of a lawsuit does not constitute an order made by a judicial body and therefore does not result in a statutory stay of removal. Upon further review, it is the CBSA's opinion that a notice of examination in a lawsuit does not constitute a decision in a judicial proceeding for the purposes of A50(*a*). There is no statutory stay.

Officers should consult their supervisors and/or refer such cases to their regional JLO or other similar officer when counsel claims that a statutory stay applies and that removal is prohibited. If the regional JLO or other similar officer is satisfied that no statutory stay exists, then officers should advise counsel and proceed with removal. They should also ensure that the regional JLO is aware of the removal actions if counsel intends to file a stay application.

12.10 Person under removal has a court date for a legal name change

Note: A50(a) provisions do not apply.

In the case of *Louis v MCI*, 2001, a Federal Court judge dismissed a stay application by the applicant, who claimed that he had to appear in superior court for a motion to legally change his name on a marriage certificate. The applicant filed the motion only after he was told he was being removed from Canada. The Court concluded that the provisions of paragraph 50(1)(*a*) of the *Immigration Act*, 1976, do not apply in these circumstances, where the applicant could decide for himself the date of his appearance in court and could have decided not to present the motion. Consequently, it is the CBSA's opinion that these types of judicial matters do not invoke a statutory stay pursuant to A50(*a*).

12.11 Person under removal is subject of a conditional sentence order (CSO)

Note: A50(b) provisions do not apply.

In the October 19, 2017 decision Tran v. Canada (Public Safety and Emergency Preparedness) 2017 SCC 50, the Supreme Court of Canada (SCC) concluded that a conditional sentence order imposed pursuant to the regime set out in ss. 742 to 742.7 of the Criminal Code of Canada (CCC) **does not constitute a "a term of imprisonment"** (aka jail or prison term) under paragraph 36(1)(a) of the IRPA.

The SCC interpreted the meaning of "term of imprisonment" as articulated in paragraph 36(1)(a) to refer to "prison" (aka jail time) and does not include conditional sentence orders served outside of prison.

Further information related to the Tran decision is available in the Operational Bulletin, PRG-2017-67.

Individuals who are serving a conditional sentence order do not benefit from a stay of removal in accordance with A50(a) or A50(b).

A50(b) specifies that a removal order is stayed in the case of a foreign national sentenced to **a term of imprisonment** in Canada, until the sentence is completed. Since a conditional sentence order is not considered to be a term of imprisonment, it does not constitutes a stay of removal because the individual is not incarcerated or detained in any penitentiary, jail, reformatory or prison. As such, officers must enforce a removal order while the individual is serving a conditional sentence order. If the person leaves Canada during the term of the conditional sentence order, the officer should follow the procedures to confirm departure outlined in section 10.1 (1) for cases where departure occurs prior to the order not coming into force.

12.12 Person under removal is subject of a RPD summons

Note: A50(a) provisions do not apply.

In the case of *Gillani v. MCI*, the applicant was the subject of a subpoena for a Convention Refugee Determination Division (CRDD) matter and sought a stay of removal. The Federal Court Trial Division dismissed this application as it ruled that the applicant failed to raise a serious issue. Consequently, the CRDD was not a judicial body for the purposes of the former *Immigration Act,* 1976.

The CBSA is of the position that a summons issued by the Refugee Protection Division is not considered a decision at a judicial proceeding for the purposes of A50(*a*) and a stay of removal does not apply in this circumstance. Deferral of removal in these types of cases may encourage abuse of the summons process and may make it more difficult for the CBSA to remove persons in these similar circumstances in the future.

Officers should inform the person and their counsel that removal is proceeding, as there is no statutory stay of removal. They should also keep their regional JLO or other similar officer advised if counsel indicates that they will be filing a stay application to halt the removal.

12.13 Requests for deferral from other enforcement agencies

Note: A50(a) provisions do not apply.

Periodically, the CBSA may receive requests to delay removals from other enforcement agencies that do not fall within the parameters of the A50(*a*) provision or other stay provisions in the IRPA or Regulations. Such cases should always be referred to the supervisor or manager, who will decide whether or not to defer removal, based on the particular facts of the case and the CBSA's interest in being cooperative with other enforcement agencies that share similar interests, goals and concerns. A decision to defer removal in these circumstances will be an administrative one and will not fall under the A50(*a*) provisions. Officers should document the file accordingly and update NCMS. The

file should be monitored to determine if the enforcement agency still requires the person to remain in Canada. Once the enforcement agency no longer requires the person, removal should occur as soon as possible.

13 Procedure: Temporary Suspension of Removals (TSR) and Administrative Deferral of Removals (ADR)

13.1 Legislation

The IRPA provides the PS Minister with the specific legal authority to temporarily suspend or reinstate removals according to changes in country conditions.

Imposing a TSR or ADR under R230(1):
Regulation 230 outlines the basic criteria for determining whether to maintain or suspend removals to a particular country:

R230(1) The Minister may impose a stay on removal orders with respect to a country or a place if the circumstances in that country or place pose a generalized risk to the entire civilian population as a result of:

a) armed conflict within the country or place;
b) environmental disaster resulting in a substantial temporary disruption of living conditions; or
c) any situation that is temporary and generalized.

Cancellation:
R230(2) The Minister may cancel the stay if the circumstances referred to in subsection (1) no longer pose a generalized risk to the entire civilian population.

13.2 Exceptions

R230(3) The stay does not apply to a person who:

a) is inadmissible under subsection 34(1) of the Act on security grounds;
b) is inadmissible under subsection 35(1) of the Act on grounds of violating human or international rights;
b.1) is inadmissible under subsection 35.1(1) of the Act on grounds of sanctions;
c) is inadmissible under subsection 36(1) of the Act on grounds of serious criminality or under subsection 36(2) of the Act on grounds of criminality;
d) is inadmissible under subsection 37(1) of the Act on grounds of organized criminality;
e) is a person referred to in section F of Article 1 of the Refugee Convention; or
f) informs the Minister in writing that they consent to their removal to a country or place to which a stay of removal applies.

For cases that fall under paragraph 230(3)(f), the Officer should have the individual complete a statutory declaration stating that they are voluntarily returning to their home country despite the TSR or ADR.

Note: For the above-mentioned exceptions, there is no need to consult NHQ in order to proceed with removal.

13.3 Generalized risk versus Individualized risk

The guiding principle of generalized risk is that the impact of the catastrophic event is so pervasive and widespread that it would be inconceivable to conduct general returns to that country until some degree of safety is restored. These measures are not appropriate for countries with persistent and systemic human rights problems, which constitute individualized risk, a process covered by individual protection mechanisms such as the refugee determination process**,** the PRRA, and the H&C review process.

In addition, even though a situation of human rights violations may be widespread and long-standing, it is an ongoing situation that is outside the scope of a sudden, catastrophic event which temporarily throws a country into crisis. When evaluating general risk, considerations such as fear of persecution or personal risk to individuals ordered removed or returned to their country are not part of the process. A TSR or ADR are not supplementary nor a substitute for protection mechanisms that assess individual risk.

13.4 Countries under TSR and ADR

For a list of countries that are currently under a TSR or ADR, refer to:

Arrests, detentions and removals - Removal from Canada (cbsa-asfc.gc.ca)

14 Procedure: Diplomatic assurances cases

Canada does not impose the death penalty in any circumstance. Canadian courts view this type of punishment as an unlawful sanction that violates a person's right to life under the *Canadian Charter of Rights and Freedoms*. If it is determined that a person under removal order faces more than a mere possibility of charges punishable by death, diplomatic assurances may be sought.

If an officer encounters a case where the death penalty may be sought by the country to which they are being removed, they should refer the case to CBSA Case Management case-management@cbsa-asfc.gc.ca. Case Management will then work with IRCC and GAC to secure diplomatic assurances prior to removal.

15 Procedure: Interim Measures and Precautionary Measures Requests

Canada is signatory to several human rights treaty bodies and has accepted the jurisdiction of these organizations to hear individual complaints lodged against Canada. Complaints involving immigration or protection issues can result in a treaty body asking Canada to refrain from removing the person concerned until it has considered the complaint thoroughly. The request is called an interim measures request or precautionary measures request, depending on the treaty body.

The Federal Court has confirmed that interim measures and precautionary measures are not legally binding on Canada as per: *Ahani, Dadar, Sogi and Mugesera v. Canada (Minister of Citizenship and Immigration)*. Only the PS Minister can make a determination if a stay is warranted under s. 50(e) of IRPA. If the Minister declines to issue a stay of removal, the CBSA may once again proceed with removal. However, Canada engages in good faith with the treaty bodies and gives requests/

decisions serious consideration and tries whenever feasible to comply with them while ensuring that the integrity of Canada's immigration and refugee protection processes are maintained. This means that for most cases Canada will not remove individuals while an interim measures request remains in effect.

15.1 Who can make an interim measures or precautionary measures request

As per s. 3(3)(F) of IRPA, the Act is to be construed in a manner that is consistent with any human rights treaties that Canada is a signatory to. There is a presumption by the international community that Canada will abide by interim measures requests.

The treaties and the bodies that can request a stay of removal are:

Treaties	**Treaty Body**
Convention on the Elimination of All Forms of Discrimination Against Women	United Nations Committee on the Elimination of Discrimination against Women (CEDAW)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	United Nations Committee Against Torture (UNCAT)
Convention on the Rights of Persons with Disabilities	UN Committee on the on the Rights of Persons with Disabilities (CRPD)
International Covenant on Civil and Political Rights	United Nations Human Rights Committee (UNHRC)
American Declaration of the Rights and Duties of Man *(This is the treaty that may request precautionary measures)*	Inter-American Commission on Human Rights (IACHR)—*this is a branch of the Organization of American States (OAS)*

15.2 Procedures

Upon receipt of the interim measures request, the Human Rights Law Section of the Department of Justice Canada notifies all relevant departments, including the CBSA Litigation Management Unit (LMU). LMU communicates with the responsible region by advising their JLOs that an interim measures request has been received and that CBSA cannot remove this person without direction from the PS Minister. LMU is also responsible for updating GCMS. A copy of the notification from LMU must be added to the file, in addition to putting a red sticker on the file indicating an IMR has been issued.

Occasionally, the person concerned or counsel will present a copy of the IMR before Canada has received official notification. In this instance, LMU should be notified immediately through regional JLOs.

Once an interim measures request has been received, a request to lift the interim measures must be presented to the treaty body for a decision. When the treaty body provides its final views, the

CBSA and its partners will re-evaluate the case and determine next steps. The removal can also proceed if the PS Minister refuses to issue a stay under s.50(e) of IRPA. In these instances, LMU will notify the respective region.

PART III - Removal Preparation

16 Procedure: Determining the method of enforcing a removal order

IRPA prescribes that under A48(2), the foreign national against whom the removal order was made must leave Canada immediately after the removal order becomes enforceable, and that it must be enforced as soon as possible.

In accordance with R235, a removal order that has not been enforced does not become void through the lapse of time. However, when a foreign national becomes a permanent resident, the removal order becomes void through operation of law under A51.

Before an officer enforces a removal order, an assessment must take place to determine if the removal order should be enforced through voluntary compliance or by the PS Minister. The *Immigration and Refugee Protection Regulations* codify the determination process as a mandatory procedure. During this process the officer must determine, through interviews with the foreign national, the method (or modality) of enforcing the removal order. The final determination of how the removal order is enforced rests with the officer. Under R237, a removal order can be enforced either through:

- voluntary compliance by the foreign national (see section 16 below); or
- the removal of a foreign national by the PS Minister (see section 17 below).

If the person does not meet the requirements of voluntary compliance, the PS Minister must enforce the removal order.

16.1 Procedures to enforce a removal order

For general procedures on the enforcement of a removal order and the verification of departure of a person under a departure, exclusion or deportation order, officers should refer to PART V – Verifying Departure, which includes information related to:

- the criteria for a removal order to become enforced;
- the procedures to verify departure;
- the procedures to complete a Certificate of Departure;
- verifying departure at airports;
- verifying departure to the U.S. from airports with pre-clearance facilities;
- verifying departure at land borders; and
- persons refused entry to their country of destination after a Certificate of Departure has been issued.

17 Procedure: Voluntary Compliance

As set out in R238(1), voluntary compliance allows a foreign national, who is the subject of an enforceable removal order to voluntarily remove themselves by appearing before an officer for a determination. The officer's assessment of the individual's circumstances will establish whether the foreign national meets the regulatory criteria set for voluntary compliance. This determination can be made by a CBSA officer either inland or at a POE. The designated authority for approving or refusing voluntary compliance with the enforcement of a removal order under R238 is found in the Designation of Officers and Delegation of Authority documents in IL 3, item 121.

17.1 Requirements for voluntary compliance

Officers must be satisfied that the criteria set out in the Regulations have been met before permitting voluntary compliance with a removal order. Officers must be aware of the factors that will guide them in making a determination on whether the foreign national can depart through voluntary compliance. If a negative determination is made and the officer decides that the foreign national does not meet all of the prescribed criteria for voluntary compliance, the foreign national then becomes subject to removal by the Minister (see section 17 below).

Under R238(1), an officer must be satisfied that the foreign national meets all of the criteria for voluntary compliance through a close examination of the oral and physical information available. In order for a foreign national to depart Canada by voluntary compliance, the foreign national must demonstrate that they:

- have the sufficient means (i.e., financial and transportation arrangements) to affect their departure to a country that will authorize their entry;

- have the intent to voluntarily comply with R240(1)(a), R240(1)(b) and R240(1)(c) by:
  - appearing before an officer to verify their departure,
  - obtaining a Certificate of Departure [IMM0056B] from an officer, and
  - departing from Canada; and

- will be able to act on their intention to comply with R240.

A person does not have to meet the requirements in R240(1)(d) for authorization to enter the destination country after they have departed from Canada. These requirements should be considered during the assessment for voluntary compliance, but are not grounds for refusing a person to leave on their own initiative. If the person does not meet the requirements of R240(1)(d) after departing Canada, they remain the subject of an unenforced removal order.

For instructions on the procedures to follow after a person has been refused admission to another country, refer to section 37 below.

Submission of a choice country of destination

In addition to the foreign national complying with the voluntary compliance criteria (set out above), they must submit their choice country of destination to the officer [R238(2)]. This process is to ensure that the person is not a danger and is not departing Canada to flee justice here or in another country. To make a determination on these grounds, the officer should conduct background searches [i.e., search of file information, Global Case Management System (GCMS), the National Case Management System (NCMS), CPIC, the National Crime Information Center (NCIC), Interpol]

to determine previous, current or pending criminal involvement. During the voluntary compliance assessment, the officer must approve the chosen country of destination unless:

- in the officer's opinion, the person poses a danger to the public;
- the foreign national is a fugitive from justice in Canada or another country; or
- the foreign national is seeking to evade or frustrate the cause of justice in Canada or another country.

If any of the criteria for voluntary compliance are not met, including refusal of a foreign national's choice country of destination, the foreign national must be removed by the Minister (see section 17 below). This ensures that the person is removed to the appropriate country where they are wanted.

17.2 What happens after voluntary compliance requirements are met

When voluntary compliance is met, the officer should proceed to enforce the removal order and verify the departure of the foreign national from Canada.

When an officer determines that a foreign national meets the requirements of voluntary compliance under R238, the officer should take the following steps:

- counsel the person to settle their personal affairs and transportation arrangements as they are required to leave as soon as possible;
- advise the person on their requirement to report to the CBSA to have their removal verified;
- in cases where the person is under a deportation order, advise the person that arrangements will be made to have their fingerprints and photograph taken;
- when appropriate, give the foreign national a removal order information kit that includes instructions for the foreign national to verify departure, the consequences of not verifying departure, the consequences of a deportation after the lapse of the 30-day applicable period for departure orders, and the addresses and hours of the POEs that the foreign national should use;
- for control purposes, advise the appropriate POE in advance to ensure that the office is aware that the foreign national will be departing Canada through that POE on an intended date; and
- for security purposes, and if necessary, send the POE the "Envelope: Removal Documents" [IMM 1226B] including the person's passport/travel document, IMM0056B, etc., before the person appears at the POE to verify their departure.

Once the foreign national appears before an officer at the POE, that officer should verify the departure (see Part V –Verifying Departure below) of the foreign national from Canada.

Note: A foreign national who has been authorized to depart Canada voluntarily and has failed to leave as required may be the subject of a warrant for arrest for removal and should be counselled accordingly [A55]. For further information on the issuance of a warrant for arrest, refer to ENF 7.

17.3 What happens after voluntary compliance requirements are not met

When a foreign national does not want to depart Canada voluntarily or does not meet the requirements for voluntary compliance under R238, the officer, either at the inland office or POE, should take the following steps:

- consider whether arrest and detention is appropriate in order to effect removal by the Minister;
- contact the appropriate law enforcement authorities if the person is fleeing justice in Canada; and
- make further arrangements for removal by the Minister (see below).

18 Procedure: Removal by the Minister

R239 sets out mandatory criteria for the enforcement of a removal order by the Minister. The delegated level of authority for deciding whether a removal order shall be enforced by the Minister can be found in the Designation of Officers and Delegation of Authority documents in IL 3, item 200.

Officers inland or at a POE must decide whether a foreign national will be removed by the Minister and proceed with removal arrangements when:

- a foreign national did not enforce their removal order through voluntary compliance;
- an officer has determined that voluntary compliance is not allowed; or
- a foreign national's choice country of destination for voluntary compliance has not been approved because they are a danger to the public, a fugitive from justice in Canada or another country, or are seeking to evade or frustrate the cause of justice in Canada or another country.

When determining the country to which the foreign national should be removed, the Minister has the authority to remove the foreign national to any of the countries outlined in R241(1). The countries to which a foreign national can be removed include the following:

- the country from which they came to Canada;
- the country in which they last permanently resided before coming to Canada;
- a country of which they are a national or citizen; or
- their country of birth.

18.1 Removal to another country

If it is determined by an officer that the foreign national is unable to return to any country listed in R241(1) because that country will not authorize their entry, R241(2) allows the Minister to:

- select any country that will authorize the entry of the person within a reasonable time; and
- remove the foreign national to that country.

Note: The delegated level for selecting another country, other than those described in R241(1), that will authorize the person's entry is at an executive or managerial level, depending on the particular region. For further information on the delegated authorities to perform this function, refer to IL 3.

18.2 Country of removal for persons who have violated human or international rights

In the case of a person who is the subject of a removal order based on inadmissibility grounds for violating human or international rights under A35(1)(a), the person must be removed by the Minister in accordance with R241(3) to a country that the Minister determines will authorize their entry.

This provision allows the Department to have greater control over the removal of these serious cases.

Note: The delegated level of authority for selecting a country that will authorize the person's entry is at an executive or managerial level, depending on the particular region. For further information on the delegated authorities to perform this function, refer to IL 3.

19 Procedure: Removal of persons who are detained

Officers should be aware of the enforcement procedures to be followed when a permanent resident or foreign national is in a correctional institution or other detention facility.
Officers can remove detained persons from Canada who:

- are in CBSA custody after being delivered by an institution at the end of their period of incarceration under A59;
- have been arrested and detained under A55(1) or A55(2) or A58(2) for removal from Canada; or
- have been detained pursuant to A81 and ordered released under A82.4 for their departure from Canada.

Officers must remove detained persons as expeditiously as possible and take care to determine if there are any factors such as legal and non-legal impediments that could prevent the enforcement of the removal order. It is important that officers do not remove a person who is subject to a stay of removal under A50(*b*), where they are serving a sentence in Canada until the sentence is complete. For further information on stays of removal, refer to section 10.

Transitional provisions will prevail for many years when an inmate is sentenced prior to the enactment of IRPA. In these cases, the procedures under the former *Immigration Act*, 1976, will apply.

For inmates sentenced after the coming into force of IRPA, the new provisions of the *Corrections and Conditional Release Act* will apply, as the presence of a removal order will render the inmate ineligible for unescorted temporary absence or day parole until the full parole eligibility date. For further information on persons serving sentences subject to enforcement action, refer to ENF 22.

20 Procedure: File review and pre-removal interview

When the removal order becomes enforceable, the officer planning the removal should perform a final review of the file before conducting a removal interview. The officer should take particular note of the person's case history in order to assess the safety and security of all individuals who will be involved in the removal. In conducting this assessment, the officer should consider the person's psychological, behavioral and criminal history. The officer's evaluation of risk should be noted in the file and in NCMS and GCMS. During the removals process, officers should be continuously updating the physical file, GCMS and NCMS as information is received. The *Removal Checklist and File Audit* form [BSF522] could be used to assist the officer with documentation on the physical file.

In cases where the person subject to the removal is a minor, the officer must ensure that a competent representative accompanies the minor during the interview. In the case of a detained person, removal arrangements should be made as expeditiously as possible to minimize detention costs.

During the pre-removal interview, officers should:

- confirm that the person is not a Canadian Citizen or Status Indian as defined in the *Indian Act* and that they are the same person described in the removal order**;***
- update the person on the status of their case;
- advise the person that the removal order is enforceable and that they are to be removed from Canada;
- seek the person's assistance in obtaining a travel document and any other information that may be required;
- notify the person of the opportunity to make an application for a PRRA, if applicable;
- make a determination to allow voluntary compliance or removal by the PS Minister;
- inquire if the foreign national has the financial means to enforce their removal and explain the consequences listed in procedure 47 – Requirement to seek repayment of removal costs, should the CBSA pay for the cost of their removal from Canada;
  in the case of a person who has been authorized by an officer to depart Canada voluntarily, advise them that they must leave Canada immediately and enforce their order as soon as possible. Officers may allow a person subject to voluntary removal some time to organize their personal affairs before departing from Canada (two to three weeks should be sufficient); and
- counsel the person on the consequences of the removal order, the effect of the removal order, the requirements to return to Canada and the consequences of non-compliance (see section 9).

*****When confirming identity or when new information comes to light relating to a possible identity concern, the officer should take the necessary steps to satisfy themselves that the person's identity is one and the same as the identity under which the enforcement action is being taken. Information to assist in confirming identity may vary and can include but not limited to: photos of the individual on file, identity documents previously seized, and notes to file, which capture verification already completed in the past. In all cases, officers are required to document what information was assessed and the outcome.

The IRPR stipulates that a study and work permit automatically become invalid once a removal order is enforceable. As such, when officers are preparing removal arrangements with the foreign national, it is important for the officers to advise the foreign national that their study and/or work permit(s) have been cancelled and that they can no longer study and/or work in Canada. Officers must notate on the file that the foreign national has been advised. GCMS must be updated by changing the status of the work permit and/or study permit document to "inactive" to reflect that the foreign national is no longer eligible to work or study in Canada. Additionally, the study permit and/or work permit should be attached to the file, if it is available during the interview.

If the person fails to appear either at their pre-removal interview or at the POE on the scheduled date of removal, a warrant under A55(1) may be issued for removal and a warrant package sent to WRC for entry into CPIC. Appropriate information should also be input into GCMS and NCMS. Further details are available in ENF 7, Investigations and Arrests.

21 Procedure: Pre-Removal Risk Assessment (PRRA)

PRRA is a process which assesses risk prior to the removal of a person. The procedures described in this section are intended to guide officers in determining the most appropriate timing for IRCC to do a risk review under the PRRA program for a person with a removal order that is in force. This section is outlined in section 115 of IRPA and section 160 of the IRPR.

21.1 Who may apply for a PRRA?

A person in Canada, other than a person referred to in subsection 115(1), may apply to the Minister of IRCC for protection under the PRRA provisions if they are subject to a removal order that is in force under A49 or are named in a certificate described in A77(1). For clarification, the following persons may make an application for a PRRA:

- a person who did not previously seek protection;
- a previous post-determination refugee claimant in Canada class (PDRCC) claimant (PDRCC cases are automatically transferred to the PRRA program under the transitional rules in R346);
- certain failed refugee claimants (see 25.2 for those failed claimants who are ineligible to apply for a PRRA);
- an ineligible refugee protection claimant (with exception);
- a person at a POE who claimed protection after a removal order was issued;
- a person inland who claimed protection after a removal order was issued;
- a person named in a security certificate [A77(1)];
- a person described under A112(3)(*a*) or (*b*). This person is the subject of an A44 report for A34(1), A35(1), A36(1) or A37(1) for which a finding was made that determined them inadmissible on these grounds;
- a person described under A112(3)(*c*). The Immigration and Refugee Board has rejected the person's claim for refugee protection based on section F of Article 1 of the Refugee Convention; and
- a person described under A112(3)(*d*). The PS Minister and the IRCC Minister have signed a certificate referred to in A77(1).

When a person is entitled to apply for a PRRA, the officer must complete the "PRRA Initiation" screen in GCMS and NCMS.

21.2 Who may not apply for a PRRA?

There are exceptions to who may apply for a PRRA. The exceptions relate to persons who already have protection or have other means of seeking protection. A person may not apply for a PRRA if they are:

- a person referred to in A115(1);
- a person who is the subject of an authority to proceed with extradition;
- a person who is ineligible under A101(1)(*e*) – Safe third country provision; person for whom less than 12 months***** has passed since:
- their claim for refugee protection was last rejected – unless is was rejected under subsection 109(3) or on the basis of section E or F of Article 1 of the Refugee Convention – or determined to be withdrawn or abandoned by the RPD in the case where no appeal was made and no application was made to the Federal Court for leave to commence an application for judicial review, or
- their claim for refugee protection was determined to be withdrawn or abandoned by the Refugee Appeal Division, or
- the day on which the Federal Court refused their application for leave to commence an application for judicial review, or denied their application for judicial review, with respect to their claim for refugee protection, unless that claim was deemed to be rejected under subsection 109(3) or was rejected on the basis of section E or F of Article 1 of the Refugee Convention; or
- a person for whom less than 12 months* has passed, or in the case of a national of a country that is designated under subsection 109.1(1)*, less than 36 months* has passed since:
- their claim for protection was last rejected or was determined to be withdrawn or abandoned by the Minister, in the case where no application was made to the Federal Court for leave to commence an application for judicial review, or
- their application for protection was rejected or determined to be withdrawn or abandoned by the Minister, or
- the Federal Court refused their application for leave to commence an application for judicial review, or denied their application for judicial review, with respect to their application for protection.

Note: IRCC is not under any obligation to assess risk to persons who wish to leave voluntarily and whose removal order is not in force. Therefore, the CBSA does not provide notification of a PRRA to these persons.

*****In 2019, Canada removed all countries from the designated country of origin (DCO) list, effectively suspending the DCO policy, introduced in 2012, until it can be repealed through future legislative changes.

12 month PRRA Bar

Certain unsuccessful refugee claimants or previous PRRA applicants may be barred from applying for a PRRA as described in paragraphs A112(2)(b.1) and A112(2)(c).

Before notifying an unsuccessful refugee claimant of their entitlement to apply for a PRRA (further to section R160), or before assessing a PRRA, the officer must verify if the person is subject to the 12-month PRRA bar.

In exceptional circumstances, for individuals who are barred from applying for a PRRA, CBSA may request that IRCC reviews a request for a PRRA bar waiver under A25(1) in the context of a request to defer removal. See section 20.4 for more details.

Applicability of the PRRA bar

The 12-month PRRA bar applies to the following persons:

- persons who have received a negative decision from the Immigration Refugee Board (IRB) on a claim for refugee protection;
- persons who have received a negative decision from IRCC on a past PRRA application; and
- persons who have received a negative decision from the Federal Court (FC) on an application for leave or judicial review regarding a claim for refugee protection or a PRRA decision.
- The PRRA bar does not apply to individuals whose refugee claim has been rejected on the basis of sections E or F of Article 1 of the Refugee Convention refugee protection has been vacated under subsection A109(3).

Calculating the bar

The bar is calculated from the date of the most recent Refugee Protection Division (RPD), Refugee Appeals Division (RAD) or PRRA decision, or from the date the FC refuses the application for leave or confirms a negative RPD, RAD or PRRA decision.

The date of the decision is considered to be one of the following:

- when an IRB member states the decision and gives the reasons, if the decision is given orally at a hearing;
- when an IRB member signs and dates the reason for the decision, if the decision is made in writing;
- when the PRRA officer provides the written decision (following a PRRA);
- when the application for leave of the RPD, RAD or previous PRRA decision is denied by the FC; or
- when the judicial review of the RPD, RAD or previous PRRA decision is rejected by the FC.

Note: As per A112(2)(b.1) and (c), the bar begins on the day of the decision when **based on the merits of the claim/appeal/application**. The last day of the PRRA bar is the day before the 12-month anniversary of the decision date.

Information to consider during calculation

Additional due diligence should be taken to ensure the correct decision date is used when calculating the PRRA bar.

The PRRA bar is triggered by a decision that has been perfected. If the Federal Court dismisses an application in which the merits of the original RPD/RAD/PRRA decision were not examined, the dismissal does not trigger the PRRA bar.

The following events will not trigger the PRRA bar:

- RAD dismisses an appeal on the basis of lack of jurisdiction.
  Examples of such circumstances:
  Claimants who are exempt from the Canada-US Safe Third Country Agreement (STCA) are barred from appealing to the RAD. As such, a RAD decision dismissing for lack of jurisdiction is not the correct trigger for the PRRA bar. Rather, the PRRA bar would run from the negative RPD decision or the Federal

Court decision dismissing the application for leave or judicial review of the negative RPD decision, if any.

- RPD refuses an application to reopen a refugee claim, RAD refuses to reopen a refugee appeal or a SIO refuses to reopen a PRRA application which was previously denied or determined to be withdrawn or abandoned or the Federal Court refuses an application for leave to commence an application for judicial review, or denies an application for judicial review, with respect to the refusal to reopen.

These are not decisions rejecting a claim/appeal/application or declaring it abandoned or withdrawn as they do not speak to the merits of the claim/appeal/application.

- The applicant discontinues their litigation before the Courts. This is not a decision by the Court to deny leave or judicial review.

Exemptions from the 12-month bar

Under subsection A112(2.1), the Minister of Citizenship and Immigration may exempt from the 12-month bar nationals or former habitual residents of a country where conditions have changed such that certain people could be subject to a risk within the meaning of sections A96 and A97. Further information can be found in the program delivery instructions on the IRCC website.

21.3 When a person is considered for a PRRA

To determine when a case should be considered for a PRRA, the officer must determine if the removal order meets the criteria under A48(1). This is established by ensuring that there are no impediments to the removal under A49(1), A49(2), A50, R230, R231, or R233. An exception to this would be persons who are incarcerated. For details, see "Persons sentenced to a term of imprisonment," in section 20.5 below.

Once all legal impediments have been overcome, the officer should determine whether removal could be effected pending the acquisition of travel documents, visas and final itinerary arrangements.

The officer responsible for removal arrangements will determine whether a person may or may not apply for a PRRA. Officers should review A112(2), which outline exceptions for making an application for a risk assessment prior to removal. If the person cannot apply for a PRRA under A112(2), the officer will prepare the case for removal and, if requested, verbally inform the person that they are unable to apply for protection. If this person insists on submitting an application, the officer will inform the person that an application will not be supplied, as they do not meet the requirements to apply for a PRRA. Removal arrangements will continue. If the person wishes to access the Federal Court, the officer must not delay removal for a decision by the Court unless a motion for a stay of removal has been granted.

Note: There is no stay of removal when a person is not given notification to apply for PRRA. It is important to update GCMS and NCMS by indicating that the person was not notified of the opportunity to apply for a risk assessment.

21.4 When an individual is ineligible to make a PRRA

In exceptional circumstances, a foreign national will be ineligible to make a PRRA application, however an officer will have determined, in the context of a request to defer removal that the new allegations of risk being raised by a foreign national meet the test set out in the Federal Court of Appeal (FCA) decisions of *Baron* (2009) and *Shpati* (2011). The foreign national must be the subject of an enforceable removal order following the rejection or withdrawal of a refugee protection claim or application for protection, including refugee status that has ceased following a successful application by the Minister under A108 of the Immigration and Refugee Protection Act (IRPA).

In the case of *Shpati*, the FCA confirmed that deferral should be reserved for those applications where:

- failure to defer removal will expose the applicant to the risk of death, extreme sanction or inhumane treatment;
- any risk relied upon must have arisen since the last Pre-Removal Risk Assessment (PRRA) (or since the last risk assessment); and,
- the alleged risk is of serious personal harm.

Note: While this case law provides important guidance, officers nevertheless retain discretion to defer removal in cases where these three elements are not strictly met. For example, new evidence may substantiate an allegation of risk that was previously considered. Similarly, evidence that pre-dates the last risk assessment may arise for which there are reasons it was not presented before the last risk assessment.

In circumstances where an officer concludes that a temporary administrative deferral of removal is warranted, the following must occur:

Step 1: Using the Notification to Principal Applicant Letter, the removals officer prepares and sends the notification to the principal applicant that, in light of the allegations of risk raised: (i) the removal has been temporarily deferred, (ii) the file will be brought to the attention of IRCC for a possible consideration under section 25.1 of the IRPA, (iii) the removal may be rescheduled in accordance with the law, and (iv) there is no action required on the part of the principal applicant until the CBSA notifies of a date to attend a CBSA office.

Step 2: Using the Notification to IRCC Letter, the officer prepares the IRCC notification to include:
(i) notice that the removal has been temporarily deferred in light of the alleged risk, (ii) the removals officer's reasons for the deferral (with reference to the applicant's submissions),
(iii) notice that the risk allegations are being forwarded to IRCC for a possible consideration under section 25.1 of the IRPA, and (iv) notice that supporting documents are attached, including the Refugee Protection Division (RPD)/Refugee Appeal Division (RAD) and/or previous PRRA decisions, the Basis of Claim (BOC) or the Personal Information Form (PIF) and the evidence from submissions relied upon by the officer to defer the removal.

Step 3: The removals officer scans and emails the IRCC notification to CBSA Case Management along with the supporting documents (i.e. the submissions relied upon by the officer to defer the removal).

Step 4: CBSA Case Management forwards the email **with supporting documents** to IRCC Case Review.

Step 5: IRCC considers the CBSA's request to review the file and emails the decision to CBSA Case Management.

Step 6: CBSA Case Management informs the responsible regional office where the deferral of removal originated for appropriate action.

21.5 When to notify a person to apply for a PRRA

There are several trigger points that could decide the timing of the notification for a person to submit a PRRA application. Based on a review of the case and the availability of travel documents, an officer should determine when it would be the most appropriate time to notify the person of the opportunity to apply for a PRRA. Notification can be done in person. This decision is at the discretion of the officer based on an assessment of the case. It is highly recommended that notification be given in person in the majority of cases. The following circumstances include examples of trigger points that officers should consider when assessing the timing for notifying the person to submit a PRRA application:

- a valid travel document is available;
- an expired travel document or valid identity or birth record is available and a *Single Journey Document* [IMM 5149B] can be used;
- there is no valid travel document, an application for one has been submitted, the respective embassy or mission has approved the application in principle and the travel document is forthcoming; or
- there is no valid travel document and an application is completed and will be submitted to the embassy or mission.

As the CBSA deals with different embassies and missions located in Canada and abroad, officers are subject to their terms when issuing travel documents. As a result, some timelines for receiving these documents can be very short and others may be longer. Most timelines are dependent on whether the person has provided the documents required, while some are delayed for policy and political reasons. For this reason, the officer must have the flexibility to determine when is the best time to inform the person of the availability of a PRRA. It is the CBSA’s goal to enforce a removal order as soon as possible after a negative risk decision has been made.

If an officer determines that an in-person interview is required, the person will be contacted to discuss removal arrangements at a time and place to be determined by the officer. The letter of convocation should request that the person bring any identity documents they may possess to the interview. Refer to the Letter of Convocation and Letter of Convocation for PDRCC for the sample wording of this letter. If the person does not report for the interview, the officer will forward the file to the Investigations Unit for the appropriate enforcement action.

Persons sentenced to a term of imprisonment

When a person who is serving a sentence is subject to a removal order, that removal order is stayed pursuant to A50(*b*) until the sentence is completed. If this person is subject to a removal order that is in force pursuant to A112(1), the officer should assess when is the most beneficial time for the CBSA to notify the person of the opportunity to apply for a PRRA. The CBSA would benefit from an earlier PRRA decision

rather than wait until the person is under immigration detention to start the process. This will reduce the detention time, costs and should expedite the removal.

21.6 How to notify a person to apply for a PRRA

The onus is on the Removals Unit to notify the person under a removal order that a PRRA application may now be submitted. The PRRA notification will include the following:

- PRRA Notification Failed Claimant Letter or PRRA Notification Non-claimants Letter;
- a PRRA application and guide; and
- a Statement of No Intention Letter.

It is preferable that the notification be given in person during the removal interview. However, in some instances it may be more efficient to mail the notification directly to the person or to another CBSA office for pickup. If the person is to pick up the envelope at a CBSA office, the recipient should sign and date an acknowledgement of receipt.

A stay of removal is directly linked to the notification and is triggered when a person is notified by the CBSA that they may make an application for a PRRA.

At the interview, the person will be counselled on the enforcement of the removal order. The officer should then evaluate with the person what other documentation is necessary and should be available to enforce the removal order. If the person provides a travel or identity document, the officer should seize the document and place it on file, as well as update GCMS/NCMS. If there are no travel documents available, the officer should seek the person's cooperation in completing the necessary applications. At this time the officer may impose conditions for reporting purposes.

If the person is eligible and wishes to apply for a risk assessment, the officer must provide the person with an application kit. A guide will explain the time frames as well as other instructions.

If the person does not intend to apply, a Statement of No Intention Letter should be signed and dated immediately. Removal can then proceed, as there is no stay in effect.

If the person intends on completing the application, the removal order is stayed. For further information on stay provisions, refer to sections 10-11 above. The officer should update the NCMS/GCMS screens when notification is given in order to monitor the time frames for the filing of the application.

Note: It is entirely up to the person concerned to decide whether or not to apply for a PRRA, and no pressure should be made by the officer or anyone else involved to influence a decision one way or the other.

21.7 When a person does not want to apply for a PRRA

For persons not wishing to initiate a PRRA, the Statement of No Intention Letter to apply for PRRA should be signed as soon as possible after notification has been given. This will enable the CBSA to proceed with removal arrangements without waiting 15

days to file the application, as provided for in the Regulations. If the person later wishes to file an application, the kit will be supplied at that time. However, there is no stay of removal to await the decision. Removal arrangements can proceed.

21.8 The application for a PRRA

The person making the application should be instructed to mail the application to the appropriate PRRA Office within 15 days after notification was given. This is also stated in the kit. The PRRA Office is responsible for entering the receipt of the PRRA application into GCMS and NCMS. This is important for determining whether the application was received within the time limit and whether the stay of removal continues.

If the person files an application and submissions following the prescribed period of 15 days after notification, the PRRA Unit will accept the application, update GCMS and NCMS, and make a decision. When an application is submitted beyond the 15-day period, the person will not benefit from a stay pursuant to R164, and removal arrangements can proceed. There may be times when a late application is received and the officer conducting the removal may want to consult with their supervisor or manager on whether the removal should be deferred pending the decision of the PRRA application. The discretion to defer will be left entirely to the Removals Unit and caution must be exercised before proceeding with removal.

All submissions in support of an application must be sent directly by the person concerned to the PRRA Unit. That unit will enter the receipt in GCMS and NCMS. In order for the Removals Unit to remain at arm's length of the PRRA Unit, all applications and submissions must be sent directly to the PRRA Office by the applicant. The Removals Unit must not accept any application or submissions for PRRAs. As well, the CBSA officer must not interact with the PRRA officer or discuss any pending cases. Any communication between the Removals Unit and the PRRA Office must be done through the coordinators/managers of these units.

If the applicant chooses to withdraw their PRRA application, the foreign national can attend a CBSA inland office and complete the Notification of Withdrawal: Application for Pre-Removal Risk Assessment form. As per R170, an application for protection may be withdrawn by the applicant at any time by notifying the Minister in writing. The application is declared to be withdrawn upon receipt of the notice and this removes the statutory stay for removal arrangements to proceed. The CBSA officer must immediately send a copy of the signed form via email to IRCC to update NCMS and GCMS. The CBSA officer will place the original signed copy on file.

21.9 PRRA decision

Pursuant to R164, a decision on a PRRA application will not be made until at least 30 days after notification was given to the person concerned. The PRRA Office will enter the type of decision and the date the decision was rendered into GCMS and NCMS.

All decisions, whether positive or negative, will be sent to the respective Removals Unit. The CBSA officer will ask the person to come to the office by sending a Letter to attend and pick up the decision. The announcement of the decision will be made at the office

during the removal interview with the officer. The officer should ask the person concerned whether they require the reasons for the decision and, if so, obtain an acknowledgment of receipt of the reasons and decision from the person.

The convocation letter will again remind the person to bring any travel documents (i.e., passport, identity cards, documentation issued by the Canadian government and other pertinent documentation) if these were not previously submitted or seized.

GCMS and NCMS must always be updated to reflect these events.

For more information about PRRA decisions, see sections, 20.10 through 20.12 below.

The only circumstance in which a PRRA decision will be mailed directly to the claimant is in POE cases where the person has been returned to the United States to await the outcome of their PRRA decision. In these cases, the decision will be mailed to the address provided on the PRRA application.

21.10 Positive PRRA decision for A112(1) cases

When applicants are advised of a positive PRRA decision, they should be counselled on applying for permanent residency. Information on applications for permanent residency by protected persons can be found in PP 4, section 7.

21.11 Positive PRRA decision for A112(3) cases

PRRA applicants who are either inadmissible on grounds of security (A34), human or international rights violations (A35), serious criminality (A36(1)), or organized criminality (A37), or are excluded from refugee protection pursuant to section F of Article 1 of the *Convention Relating to the Status of Refugees* are described in subsection 112(3) the IRPA, and as such, their access to protection is restricted.

As per A114(1)(b), a PRRA application that is restricted per A112(3) will only result in granting a reviewable stay of removal instead of the conferral of protected person status. The processing of these applications is governed by A113(d) and (e) and R172. In these cases, when IRCC finds that the applicant's removal would not expose them to risks under A96 and/or A97, their application is rejected and the file is sent back to the CBSA regional office for removal proceedings.

When IRCC concludes that a PRRA applicant described in 112(3) would be at risk if removed, the assessment is sent to the CBSA regional office along with the PRRA application and the foreign national's submissions. This is not a final decision but a preliminary assessment that should not be shared with the foreign national.

A restriction assessment is required to assess the danger the applicant poses to the public and/or to the security of Canada, and/or of the nature and severity of acts committed against the risks they would face upon removal. In order to proceed with the restriction assessment, the CBSA regional office must prepare supporting documentation to be forwarded to the CBSA Danger Assessments and National Security Cases Unit (DANSC) at CBSA NHQ.
CBSA officers may consult ENF 28 or DANSC for additional guidance.

Once a final decision is rendered by the IRCC, the CBSA officer delivers the decision in person. If the PRRA application is rejected the removal proceedings may continue. If the application is allowed a stay of removal is granted. As per A114(2), such stays are subject to review to determine whether the circumstances surrounding a stay have changed and the cancellation of the stay is justified. The person should be counselled on the Minister's authority pursuant to 114(2) to re-examine the circumstances surrounding the stay of the removal.

More information can be found on the IRCC Program Delivery Instructions.

21.12 Negative PRRA decision

At the interview, the person will be advised of the negative decision. The person will be counselled on the benefits of voluntary removal and advised that departure from Canada is now imminent. Attention must be given to the type of removal order, and the person should be counselled accordingly on its effect. For information on counselling regarding the effect of removal orders, see section 9. Based on the interview and case details, the officer should assess whether the person will voluntarily report to a specified location for removal on a specified date or whether the person should be detained for removal.

GCMS and NCMS should be updated regularly to capture all events throughout the PRRA process.

21.13 Application for leave and judicial review of a negative decision

A decision by a PRRA officer may be judicially reviewed if the Federal Court grants leave to do so. The filing of the application for leave with the Court does not automatically stay a removal order. Usually a motion for a stay and a request that this motion be heard on an urgent basis will accompany the application for leave. For detailed information on the steps to take when a motion for a stay has been filed, see ENF 9, sections 5.25 to 5.28.

If a motion for a stay has been denied and the application for leave is proceeding, the removal will *not* be deferred pending the Court's decision on the leave application.

21.14 Subsequent PRRA applications

A person who receives a negative PRRA decision cannot apply for a subsequent PRRA as per paragraph 112(2)(c), if less than 12 months has passed since their last application for protection was rejected or determined to be abandoned or withdrawn, or in the case of a national from a country that is designated under subsection 109.1(1), less than 36 months has passed*. Persons who remain in Canada following the aforementioned time periods, may make another application. The application and written submissions must be forwarded to the PRRA coordinator. If the subsequent application is submitted directly to the removal officer, it must be forwarded to the attention of the PRRA coordinator. Pursuant to R165, a subsequent application does not result in a stay of removal and removal arrangements can proceed. In limited

cases, exceptional circumstances may warrant the deferral of removal pending a subsequent PRRA decision. In these cases, the officer conducting the removal should consult their supervisor or manager on whether the removal should be deferred.

GCMS and NCMS should be updated regularly to capture all events throughout the PRRA.

*In 2019, Canada removed all countries from the designated country of origin (DCO) list, effectively suspending the DCO policy, introduced in 2012, until it can be repealed through future legislative changes.

22 Procedure: Obtaining travel documents

Prior to initiating a request for a travel document, officers should ensure the case is actionable as per section 9.5 above. Actionable implies that the person's location is known, that reasonable grounds exist to believe the individual can be removed within a reasonable time should a travel document be obtained, and PRRA notification has been given, if applicable.

Officers should make prompt and reasonable efforts to determine the foreign national's citizenship, or country of legal residence if different, for the purpose of acquiring a travel document and executing the removal order expeditiously.

Officers should first determine if a travel document is on file, by doing the following:

- query GCMS, NCMS, and the foreign national's file for the existence of an original travel document or photocopy; and
- review the foreign national's physical files for documentary evidence of citizenship and determine whether a formal application for a travel document has been submitted earlier in the enforcement process.

If a valid travel document is available, officers should action the file to effect removal without delay.

When required, travel documents for foreign nationals under a removal order can be obtained through diplomatic representatives accredited to Canada. To identify the proper diplomatic representation, officers should consult the Removals Wiki, the Stakeholder Engagement Unit (SEU), or Global Affairs Canada's list of foreign representations and international organizations accredited to Canada.

Each diplomatic representation requires a variety of information and documentation. Officers should consult with the SEU, the Removals Wiki, and / or the appropriate diplomatic representation to confirm the requirements.

In cases where a country's accredited representation is their Permanent Mission to the United Nations (PM), officers should consult its website to determine if the PM has the authority to issue travel documents before contacting them directly. When requesting documentation from diplomatic representations, officers should always request the maximum permissible validity period for the travel document to allow for some flexibility in making removal arrangements. Although each country may have specific requirements when applying for a travel document, requests for travel documents from diplomatic representations should normally include:

- the foreign national's:
    - complete name, any aliases, date and place of birth, and any other relevant particulars such as education and employment history;
    - last place of residence in the country of citizenship or legal residence;
    - date of arrival in Canada, and;
    - where countries specifically require:
        - parents' names, places and dates of birth, present and / or past address(es), and similar details, where known, of other family members or close relatives residing in the country of citizenship;
        - names, place, where applicable, clan or tribal information;
    - a copy of the removal order. When the removal order is based on criminality, officers should provide details of all known convictions;
    - passport photographs, as per country's specifications, one to be certified on the reverse to the effect that it is a true likeness of the person concerned;
    - all identification documents such as, but not limited to: an expired passport, national identification card, seaman's identity card, birth or baptismal certificate, laissez-passer or any other pertinent documents that might help in establishing the citizenship of the foreign national concerned (it is recommended to keep a copy on file of all documentation sent to the diplomatic representation);
    - if the previous passport was lost or stolen, a copy of the police report, or a statutory declaration from the foreign national in the event that a police report is not available; and,
    - any other relevant file information (i.e., itinerary, legal name change, etc.).

In exceptional circumstances, while conducting escorted removals, inland enforcement officers may be asked to engage foreign governments to facilitate travel document issuance or confirmation of identity. Any engagement with foreign government officials during escorted removals must be pre-approved by regional management and the Removals Program Unit, and conducted in consultation with the SEU and International Network responsible for the CBSA LO Network. Any action must be clearly documented using standard note taking procedures and added to the foreign national's file. Furthermore, this activity must be declared to the diplomatic representation when submitting the request for a visa to conduct the escorted removal, to allow them to issue the correct visa.

22.1 Obtaining travel documents for detained foreign nationals

It is the CBSA's duty to remove inadmissible foreign nationals as soon as possible. Therefore, to avoid prolonged detention, officers must make arrangements to obtain travel documents as quickly as possible.

Officers should make prompt and reasonable efforts to determine the detained foreign national's citizenship, or country of legal citizenship if different, for the purpose of acquiring a travel document and executing the removal order expeditiously. For detained cases, where there is an identified travel document impediment, officers should reach out immediately to SEU for guidance. In most cases, officers will proceed

as usual to submit the request to the diplomatic representation and responsibility for the file remains with them. SEU will work closely with officers and monitor progress to be ready to intervene with the diplomatic representatives, if required.

When officers correspond with a diplomatic representative, four points should be made clear:

- a removal order has been issued;
- the foreign national has exhausted all legal avenues to remain in Canada;
- arrangements are being undertaken to obtain a travel document to reduce the period of detention to a minimum (if applicable); and
- officer(s) will immediately inform the diplomatic representative if the removal will not proceed as planned.

Where possible, officers should apply in advance for a travel document as some diplomatic representations will issue travel documents without travel itineraries.

Officers must give top priority to any correspondence pertaining to a detained foreign national. They should either put a *Detained Sticker* [IMM 0476B] on each piece of correspondence that is sent to NHQ and to the IAD to alert them to the urgency of the case, or note in the correspondence that the foreign national is detained.

22.2 Referrals to National Headquarters – Stakeholder Engagement Unit

In cases where an officer is unable to obtain a travel document from a diplomatic representation , the case may be referred to the SEU, who will take the lead on travel document efforts. This may include elevating the case with diplomatic representation, engaging Liaison Officers to take the necessary steps to resolve outstanding issues with the relevant authorities, or seeking other solutions as required. In some cases, Global Affairs Canada may be asked to intervene if difficulties in obtaining the necessary travel document persist. File referral information should be included in NCMS as per Operational Bulletin: PRG-2018-04.

As a general rule, cases must be referred for assistance to the SEU where officers have attempted to obtain a travel document and have received no formal reply from the diplomatic representatives in 30 calendar days. This will allow foreign representatives a respectful amount of time to respond and/or complete any required verifications, and officers to work to resolve any issues at the regional level, preserving the relationship. If a regional program specialist is available, they are a valuable resource that maybe able to assist in resolving issues, before referring the case. Furthermore, only cases that are actionable should be referred, as per Part 8.5 above. When there is an outstanding PRRA application, consideration should be given to the validity period of the travel document and the likelihood of removal proceeding, before pursuing travel document issuance and seeking SEU assistance. However, there are cases / circumstances that require earlier SEU assistance and officers are encouraged to reach out to the unit for guidance / assistance. Examples of cases that should be an immediate referral:

- detained
- where no identity / citizenship documentation is available to the CBSA;
- refusal to comply with the travel document application;
- require confirmation of previous legal residency in a third country (permanent resident / convention refugee status);
- ad hoc cases (i.e., countries where there is a clear indication from the diplomatic representation that a travel document is not forthcoming, or countries from which SEU can obtain fast confirmation of citizenship); and
- involve nationals of countries where SEU is the single point of contact.

When a case is referred to the SEU for assistance, SEU will assume the lead on communicating with the diplomatic representation on the travel document. However, the officer remains responsible for the case and, therefore, is expected to continue the day-to-day activities and act as the principal contact for any information and/or action pertaining to the case, unless specifically instructed otherwise by the SEU. In the event that correspondence on the travel document is received from the diplomatic representation, officers should forward it immediately to the SEU prior to responding. Officers must inform the SEU immediately of any new developments in the case, especially if an officer receives a travel document, or if the foreign national receives status in Canada, leaves the country or dies after having referred the case.

When referring a case to the SEU, it is important that officers provide all necessary background information, this includes but is not limited to a copy of the application package submitted, a case summary, and any follow up correspondence.

22.3 Removal without a valid passport

In cases where removal without a valid passport is a possibility, officers should review the case, consult the *Travel Information Manual* (TIM), the Removals Wiki and SEU, and discuss it with their supervisor. In some cases, according to the TIM, a foreign national may not require a valid passport to enter their country of nationality, but this should be confirmed with the SEU as the rules for foreign nationals under removal order are different than those that apply to regular travelers. Before officers remove a foreign national who does not have a valid passport or travel document, they will need the concurrence of the transportation carrier and any country of transit.

An officer of the destination country will usually grant admission to a foreign national upon satisfaction that the person is a citizen or national of that country. An expired passport, birth certificate, national identification card, or any other recognized document that contains biographical details of the person may serve as evidence of citizenship and could be sufficient; however, the final determination is that of the receiving country. Officers should consult the Removals Program Management Unit and the International Network prior to scheduling the removal.

22.4 Removal without a travel document

Although it is not recommended to proceed with a removal without proper documentation, a transportation carrier may accept a foreign national under removal order without documentation if the foreign national is being removed directly back to the country of origin and there are no transit points. Before finalizing travel arrangements, the carrier should be contacted to verify that this is acceptable, and officers should be confident that the destination country is willing to accept the deportee without documents. A *Single Journey Document* (SJD) [IMM 5149B] should be completed and used only after the destination country has confirmed that their nationals can travel on a SJD. It is necessary to consult the Stakeholder Engagement Unit (SEU) for guidance when travel documents are not available and seek approval to proceed with an SJD.

22.5 Use of a Single Journey Document (SJD)

A SJD should be used only in exceptional circumstances when it is not possible to obtain a travel document or remove an individual on an alternative document. Officers should regard the use of an IMM 5149B as an exception to the rule, not as a standard operating procedure. As such, the decision to use an IMM 5149B must be made on a case-specific basis, taking into account all possible complications including the requirements of transit countries. Officers should always seek the concurrence of their manager before removing on an IMM 5149B. Once regional managers are satisfied that an SJD is warranted, managers are to seek approval from SEU. This document does not guarantee entry into the destination country, and officers should be aware of, and plan for, the potential for a person being refused entry into that country. Although there is not a list of countries that accept persons removed on an IMM 5149B, officers should consult the Removals Wiki for country specific information about the use of SJDs.

The narrative report should include:

- name and UCI of the foreign national;
- the reason the IMM 5149B will be utilized;
- the proposed date of removal, itinerary and name of the transportation company;
- the reason for removal;
- the number of escort officers to accompany the foreign national and, if determined at time of reporting, their names;
- any available supporting documentation such as a birth certificate or expired document;
- confirmation that the foreign national is removal ready and has exhausted all legal venues to remain in Canada;
- confirmation whether or not the foreign national is willing to return to the destination country;
- pertinent information regarding the foreign national’s health status; and
- any other information that may be useful, including information about the previous successes using SJDs for this particular country.

For further information on the escort requirements for the removal of persons on an IMM 5149B, refer to PART IV below.

22.6 Visa requirements

When a foreign national is required to transit a country where a visa is required, officers must acquire the necessary visa before the foreign national is removed from Canada. Additionally, some countries may require re-entry visas or authorizations for their nationals, permanent residents, or protected persons being removed back to their countries, which officers will have to obtain.

For specific requirements, officers should refer to the TIM, the Removals Wiki, IRCC Official Travel, and should consult the Removals Program Management Unit. In some cases, it may be necessary for officers to contact the diplomatic representation directly, or as a last resort, confirm visa requirements with the liaison officer.

23 Procedure: Seizure of documents

A140(1) authorizes an officer to seize and hold any means of transportation, document or other thing if the officer believes, on reasonable grounds, one of the following:

- that the means of transportation, document or other thing has been fraudulently or improperly obtained or used;
- that seizure is necessary to prevent its fraudulent or improper use; or
- that the seizure is necessary to carry out the purposes of the Act and Regulations.

Refer to ENF12 manual for detailed guidance on the seizure of documents.

When arranging the removal of a foreign national from Canada, the officer should return any genuine identity or travel documents to the rightful holder and/or return all seized documents issued by any government department or agency to the appropriate issuing authority. For further instructions on the procedure for disposing of seized documents refer to ENF 12.

24 Procedure: Subsistence for persons under a removal order

For the purpose of this document, *subsistence* is defined as “a means of surviving”.

In exceptional circumstances, the CBSA manager, Director, or Regional Director General have the discretion to approve for the foreign national's subsistence or the means to buy it. Subsistence funds are meant to assist the individual with funds for necessities, if needed, to facilitate their removal to their destination country.

Where subsistence funding for transportation is required, it should always be limited to one trip, by the most cost-effective means, in order to facilitate the person to access government services, or to be reunified with a support network.

24.1 Preparing the rationale

If the officer determines that it is necessary to provide subsistence funds to a foreign national, the officer must prepare a rationale to seek approval. Officers should consider the following factors:

- Family, friends, support network
- Medication
- Luggage (or lack thereof) and proper attire for travel
- Availability of funds
- Reception at destination airport
- Transportation
- Currency value
- Previous status in Canada
- Current living situation in Canada
- If detained, availability of funds at the financial institution and/or stored at the provincial detention centre

24.2 Requesting subsistence funds

In order to request subsistence funds the officer is required to:

- Complete the rationale and seek approval from the manager with the appropriate financial authority. The manager level must have at least a Level V delegated spending authority under the CBSA's *Delegation of Spending and Financial Authorities* (DSFA) Matrix.
- If the amount is under $500 CAD, the request should be approved by the Manager (Level V and above).
- If the amount is between $500 CAD - $2,000 CAD, the request should be referred to the Director for approval.
- If the amount requested exceeds $2,000 CAD, the request should be escalated to the Regional Director General for approval.
- The officer will complete a Petty Cash Voucher Form [GC34] to have the funds issued as a Petty Cash Voucher.

Regardless of the amount requested, the GC34 request form must clearly articulate that the purpose of the requested funds is for the provision of subsistence funds, include the foreign national's name, UCI, and the expected removal date.

24.3 Releasing subsistence funds

A Statutory Declaration must be completed by the officer releasing the funds to the foreign national.

For unescorted removals, the officer will provide the funds to the foreign national when they are departing Canada (e.g. at the airport gate) and have the foreign national sign the statutory declaration confirming receipt of the funds.

During an escorted removal, the officers will provide the subsistence funds to the foreign national and have the foreign national sign the statutory declaration confirming receipt of the funds.

A record of issuance of the subsistence funds will be maintained by placing a copy of the statutory declaration on the foreign national's file.

24.4 Tracking subsistence funds

The following activities are required to maintain clear records of subsistence funds issuance:

- The Officer is responsible to attach a copy of the signed GC34 form to the file, as well as a copy of the Statutory Declaration.
- The Regional Finance Section is responsible for maintaining records of released subsistence funds.

25 Procedure: Medical Requirements necessary for Removal (MRR)

When making removal arrangements for a foreign national who has ongoing medical issues, the CBSA must ensure that the individual has the proper medical assistance during removal. As officers are not trained in the medical field, they must seek a medical opinion from a licensed physician to determine if any medical assistance is required for/during travel in accordance with the International Aviation Transport Association medical manual.

MRR requests must be forwarded to the MRR Unit inbox accompanied by all relevant information, pertaining to the medical condition(s) with supporting documentation and consent forms. The MRR Unit will forward the requests to the CBSA Medical Practitioner. The CBSA Medical Practitioner will provide an assessment within 48 hours of the request. The MRR Unit will send the assessment to the requesting officer within 24 hours (excluding weekends) of receipt. Should a backlog of requests occur, MRRs will be issued based on the removal date.

While a MRR assessment may result in a short term deferral of removal, foreign nationals who allege that removal may cause death or irreparable harm due to a lack of critical medical care in the country of removal are, in fact, requesting to stay in Canada indefinitely. The responsibility to decide on long term risk falls outside of CBSA's mandate. The discretion that a CBSA officer may exercise is very limited, and in any case, is restricted to when a removal order will be executed.

26 Procedure: Notifying commercial transporters - Transporter liability (Air and Marine Mode)

Under R276(1)(b) officers must inform the commercial transporter liable for removal as soon as a removal order becomes enforceable. Officers should also provide background details in the advance information so that the commercial transporters can conduct any necessary investigations before removal.

If the commercial transporter responsible for removal are air carriers, the information from the officer should also include, whenever possible, a photocopy of the original airline ticket, inbound ticket numbers, routing to Canada, other carriers involved en route, flight numbers and dates. These details will assist in the carriers' acceptance of liability and help them to prorate removal costs to any other carriers involved.

Officers should use the *Notice to Transporter* [BSF502] to serve notice officially to a commercial transporter of its responsibility to convey the person back to their country.

Once the officer has established a travel itinerary, the officer presents the BSF502 to airline officials for signature.

Note that there are circumstances where commercial transporters are relieved of their obligations to carry a FN from Canada (refer to R277).

27 Procedure: Notification to LOs and RCMP of all cases

The following two subsections provide details concerning notification prior to removal.

27.1 Notification to liaison officers (LOs) at visa offices abroad

Removal officers must notify liaison officers, as per the Mission Territory List, of all known removals arriving in or transiting their countries of responsibility. This includes escorted removals, airline liability cases, and non-escorted cases who confirm their departure.

The LOs must be given this information to advise other government officials and police of the returning individual as required. The visa office general mailbox should also be copied to ensure the notification is read if the LOs are away. As well, if a specific country does not have LO coverage at the time of the removal, please notify the IRCC immigration program manager of the Canadian Embassy or High Commission that serves that country.

For full information including country-specific instructions as well as the list of the office addresses, fax numbers, telephone numbers and territory responsibilities of LOs overseas, officers should consult the Notification of Removals Mission Territory List, and the LO Contact List at: Liaison officers contact list.

It is imperative that officers send the notification and the BSF834 *Notification of Removal Form* to the post at least seven working days before the proposed removal. If the information cannot be sent within seven working days, officers must notify the LO as soon as possible to prevent difficult situations from developing and to ensure that any necessary assistance will be available.

Notification should stipulate whether it is being sent for information only, or if assistance is required in either the transit country or country of destination.

The notification should contain the following information:

- names;
- dates of birth;
- passport numbers of escort officers, including police and/or medical officers;
- the full given name, family name and aliases of the foreign national being removed;
- the foreign national's date of birth, citizenship, place of birth;
- a description of the foreign national and a photograph;
- the type, serial number and validity period of the travel document; accompanying identification documents;
- the date of the removal order and the IRPA violation under which the removal order was issued;
- the proposed date of removal, itinerary and name of the transportation company;
- any criminal or terrorist background and whether the foreign national has a history of violence;
- the attitude of the foreign national concerning their removal (for example, whether the foreign national is likely to resist forcibly);
- if a medical case, the nature of the medical condition;
- any assistance from foreign authorities that is expected during transit;
- information on accompanying family members; and
- any other information that may be useful.

Notifications should be forwarded to the Liaison Officers, the Mission's generic inbox as well as the removals notification inbox found on the Wiki, who will disseminate the removal notification to the Removals Program Unit, Stakeholder Engagement Unit, International Operations Division, and Quality Assurance Unit. Please also be reminded of the following:

- The BSF834 must always be included in each removal notification.
- The following format should be used in the subject line of your email for consistent screening and follow up: *Escorted or Unescorted removal of LAST NAME, First Name UCI: XXXX-XXXX to (Country) on (Date).*
- Notifications must be sent at least seven working days in advance of the removal, or longer if specified by the country.
- LOs and Missions emails can be found at: Liaison officers contact list.

It can happen that the 7 day mandatory removal notification period may not be met for walk-ins but all efforts should be made to meet this timeline for any other case. **Some countries have longer notification periods, which is indicated on the country's WIKI page.**

If a removal is delayed or cancelled, the officer must notify the visa office immediately. If necessary, further information should be sent regarding the specific reasons for the delay or cancellation and whether further action is required.

Furthermore, the Removals Unit must provide written instructions to officers confirming the departure, of action to be taken if a foreign national does not appear for a removal for which the overseas offices were notified. For these cases, the BSF582 (*Envelope: Removal Documents*), must include the appropriate LO contact information (name, post, e-mail, fax and telephone numbers).

When a foreign national did not appear for removal, the officer must contact the necessary LOs as soon as possible, with a copy to the responsible Removals Unit. The method of notification is at the officer's discretion, based on the timing and the circumstances of the case, e.g., e-mail, and/or telephone. This will allow the LO, and ultimately the CBSA, to maintain good relations with local authorities in both transit and destination countries.

27.2 INTERPOL notification

Prior to removal, enforcement officers must notify the RCMP via INTERPOL, Ottawa, of the removal of an individual who:

- has a serious Canadian criminal record;
- has a serious foreign criminal record; and
- is wanted by a foreign country (active red notice or diffusion).

Enforcement officers should include the following information when notifying INTERPOL Ottawa:

- all first names, last names and assumed names of the person being removed;
- date and place of birth, citizenship and address in the country of origin;
- physical description of the person removed and photograph;
- type, serial number and valid period of travel documents;
- FPS number;
- identity documents attached to the travel documents;
- date of the removal order and the violation under which the removal order was issued;
- date of removal, the itinerary and the name of the carrier;
- criminal and terrorist background as well as any violence history of the foreigner, if applicable;
- nature of illness or condition, if medical attention is required;
- assistance (if required) by foreign authorities during the transit;
- information on accompanying family members, if applicable;
- names and dates of birth of the escorting officers, if applicable;
- passport numbers of the escorting officers, including police officers and medical staff, if applicable; and
- other pertinent information.

RCMP INTERPOL Operations in Ottawa can be reached by telephone at (613)-843-5034 or by email (preferred) at ipottawa@rcmp-grc.gc.ca.

28 Procedure: Fingerprinting at time of removal

When a person is under a deportation order, or a departure order that has become a deportation order, the officer conducting the pre-removal interview will capture their fingerprints and photograph, even in cases where the fingerprints and photograph are already on file. This process may be completed up to 90 days prior to removal. Officers are to use LiveScan automated fingerprint systems wherever they are available, with ink and roll prints only being used when a LiveScan machine is not available.

Officers will be utilizing the CAR-Y workflow and when completing the "Demographic Entry - Statute of the Charge" section, the officer will select the IRPA authority from the dropdown menu. The officer will then select "Other" in the "Section Number and Wording" section and then enter "Removal – Deportation Order" in the "Charge Description 1".

When fingerprints are captured and ready to be submitted, the officer will print 3 copies of the C-216.

One copy will be inserted into the person's file, another will form part of the Previously Deported Person package that is sent to the Warrant Response Centre, and the third form will ultimately be

forwarded to the RCMP. The RCMP requires the CBSA to enter the date when the removal from Canada occurred and the destination country.
When preparing the PDP package, the officer will include the information below in the Disposition section of all three C-216 forms.

a) Removal Order Authority – Section 48 of IRPA CBSA Removed on: ddmmmyyyy
b) Destination Country:

When forwarding the PDP package to the Warrant Response Centre, the officer will also insert the C-216 copy for the RCMP. The Warrant Response Centre will be responsible for ensuring data quality, batching the C-216 for the RCMP and forwarding them to the RCMP for insertion in the Real Time Identification System.

29 Preparing the Confirmation of Departure envelope

After an officer notifies the foreign national that a removal order has become enforceable and the officer has determined whether the person can be removed through voluntary compliance or an enforced removal order, a Confirmation of Departure (COD) envelope must be prepared. When preparing the COD package, officers should:

- Prepare a *Certificate of Departure* [IMM0056B], and ensure a copy of the foreign national's photograph is affixed to the CBSA copy of the document;
- complete a Notice of Removal and Profile (BSF560);
- include copies of any airline security notifications and approval;
- include travel document and airline ticket; and
- copy of Direction to Report.

If the removal is taking place at an airport and transportation has been arranged, the package may be forwarded to the airport.

PART IV – Escorted Removals

This section is currently under review.

30 Procedure: Administrative travel guidelines for officers performing escorts

The Treasury Board of Canada travel directive is an important document for Government of Canada employees who travel on government business or arrange for those who travel.

Management and officers can locate the travel directives at the following Web site: *National Joint Council (NJC) Travel Directive*. In addition, this policy is to be read in conjunction with *ENF 20 (Transport Policy, Section 11.5)*, the Agreement between the Treasury Board of Canada Secretariat and the Public Service Alliance of Canada for the Border Services (FB) Group (Collective Agreement),the *Use of Force Policy Suite* and the *Identifying and reporting significant events policy.*

31 Procedure: Defining and measuring risk

In cases where the PS Minister must enforce the removal order, a decision may be required whether or not the individual being removed requires an escort. The final decision of the need to escort and the accountability for the decision following the assessment of the need for escorts rests with either the supervisor, manager or in some cases, the director.

In the context of escorted removals, risk is measured by the uncertainty that the person under removal may, during the removal, endanger the safety and security of the person(s) being removed, the travelling public, transportation company personnel and/or the officer(s) conducting the removal. As a minimum, some form of quantitative or qualitative analysis is required for making decisions concerning threats to officers, airline personnel and the travelling public; risk that the foreign national will self-harm; or the risk of resistance that will result in the failure of the removal.

For each element of risk, two calculations are required: its likelihood or probability (the chance of the risk happening); and the extent of the impact or consequences (the amount of loss, damage or injury if an event happens or occurs).

The resulting "rating" determines the level of risk. The tables below provide guidance for measuring the likelihood and impact of risk.

31.1 Likelihood Scale

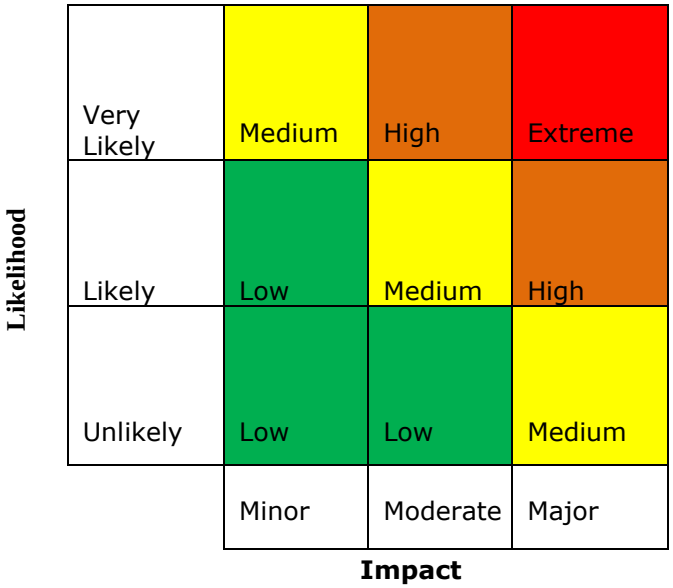
Likelihood	**Description**
Very Likely	Almost certain to happen during removal.
Likely	Probably will happen or chances are about even.
Unlikely	Probably will not happen.

Impact Scale

Impact	**Consequence**
Major	Significant consequences: Serious injury or fatality; extensive psychological trauma; major property or economic damage; major confrontation or significant disturbance.
Moderate	Medium consequences: Limited damage or minimal long-term consequences; minor injury; moderate emotional distress; some disturbance that may result in the failure of the removal.
Minor	Negligible or short-lived consequences: Slight disruption that does not result in the failure of the removal; Minor non-compliance or issue of insignificant concern to public; Mild emotional distress.

1) Rating the Level of Risk

Once the likelihood and impact of the risk is measured, the level of risk is rated using the Risk Matrix below.



Based on the level of risk identified in the risk matrix, the table below provides guidance on the requirement for escorts.

Rating	Impact on Safety/Security
Extreme	• Escorts are required and other strategies may be required to mitigate risk i.e., use of restraints, experienced officers, additional officer.
High	• Escorts are required.
Medium	• May proceed with removal with or without escorts, with plans to mitigate risk i.e., direct flight, escorts to last transit point.
Low	• Escorts are not required.

•

2) Completing the Escort Risk Assessment/Escort Request Form [BSF512]

Section 19 of this manual provides instructions on conducting the file review and pre-removal interview. During the pre-removal interview, an assessment can be made of the foreign national's behaviour, comportment and their reaction toward their scheduled or imminent removal.

If the removals officer has determined through the file review and pre-removal interview that escorts may be required, the removals officer must complete the *Escort Risk Assessment/Escort Request Form [BSF512]* and submit it to their Supervisor, Manager or Assistant Director, along with copies of supporting documents and the foreign national's file.

i) Transportation Liability Cases

Prior to completing the Escort Risk Assessment/Escort Request Form, the removals officer must review the individual's paper and electronic file to determine if the case is a Transportation Liability. If the removal is a Transportation Liability, the *Escort Risk Assessment/Escort Request Form [BSF512] is* not required, unless the airline is no longer operating. Operating airlines must arrange their own escorts, if escorts are required. If the airline is no longer operating (and the removal expenses will be reimbursed from the airline's security deposit, by invoice sent to the CBSA Transportation Obligations Unit), the removals officer must indicate this on the form. Note that CBSA officers will only perform airline liability escorts in exceptional cases, following concurrence from the Manager or Assistant Director, or in cases where the airline is no longer operating.

ii) Medical and Facilitation Escorts

If the foreign national has a medical or mental health condition that requires supervision, a determination should be made by CBSA medical contractor whether a medical escort is required. The medical contractor's recommendation must be included, and if applicable, a Request for Medical Escort form, with the escort request.

31.2 Escort Types

Accompaniment Escort

If an escort is required strictly for facilitation purposes, such as the requirement of foreign administration, airline, or transit point, and there is no risk identified to warrant a risk-based escorted removal.

Risk-based Escort

When the individual who is to be removed presents a level of risk based on their criminal history or behaviour. Risk to the safety and security of the airplane, the general public, and the individual being removed are all factors that can lead to an escorted removal.

Transport Escort

Occurs when an individual under a removal order is being transported from one location to another within Canada, transported to the last departure point in Canada, or transferred by land to the United States POE. Security guards contracted by the CBSA will do this work where services are available.

32 Assessment of the need for escorts

In order to approve or deny a request for escorts, the Supervisor, Manager or Assistant Director reviews the information provided on the Escort Risk Assessment/Escort Request Form [BSF512] and supporting documents. The Supervisor, Manager or Assistant Director also reviews the hard- copy file, and relevant CBSA systems. The most recent interview notes, detention review notes, police reports and sentencing reports on the file should be made available for review upon request.

In addition, the Supervisor, Manager or Assistant Director will discuss the request with the removals officer and ask all pertinent questions in order to validate the information provided regarding the impending removal, including that this information equates to the appropriate level of risk based upon

the Risk Matrix. Factors to consider are the person's comportment, anticipated reaction to their return to the country of destination, the length of the trip, and/or the transit point(s).

The objective of assessing the need for escorts is to minimize the risk to the safety and security of the person(s) being removed, the travelling public, transportation company personnel and/or the officer(s) conducting the removal. The role of the officer is to gather pertinent information on the case, identify possible risk, and recommend to their respective managers, assistant directors or supervisors whether an escort is required. The final decision on the need for escort rests with the manager, assistant director or supervisor. Where it is determined that an escort is necessary, the following are important factors to consider in order to avoid unnecessary risk and ensure the success of the removal:

a) the number of officers required to effect the removal;
b) the physical capability of the officers to restrain the individual should it become necessary; and
c) the circumstances and locations in which the removal will take place.

32.1 Determining the number of officers for escort

The determination of the number of escort officers to be assigned to the removal is made by the Supervisor, Manager or Assistant Director (or in some cases, the Director), based on the information provided by the removals officer, the information on file and the escort risk assessment.

i) Accompaniment Escorts

If an escort is required strictly for facilitation purposes, such as the requirement of foreign administration, airline, or transit point, and there is no risk identified to warrant an escorted removal, only one escort officer, of the same sex, is assigned to accompany the foreign national to either the transit point or final destination. Two escort officers may be assigned when the airline or foreign officials specify that removal with one escort officer is not acceptable and despite efforts, no other agreement can be reached.

ii) Risk-Based Escorts and Detained Transport Escorts

When the level of risk is such that an escorted removal is warranted, the standard number of officers that are assigned to the removal is two. Three officers are only assigned to an escorted removal when absolutely necessary and in exceptional cases. An additional officer may be required when there is an extreme risk of bodily harm/death or physical resistance. Prior to assigning three officers, consideration must be made whether the risk may be mitigated by assigning two officers who are experienced with controlling violent individuals, using additional restraints as permitted by the airline and transit authorities, or assigning officer(s) who have built a rapport with the foreign national and have been able to control the foreign national through tactical communication. The length of the trip, including the length and number of transits and availability of detention facilities should not be prescribed factors when determining whether three officers are required.

Ongoing Assessment of Risk

There are situations up until boarding the aircraft where new information or new circumstances may warrant a re-assessment of risk. The decision to approve escorts may be changed to a decision to proceed without escorts if the individual being

removed is now compliant. It is the responsibility of the removals officer, assigned escort officer(s) to immediately bring the new information to the attention of the Supervisor, Manager or Assistant Director, for consideration.

32.2 Examples of removal cases that may require an escort

The following is a non-exhaustive list of examples to assist in assessing the need for escorts. Two officers should be considered to escort an individual under the following circumstances:

- the individual has been charged with, or convicted of, a serious offence involving violence in any country. These offences may involve bodily harm (including death), weapons (including explosives), arson, hostage-taking, extortion, or acts against children;
- the individual has demonstrated an unwillingness to be removed or has made verbal or written threats against anyone in regards to their removal and/or it is anticipated that violence or untoward behaviour will be exhibited during the removal;
- the individual has been deemed by the Immigration, Refugees and Citizenship Minister to be a danger to the public;
- it is anticipated that problems may arise at the transit point or that the individual will avoid connecting to the ongoing aircraft; and
- the individual suffers from a medical condition which requires close supervision and the individual poses a safety or security risk. For further information on medical escort cases, refer to procedure 24.

32.3 Exceptional cases that may require an escort

The following are a few examples of exceptional cases in which an escort may be required:

- situations in which an individual has been convicted of a minor assault. The nature of the assault and the potential for violence at the time of removal will be the determining factors in these situations. If it is determined that an escort is required, two officers should be assigned;

- cases involving serious narcotic or drug convictions and the additional factors such as acts of violence or organized crime. The circumstances may vary from the need for no escort at all to the need for two officers. Individuals with minor narcotic or drug-related convictions will not normally be escorted unless there are indications that violence was, or may be, an issue;

- cases of serious criminal charges, particularly charges that are violence-related. In these cases, the individual should be escorted by at least two officers. When the individual is wanted by law enforcement authorities in another country for minor charges, the individual might need to be escorted depending upon circumstances such as their willingness to leave or the anticipated reception the individual may experience upon arrival at the country of destination. There may also be other law enforcement "liaison" issues that need to be factored into the decision to escort;

- individuals whom the CBSA knows have escaped or attempted to escape the CBSA or police custody may not necessarily require an escort, particularly if their scheduled flight is non-stop. The rationale for this approach is that, if a person appears at the airport voluntarily, then they are willing to leave Canada. However, if the individual has a repeated history of escape, or has made recent attempts to escape, serious consideration should be given to escorting such an individual to their final destination. In such cases where it is determined that an escort is required, two officers should be assigned; and individuals convicted of property-related or other offences involving non-violent acts should not be escorted unless there are extenuating circumstances determined in the risk assessment which warrant an escort. In such cases where it is determined that an escort is required, two officers should be assigned. (Property-related offences may include such crimes as theft, possession of stolen property, trespassing or fraud.)

32.4 Escorts of multiple removals

In multiple removal cases, the air carrier reserves the right to limit the maximum number of passengers under escort, considering the size of the aircraft and the level of danger involved.

is important, in these cases, that the air carrier is aware of the number of individuals being removed on one flight, the ratio of escorts to removals and the nature of the cases involved.

The following guidelines are suggested for CBSA liability cases in which the individuals are not considered to pose safety or security risks and do not fall within the parameters of the profiles outlined earlier:

- 0 to 5 adults = no officer
- 6 to 10 adults = 2 officers
- 11 to 15 adults = 3 officers
- 16 to 20 adults = 4 officers

In cases where the air carrier requests a variance in the number of officers provided, the matter will have to be negotiated with the individual air carrier. The airlines should also be reminded that the CBSA officer would be responsible only for cases where the CBSA is liable for costs. The responsibility for the escort of airline liability cases rests with the airline, and these cases are not to be included in the calculation related to the above profiles.

Officers are reminded that there will be situations that do not fall within the categories above. It should therefore be understood that each case must be assessed in accordance with individual circumstances when determining the need for and the number of officers that may be required, bearing in mind the basic criteria outlined in the profiles. The final decision on whether or not individuals should be escorted ultimately rests with the manager or supervisor.

32.5 Removals involving transit points

Officers are not automatically assigned to ensure connections at transit points. There may be cases where CBSA officers are satisfied that there is no safety or security risk

and that the person wants to return, has all the necessary documentation, has made personal reception arrangements at the destination, and will meet connecting flights at the transit point. An officer's presence should not normally be required in such cases.

One officer of the same sex should be assigned to accompany a person to their destination where CBSA officers are satisfied there is no safety or security risk and the need to accompany the person is dictated by transit requirements and/or the CBSA's obligations to satisfy established arrangements or to meet certain requirements imposed by other parties such as other countries or transportation companies.

32.6 Removal of minors

In instances where fewer than three children under the age of 16 years are accompanying adults, they will not be counted in the numbers for the assignment of officers. However, if there are more than three children, an additional officer should be considered.

Unaccompanied minors under the age of 13 should be removed with an accompaniment escort. Unaccompanied minors between the ages of 13 and 18 can be returned on direct flights to their country of origin, without escort, where the airlines will accept responsibility for the child during the trip and where no other safety and security risk exists. An officer should accompany children between the ages of 13 and 18 on non-direct flights or on direct flights where the airlines cannot accept responsibility for the child's care en route or where other safety or security risks exist.

In all cases of the removal of minors, reception with the family members or representatives of government departments or agencies responsible for child welfare should be arranged prior to departure.

32.7 Removal of violent persons

An individual who has a serious violent criminal history or who otherwise meets a profile requiring two officers should not normally be removed on the same aircraft with multiple removals. However, should this become necessary, the airline should be consulted and, if the airline agrees to the removal, two officers should be dedicated to that removal alone, exclusive of other officers involved in the multiple removals.

32.8 Removal with a Single Journey Document

In situations where persons are being removed on a *Single Journey Document* [IMM 5149] to countries where this document has been previously used without any problems, the CBSA officers should consult their supervisor or manager to determine that there is no safety or security risk. If no such risk exists and it is anticipated that removal will be successful using an IMM 5149B, an officer may not be required for escort. Whenever a person is removed on an IMM 5149B, the individual should be in possession of supporting documentation such as a birth certificate or national identity card. For further information on when to use an IMM 5149B, refer to section 21.5.

When an IMM 5149B is being used to remove a person to a specific destination for the first time, at least one officer of the same sex should accompany the individual being removed.

An officer may not be required for removals through transit points where the person concerned has an IMM 5149B and a visa, and the CBSA officers are satisfied there is no safety or security risk.

When a flight connection is necessary through a strategically important hub or connection point , at least one officer of the same sex should be assigned to accompany the person to the connection point only.

32.9 Procedure: Medical escorts

The CBSA may allow a federal government medical officer to act as an escort only when removal is at public expense and medical attention is required en route. Many removal offices employ the services of nurses from non-governmental organizations or correctional institutions, etc., to assist with cases that require medical attention. Refer to existing local office policy with respect to contracting this medical staff.

Decisions respecting the need to escort persons with medical conditions should be guided by whether the individual will require close supervision and qualified medical assistance in order to undertake the journey to their final destination without posing a safety or security risk. It may be necessary to assign two officers, in addition to the medical personnel, depending on the circumstances.

The following general principles have been established as a guide in determining when to seek medical assistance with respect to escorting foreign nationals who have a history of violent behaviour, or foreign nationals who may become violent or create a disturbance when removal is in progress.

Under no circumstances will any foreign nationals be taken to a physician solely for the purpose of being placed under sedation for removal from Canada. Where a foreign national has been taken to a physician for some other legitimate medical reason, the physician may address the question of sedation for removal as a secondary issue. If the physician decides to prescribe medication, the foreign national concerned must be asked if he or she wishes to take such medication, and if not, no medication is to be administered. The only exception is the psychiatric cases described below.

32.10 Example of medical escort case

Cases in which medical treatment is being administered or the person is under psychiatric care or treatment in an institution or hospital usually involve:

- foreign nationals who are suffering from a medical condition that requires the administration of drugs at regular intervals, or
- foreign nationals who are currently in mental or psychiatric institutions or hospitals.

The first situation is one in which medication will have been prescribed for treating medical disorders (e.g., heart condition) that are considered serious enough to warrant the presence of a physician or registered nurse during removal. The physician or nurse is present only for the purpose of administering medication and/or monitoring the condition of the foreign national being removed from Canada. Any drugs administered are given to the patient of their own volition to treat the medical condition.

The second situation is one in which the foreign national being removed from Canada has been institutionalized for psychiatric treatment and is probably being returned to their home country for the continuation of treatment (i.e., usually to a mental institution or hospital). The medication administered in these cases is a continuation of the ongoing treatment prescribed by the psychiatrist or physician.

In either of these two situations, arrangements may be made for the removal from Canada of such foreign nationals under medical escort, if considered appropriate by the CBSA in consultation with the attending physician or psychiatrist. It will not be necessary to refer such cases to NHQ for concurrence before finalizing travel arrangements and effecting removal.

33 Establishing emergency contacts

To be fully prepared when effecting a removal, officers should have the following emergency contact numbers with them:

a) the telephone number and address of the Canadian embassy in countries of destination and transit, or the Canadian Embassy responsible for the country of destination;

b) the telephone number, name and office address of the CBSA LO responsible for the country of destination or transit;

c) contact details for the Canadian regional office duty supervisor; and

d) contact details for the 24-hour watch office of Global Affairs Canada.

After regular working hours most Canadian offices abroad will automatically switch from the local consular emergency number to the Global Affairs' Watch Office. A small number of offices abroad will have emergency numbers that will activate a voice mail which should be checked regularly, while others have the calls directly re-routed to a duty officer cell phone. In cases where emergency assistance is required, officers may reach the Watch Office by calling (613) 996-8885 or 1-800-387-3124. It should be noted that the correct country code prefix for Canada would be required for direct dialing from overseas, and the 1-800 number may not work outside North America.

34 Dealing with air carriers

Air carriers are required to comply with their existing flight safety and security procedures, which can be stricter than existing internationally regulated procedures. When officers are required to escort a subject, all airlines must be advised of the following information:

a) the identity of the passenger under escort;

b) the flight details;

c) the reason for the escort; and the risk assessment of the passenger under escort as to safety or security.

During some non-airline liability removal cases, an air carrier may insist that an officer or officers accompany a person despite the determination that the individual does not constitute a safety or security risk. The airline has the final decision in these matters and can determine whom they will transport on their aircraft. Should the scenario arise, officers are encouraged to explore alternatives, including the review of the travel itinerary, routing and airline availability. Officers should be assigned only in cases where no other appropriate alternative is available.

34.1 Airline liability

Individual air carriers are responsible for making removal arrangements and providing escort officer(s) in situations where a transportation liability exists as described in ENF 15 – Obligations of Transporters. However, there will be instances in which the airline requests assistance in providing escort officers for the removal. Agreeing to such requests should be the exception rather than the rule and any such case should be immediately brought to the attention of the supervisor or manager. The primary consideration in agreeing to assist the airlines must be based on the risk assessment. Where a safety or security risk in removal has been determined, the person subject to the removal must be escorted. If the supervisor or manager agrees to provide the CBSA staff to effect the removal, there must be confirmation in writing regarding the agreement reached with the airline concerning the use of the CBSA officers. This agreement must also set out the expenses for which the airline will be liable. The letter will be hand- delivered and served on a responsible representative of the airline.

34.2 Using the document envelope

The Removal Documents Envelope [BSF 582] is specially designed for safekeeping papers such as passports, travel documents and tickets for foreign nationals subject to removal proceedings. The document envelope is addressed to the purser, who will inform the pilot. When making removal arrangements, the officer preparing the document envelope should take the following steps:

- complete the face of the envelope (full name, complete itinerary, etc.) and ensure that a current photograph of the foreign national is attached to the front of the envelope for ready identification;
- give the envelope and contents to the examining officer at the U.S. POE if the officer is turning the foreign national over to the United States Customs and Border Protection (USCBP);
- instruct the escort to carry the foreign national’s envelope if the foreign national is being escorted to a destination or on part of the journey;
- instruct the officer to hand the envelope to the purser on the aircraft, with verbal instructions on the contents if these differ from the pre-printed notice on the face of the envelope, if the foreign national is unescorted or will no longer be escorted after a transit point.

At the time of removal, officers must also brief the purser (either verbally or by a letter to the captain) and provide a copy of the Notice of Removal and Profile [BSF560]. The CBSA recognizes that the primary responsibilities of every airline captain are the safety of passengers and crew, and the security of the aircraft. Certain airlines may also have a specific form that must be completed and provided to airline officials when escort(s) are present on an aircraft. In rare cases, a pilot will refuse to board a person based on

the subject’s demeanour or from the information provided to the pilot. Should these occasions arise, the officers conducting the removal must rely on their communication skills to provide any additional information to the pilot

that could affect the pilot’s decision. Often, a pilot’s initial determination may change once further information is provided by the escorting officers.

35 Arranging for escorts

The CBSA is responsible for arranging all overseas escorts, including escorts to the U.S. border or, if circumstances indicate a need for special care, to the final destination in the U.S. Efforts should be made to minimize the number and length of stopovers.

The itinerary of a foreign national who is being removed to the U.S. and requires special care may include one or more stops within the U.S. before the final destination is reached. In this case, an officer should stay with the person until their final destination, or until the officer can leave the person in capable hands. Normally when a foreign national requires special care, the officer will continue to the final destination. If the officer requires ground assistance at any of the stopovers en route, the officer should ask the airport authorities or officials of the USDHS at the airport involved. In special care cases, unless the officer has already made appropriate arrangements for the person's reception at an alternative location, the officer should not leave the foreign national at any point other than the final destination.

The manager or supervisor must exercise discretion in deciding whether the foreign national to be removed requires an escort(s) while en route to the final port of departure from Canada. The manager or supervisor should consider the following questions:

a) Does the foreign national have a serious criminal background, or was the foreign national serving a sentence?
b) Is the foreign national a potential escapee or considered a danger to the public?
c) Has the foreign national been previously removed?
d) Is there evidence of mental health concerns?
e) Is the foreign national under any special medication?
f) Are there potential problems at transit points?

If the officer determines that the foreign national does not require an escort to another point of departure, the officer should:

g) book and confirm the connecting flight, preferably leaving on the same day;

h) notify the responsible airlines; and notify Canadian officials at transit points.

Detention increases costs and workload at the receiving port. If there is more than a three-hour layover between connecting flights, or if the officer must detain the foreign national overnight, the officer should include in the foreign national's documentation a signed *Order for Detention* [BSF 304].

35.1 Removal arrangements prepared by other officers

Officers making removal arrangements should give the escort(s) involved in the removal written instructions outlining the nature of the case, the action required, relevant documents and the foreign national's baggage and personal effects, if the officer has custody of them. The instructions must contain the following information:

- case history: a brief outline noting citizenship, age, basis for removal, accompanying family members, and whether the foreign national is being removed or repatriated;
- flight arrangements: the flight number and carrier, port of departure and departure time;
- instructions: if the foreign national is being escorted from the place of residence to the port of departure, escorting instructions must include dates, hours of departure, cities, transfer points and stopovers;
- documents: passport and number, medical information, detaining order, Certificate of Departure [IMM0056B], removal order, notice of removal profile and receipts for the foreign national's property placed in an Envelope: Removal Documents [BSF 582] ;
- character of the person: information about the foreign national's attitude to removal, behaviour in jail (in applicable cases), and any other information disclosed on file that might be of assistance to the escorting officer; and return to duty: the hour and date on which the escorts are to report back.

35.2 Advance notification to the port of departure

When the foreign national who is being removed, escorted or not, transits at a port of departure in Canada, the officer making the removal arrangement should advise the port of the foreign national's arrival at least two days in advance by facsimile or e-mail and follow up by telephone. Since the receiving port has had no prior contact with the individual, it will need all the useful information the officer can provide. International airlines often seek detailed information on foreign nationals being removed.

The following information should be included in the message:

- the foreign national's file number;
- the foreign national's description and sex;
- the names and ages of all family members, if accompanying;
- arrival and departure information;
- details of any previous detention;
- the foreign national's mental attitude;
- the reason for removal;
- whether the foreign national is detained; and whether the foreign national will be escorted and, if so, the names of the escort(s).

The foreign national will be carrying a *Certificate of Departure* [IMM0056B] with a photo affixed. The receiving port can use the certificate to confirm that the foreign national is the subject of the removal order. The officer should also arrange to have the foreign national's documentation placed in an *Envelope: Removal Documents* [BSF 582] and transferred from the first airline's purser to the connecting flight's personnel.

35.3 Luggage and personal finances

When the officer accepts the foreign national into custody, the institution or immigration station may require receipts for the foreign national and the foreign national's effects. If so, the officer must get a complete list of valuables, money or baggage belonging to the foreign national and see that this list appears on the receipt. A copy should be retained and placed on file when the officer returns to duty.

Often, family members will bring in personal effects or funds to an inland removal office to assist their relative who is subject to removal. A written receipt should be provided. When these effects are returned at the completion of the escort, officers should obtain a signature from the person being removed to acknowledge that these effects have been returned. In the absence of a receipt, the officer should record this information in their notebook. If an officer is not diligent in recording the return of these personal effects and funds, then the CBSA or the officer could face claims of theft or loss of effects.

The officer must ensure that the foreign national's baggage has been collected, that it accompanies the foreign national when removal is effected, and that it is checked through to the final destination whenever possible.

Whenever possible, officers should pick up and cash any pay cheques belonging to the foreign national and conclude all banking arrangements on behalf of the foreign national. Money should be exchanged, if possible.

Officers should advise foreign nationals under a removal order to limit their effects so as not to exceed the free baggage allowance limits imposed by transportation companies. Any excess to the baggage allowance is the responsibility of the foreign national, and arrangements must be made to ship excess belongings at their own expense.

35.4 Escorts for removal via the U.S.

Immigration Customs Enforcement (ICE) requires five days advance notice to approve requests for all transits of third country nationals. Unless officers make other arrangements with ICE, it is the CBSA’s responsibility to arrange for an escort for removal via the U.S. if the person must deplane in the U.S. en route to a third country. This provision applies even if the airline does not require the person under removal order to be escorted.

35.5 Escorts for removal via countries other than the U.S.

There are countries other than the U.S. that are frequently used as transit points and may also require the presence of an officer to facilitate the removal. A supervisor or manager may agree to deploy escort officers when persons are removed via transit points, as the CBSA requires continued access to these transiting hubs for the continued success of the removals program.

35.6 Escort by transportation companies

If a transportation company is responsible for ensuring the departure of a foreign national from Canada, the company must make its own escort arrangements for travel outside Canada.

If the company does not offer an escort to a foreign national within Canada, it must be reminded in writing of its legal obligation to convey such persons. If the transportation company continues to refuse to provide an escort officer, officers may escort the foreign national, but expenses for the escort should be charged to the company (see ENF 15, section 5.1).

Aside from escorting foreign nationals to U.S. ports of departure to third countries, only in exceptional circumstances will an officer escort a foreign national outside Canada to accommodate a transportation company.

The arrangements and all removal and escort costs must be clearly documented and accepted in writing by the airline.

36 Taking precautions to prevent escape

This section provides details on taking safety precautions to prevent escape and using holding centres or cells when transiting Canada.

36.1 Taking safety precautions

Officers must exercise every caution to prevent the escape of foreign nationals in their custody, and must decide whether handcuffs or other restraining equipment should be used according to the circumstances. Officers should take the following precautions:

- do not handcuff, chain or tape the subject to any immovable object while in transit;
- when transporting a foreign national by automobile, ensure that the foreign national is seated on the passenger side of the rear seat;
- if required a second officer must sit directly behind the driver;
- check the vehicle and surrounding area to ensure that there are no objects that could be used by the foreign national as a weapon;
- if the foreign national causes a disturbance during the removal, try to remove the foreign national from public view as quickly as possible;
- when using public transportation, arrange if possible to enter the vehicle ahead of the other passengers, sit at the rear of the vehicle, and ensure that you and the subject are the last passengers to disembark; and
- do not linger with the foreign national in public places.
- the officer(s) must remain alert at all times and always keep the subject in sight and at close distance;
- if transportation is delayed, officer(s) should try to secure a room in the terminal away from the general public.

36.2 Use of holding centres, cells when transiting through Canada

Other regions can provide their cells or holding centres when officers are transiting a removal through Canada. Use of these facilities should be considered if:

- an officer is aware that there will be several hours before the onward flight to the destination; and
- an officer experiences unforeseen delays before taking the onward flight.

If it is determined that a holding cell is required in these cases, officers should contact the CBSA office at the transit point to obtain the procedures for admittance to a holding centre or cell, including instructions on the forms that must accompany the detention and release of the detainee.

37 Actions to take upon escape or attempted escape

This section sets out the actions to take regarding escape or attempted escape from the custody of the CBSA or the facilities of a transportation company, and the preparation of a Use of Force Incident Report [BSF586].

37.1 Escape or attempted escape from transportation company facilities

IRPA provides for the prosecution of foreign nationals who escape or attempt to escape from lawful custody or detention [A124(1)(*b*)].

Officer(s) must take the following action immediately if a foreign national escapes from custody:

a) notify the police force of jurisdiction;

b) notify the nearest CBSA manager or supervisor, who will in turn notify by e-mail or facsimile the director of the region concerned. The e-mail or facsimile should give details of the identity of the foreign national and place of escape unless the officer is instructed otherwise;

c) enlist the help of other local officers to search the area thoroughly and provide any other assistance necessary;

d) if the escape occurs outside Canada, notify the police force of jurisdiction and the nearest migration integrity officer for advice on how best to handle the situation in the local context;

e) if the escape occurs in the U.S., notify the nearest USCBP or ICE officer and the manager of the Canadian port responsible for the case. The port manager will then notify the appropriate officials;

f) the officer should complete a Use of Force Incident Report [BSF586] by the end of their shift or as soon as reasonably practicable;

g) submit a full written narrative report to their manager or supervisor, providing details of events leading up to the escape, the escape itself and action taken following the escape. As soon as a complete investigation has been concluded, the manager or supervisor at the port of origin must submit a full report to the area manager. The report must contain any observations or recommendations from the manager that may assist in determining the cause of the escape and preventing future escapes through proper remedial action. The area manager must forward the report with any necessary comments and recommendations to the Director of Inland Enforcement;

h) if the escapee is not located, the officer must issue a warrant under A55(1) and enter it into CPIC, issue a lookout and update GCMS/NCMS immediately; and

i) when the escapee is again placed in custody, the officer(s) must inform all authorities previously notified of the escape.

37.2 Escape or attempted escape from transportation company facilities

If a foreign national escapes from the custody of a transportation company's facilities, the local CBSA manager must immediately:

- notify the nearest municipal or provincial police and the RCMP;
- notify by e-mail or facsimile the director of the region concerned. Details in the e-mail or facsimile should include the identity of the foreign national, place of escape, name of the transportation company responsible for the escapee, and the method of escape;
- obtain a written report on the escape from the transportation company or crew member;
- conduct a full investigation into the cause of the escape and all precautions taken by the transportation company. If there is negligence or failure on the part of the transportation company to provide proper security or facilities, make recommendations for penalty action or any remedial action necessary to prevent future escapes;
- if an officer was involved, on returning to work, the officer should complete a Use of Force Incident Report [BSF586];
- send the report to the area manager, who will forward it with any necessary comments or recommendations to the Director of the Inland Enforcement Division at the CBSA NHQ. The officer must also ensure that a warrant is issued under A55(1) and entered into CPIC if the escapee is not located immediately;
- and input details of the incident into GCMS/NCMS immediately.

If the transportation company is at fault, the Director of the Inland Enforcement Division at the CBSA NHQ must write to the company advising it of its responsibility under IRPA and the Regulations, and that it is liable to a penalty. The transportation company has 30 days in which to show cause why the penalty should not be imposed. The Director of the Inland Enforcement Division at the CBSA NHQ will then send to the Director General a full report of the escape from the transportation company's care or custody. This report must provide comments on the cause of the escape, the details of the escape itself, any remedial action that has been taken to prevent further escapes, and copies of all correspondence to the transportation company.

The CBSA NHQ will reply to any representations from the transportation company, informing it in writing of the amount of the penalty when one is imposed and what action, if any, is required for an additional security deposit. When the escapee is again placed in custody, all the authorities

previously notified of the escape should be informed.

38 Persons refused entry to another country

Officers should take appropriate action if a person was not granted lawful admission to another country. In these cases, the foreign national who has not met the departure requirements under R240 cannot be said to have enforced their removal order.

PART V – Verifying Departure

39 Confirmation of Departure

A removal order should be enforced when the foreign national departs from Canada. This process is the final step in confirming a person's departure from Canada and recording that all of the departure requirements have been met.

There are three methods to confirm a departure of a foreign national from Canada as per IRPR.

When the departure is verified at the POE

R240(1) A removal order against a foreign national, whether it is enforced by voluntary compliance or by the Minister, is enforced when the foreign national

(a) appears before an officer at a port of entry to verify their departure from Canada;

(b) obtains a certificate of departure from the Canada Border Services Agency;

(c) departs from Canada; and

(d) is authorized to enter, other than for purposes of transit, their country of destination.

When a removal order is enforced by an officer outside Canada (Canadian Mission)

R240(2) If a foreign national against whom a removal order has not been enforced has departed from Canada and applies outside Canada for a visa, an electronic travel authorization or an authorization to return to Canada, an officer shall enforce the order if, following an examination, the foreign national establishes that they are the person described in the order.

When a removal order is administratively enforced by an officer in Canada

R240(3) A removal order against a foreign national is enforced by an officer in Canada when the officer confirms that the foreign national has departed from Canada.

Procedures 39, 40, and 41 will describe how a removal order can be enforced for the above-mentioned three methods.

Note: Under R242, persons who have been transferred under an order made pursuant to the Mutual Legal Assistance in Criminal Matters Act have not been authorized to enter their country of destination.

40 When the departure is verified at the POE – R240(1)

In order for a removal order to become enforced on the person's departure from Canada, R240(1) specifies that a foreign national, regardless of voluntary compliance or removal by the Minister, must take the following steps:

- appear before an officer at the port of entry to confirm their departure from Canada [R240(1)(a)]. Note: The designated authority to verify, at a POE, the departure of foreign nationals who are effecting their removal order can be found in the Designation of Officers and Delegation of Authority documents in IL 3, item 200;
- obtain a Certificate of Departure (IMM0056B) from the Department [R240(1)(b)];
- physically depart Canada [R240(1)(c)]; and
- have been authorized to enter their country of destination (other than for transit purposes) [R240(1)(d)].

Before departure is verified, any outstanding warrants must be concluded, as appropriate. Officers should follow instructions in ENF 7 on executing and cancelling warrants. In all cases where a warrant is concluded, officers must contact the local office that issued the warrant.

If a foreign national subject to a departure order departs from Canada without complying with the requirements under R240(1)(a), R240(1)(b) and R240(1)(c) and reappears before an officer at a POE within the applicable period, the officer should enforce the removal order as a departure order. In these cases, the person is appearing before an officer at a port of entry to verify their departure and must comply with all the requirements set out in R240(1)(a), R240(1)(b) and R240(1)(c). In limited circumstances where the person is applying for a visa or an Authorization to Return to Canada and the person complies with all the requirements set out in R240(2), the removal order must be enforced outside of Canada.

40.1 Procedures to complete the Certificate of Departure [IMM0056B]

When an officer verifies departure under R240(1), they must issue a Certificate of Departure [IMM0056B]to a foreign national when enforcing the removal order. When completing the IMM0056B, officers must clearly indicate the type of removal order that was enforced at the time of departure verification, and have the foreign national sign and write the date beside the appropriate removal order. If the foreign national does not want to sign, the officer should indicate 'Refused to Sign' in the signature space on the IMM0056B.

When verifying the departure of a foreign national, the officer should review their identity or travel documents and ensure that the person departing Canada is the same person named on the removal order. Information to assist in confirming identity may vary and can include but not limited to: photos of the individual and identity documents. Accompanying family members issued a removal order for being inadmissible under A42(b) do not require a separate Certificate of Departure and should be included on the same Certificate of Departure as the family member who was the

originating cause for the issuance of the removal order. The following fields in the Certificate of Departure (IMM0056B) must be completed by the officer verifying departure:

- in part A, complete the required background information concerning the foreign national including details of their travel document;

- in part B, determine the type of removal order that is being enforced. The type of removal order will be straightforward when the person has been issued an exclusion or deportation order, see section 9.1(1) for Procedures on Departure Orders.

- when a departure order is verified at a visa office outside Canada, regardless of whether it is within or beyond the 30-day applicable period, the departure order must be enforced as a deportation order pursuant to R224(2).

- in part B, record whether the case involves criminality (yes/no). For clarification, the officer should indicate "yes" if there has been any history of criminality recorded in a previous A44(1) report;

- in part B, record the CBSA removal fee pursuant to R243.

- in part B, complete all fields and have the person concerned sign and write the date beside the applicable removal order that is being enforced. For departure orders that have become deportation orders, the person must sign the confirmation of a deportation order;

- in part B, include any additional names of accompanying family members who are the subject of a removal order under A42(b). Certificates of departure must not be issued for accompanying family members. If a separate IMM0056B is created for an accompanying family member, the "PDP" screen in GCMS will automatically be prompted and should be deleted. Accompanying family members under A42(b) are not considered PDPs and therefore do not require authorization to return to Canada;

- in part B, complete the originating office field to record the responsibility center code that commenced the removal arrangements for the person. For clarification, removal arrangements are considered to be arrangements made at the time that the person is removal-ready (the removal order is enforceable and is not subject to any legal impediments). These arrangements will likely have been made from an office in Canada and will include the acquisition of travel documents, the pre-removal interview, the itinerary, the booking of flights, notification of the Canadian visa office abroad and foreign consulate, and the preparation of the removal order information kit;

- in part C, complete the details of the person's departure from Canada. These fields include the port of exit/mission, country of destination, carrier, time, date of departure, the CBSA involved, and the signature of the officer who confirmed the departure. Officers verifying departure outside Canada must accurately record their office code in the port of exit/mission box. This information is important for statistical and tracking purposes;

- if an officer acting as an escort from an inland CBSA office has verified the departure of a person with a removal order, enter the CBSA's responsibility code in the "CBSA Involved" section of the IMM0056B. Where an inland CBSA has not commenced any of the removal arrangements for the person but has assisted in the transport of a person to the airport or the border, or provided officers to the transit point or to the country of destination, the responsibility center code for the inland CBSA office involved is recorded in this field. Officers at visa offices outside Canada should complete the "CBSA Involved" box for the office in

Canada that is the active holder of the removal file;

- the mandatory fields "Danger to the public" and "Unlikely to Appear" are consistent with the grounds for arrest under A55(2)(a) and must be completed in accordance with the guidance provided in ENF 20. These fields play a key role in identifying which deportee records should be downloaded to the CPIC-PDP database. See section 46 below for an overview of the joint IRCC/RCMP initiative concerning previously deported persons.

Note: CBSA offices/responsibility codes are to be placed in fields on the IMM0056B where applicable.

When verifying the departure at the POE, the IMM0056B should be given to the foreign national only after the foreign national signs the Certificate of Departure just prior to boarding the aircraft. The officer should witness the departure of the aircraft from the airport departure gate in order to confirm that the foreign national has actually departed from Canada. GCMS/NCMS should be updated immediately. If the foreign national refuses to sign, the officer should note 'Refused to Sign' in the signature space.

Many important decisions concerning removal functions will be made on the basis of the data retrieved from the "Certificate of Departure" screen in GCMS/NCMS. Immediately following departure verification, officers should complete the "Certificate of Departure" screen in GCMS/NCMS and ensure that they take the following steps:

- input information into all mandatory fields of the IMM0056B in GCMS;

- indicate the type of removal order at the time of departure verification;
- input any additional information into the "Notes" screen in GCMS (i.e., airline, flight number, action on bond, counselling, comments, etc.);

- in the case of an overseas escorted removal, enter the details of the departure verification into GCMS/NCMS within 48 hours of the removal officer's return to Canada; and

- distribute the copies of the Certificate of Departure accordingly, and as follows:
    - copy 1 to the person concerned;
    - copy 2 to the CBSA office that enforced the removal order (file holder);

Following the completion of the "Certificate of Departure" screen in GCMS, the "Previously Deported Persons (PDP)" screen will be prompted and must be completed accordingly. The purpose of this screen is to flag in GCMS and CPIC that the person has been deported from Canada and requires authorization to return to Canada pursuant to A52(1). The "PDP" screen will appear (except in A42(b) cases) if the type of removal order was either:

- a deportation order; or
- a departure order which becomes a deportation order.

40.2 Verifying departure to the U.S. from airports with pre-clearance facilities

If a foreign national is departing Canada for the United States from an airport with pre-clearance facilities, it is preferable that an officer issue an IMM0056B, after U.S. officials have pre- screened

and accepted the foreign national. This process may not always be possible because of the physical layout of some POEs, but the Agency strongly recommends this approach where facilities permit.

A Certificate of Departure [IMM0056B] should be given to the foreign national only after the foreign national signs the Certificate of Departure just prior to boarding the aircraft. The officer should witness the departure of the aircraft from the airport departure gate to confirm that the foreign national has actually departed from Canada. GCMS/NCMS should be updated immediately.

40.3 Verifying departure at land borders

Officers at a land border POE should issue a Certificate of Departure at the POE where the foreign national physically departs Canada for the United States.

- In the case of foreign nationals who are either U.S. citizens or U.S. resident aliens, an IMM0056B can be completed and signed by an officer at a port of entry; or
- In the case of foreign nationals without U.S. status, an officer should obtain the address of the destination and/or a fax number where the IMM0056B can be sent. Mailing or faxing the IMM0056B will act as a safeguard to ensure the foreign national receives the Certificate of Departure *after* being lawfully admitted into the U.S.

Officers should counsel the foreign national to proceed to the U.S. port of entry to seek entry. When the officer is turning the foreign national over to the USDHS, the officer should give the *Envelope: Removal Documents* [BSF582] and contents to the immigration officer at the U.S. POE.

40.4 Verifying departure in the case of a removal order not in force

In some instances, officers may encounter a foreign national who has been issued a removal order and who requests to voluntarily depart Canada before the removal order comes into force under A49(1) or A49(2). Examples of these cases could include the following:

- a permanent resident or a foreign national is issued a removal order with a right of appeal and requests to depart Canada before their appeal period expires [A49(1)(b)];
- a permanent resident or a foreign national is issued a removal order; they have made an appeal and request to depart Canada before the final determination of the appeal is made [A49(1)(c)];
- a refugee protection claimant whose claim has been determined ineligible and requests to depart Canada before the expiry of the seven-day period [A49(2)(b)];
- a refugee protection claimant whose claim is rejected by the Refugee Protection Division (RPD) and requests to depart Canada before the expiry of the 15-day period [A49(2)(c)];
- a refugee protection claimant whose claim is declared withdrawn or abandoned by the RPD and who requests to depart Canada before the expiry of the 15-day period [A49(2)(d)]; and
- a refugee protection claimant whose claim is terminated because of misrepresentation or multiple claims and who requests to depart Canada before the expiry of the 15-day period [A49(2)(e)].

Note: The CBSA does not provide notification of a pre-removal risk assessment (PRRA) to persons who wish to leave voluntarily and whose removal order is not in force.

40.5 Inland procedures – removal order not in force

When a person appears at an inland CBSA office requesting to voluntarily depart from Canada before the removal order comes into force, as in the case of a refugee claimant who has withdrawn their claim to the RPD or RAD, the CBSA officer must ensure that the person concerned is aware of the fact that the removal order is not yet in force and of the legal implications. The officer should obtain a statutory declaration indicating that the person was advised of these details.

• The officer should obtain an address for service of the IMM 0056B, which will be sent to the person concerned after the expiration of the seven-day or fifteen-day period under A49. If a statutory declaration is obtained, the address for service should be noted in the declaration.

• The officer should ensure that a detailed note is entered in GCMS explaining the case circumstances. The GCMS notes should reflect that the person wanted to depart Canada voluntarily, their reasons for departing, whether a statutory declaration was obtained, whether the statutory declaration was translated, and where and when the IMM0056B should be sent.

• The officer should complete a Certificate of Departure package and send it to the POE where the person will depart from. The officer should then follow up with the case and mail the IMM0056B to the address provided by the person after the removal order has come into force under A49(1) or A49(2).

When a person appears at a CBSA inland office requesting to voluntarily depart from Canada before the removal order comes into force, the officer should advise the person that their removal order has not yet come into force and that they should appear before an officer at a POE. On the arrival of the person at the POE, the POE officer should proceed according to the departure guidelines set out in section 39.6 and obtain the required information on the person's departure from Canada. In cases where the passport is on file at the inland office, arrangements will need to be made between POE and inland office to transfer the document prior to removal.

40.6 Port of entry procedures – removal order not in force

If persons subject to a removal order that is "not in force" have presented themselves to an officer at a POE and indicated a desire to leave Canada, the POE officer can allow them to depart from Canada. A Certificate of Departure should be initiated but not completed until the removal order has come into force under A49(1) or A49(2). IRPA only allows an officer to “enforce” a removal order that has come into force and is enforceable (there is no stay of removal). When faced with this scenario, the POE officer should follow the procedures set out below before the persons depart the POE:

- The officer must ensure that the person concerned is aware of the fact that the removal order is not yet in force and of the legal implications. The officer should obtain a statutory declaration indicating that the person was advised of these details.
- The officer should obtain an address for service of the IMM0056B, which will be sent to the person concerned after the expiration of the seven-day or fifteen-day period under A49. If a statutory declaration is obtained, the address for service should be noted in the declaration.

- The officer should ensure that a detailed note is entered in GCMS explaining the case circumstances. The GCMS notes should reflect that the person wanted to depart Canada voluntarily, their reasons for departing, whether a statutory declaration was obtained, whether the statutory declaration was translated, and where and when the IMM0056B should be sent.
- The officer should follow up the case and mail the IMM0056B to the address provided by the person after the removal order has come into force under A49(1) or A49(2).

40.7 Completion of the Certificate of Departure – removal order not in force

The procedures to complete a Certificate of Departure (IMM0056B) for removal orders not in force are different from the regular procedures for confirming departure. Officers are reminded that they cannot enforce the removal order until it comes into force and is enforceable. The enforcement of the removal order occurs only after the Certificate of Departure has been signed by an officer on the date of confirmation. When verifying departure of persons with removal orders not in force, POE officers must take the following steps *at the time of the person's departure*:

- complete boxes in parts A and B as provided for in section 39.1;
- have the person sign beside the applicable removal order that is to be enforced. For example, if a refugee claimant was issued a departure order and has subsequently withdrawn their refugee claim, the applicable removal order will be a departure order;
- leave the "Date of Confirmation" field blank;
- ensure that any accompanying family members under A42(b) are recorded; and complete the following fields in part C: port of exit; final destination; carrier; time and date of departure; and CBSA involved.

Officers should calculate and note the date the removal order will come into force and bring forward the IMM 0056B for final completion. *At the time the removal order becomes in force*, officers must complete the following fields in the IMM0056B to enforce the removal order:

- record the date of confirmation in part B. This date will be determined by calculating the period from which the removal order will come into force under A49(2).

Example: If a refugee claimant withdraws their claim on March 1, 2014, the removal order will come into force 15 days later [A49(2)(d)]. In this case, the date of confirmation will be March 16, 2014. For further information on establishing the date when a removal order comes into force, refer to, section 9.3.

- sign in the box designated for “Signature of Officer” in part C; and
- ensure the form is accurately completed.

After the IMM0056B is completed, it should be entered into GCMS/NCMS and mailed to the address provided by the foreign national. If the case was referred from an inland office, the POE officer should forward a copy of the IMM0056B to the appropriate inland office for its file.

41 When a removal order is enforced by an officer outside of Canada (Canadian Mission) – R240(2)

Officers outside Canada may encounter foreign nationals who are subjects of unenforced removal orders and who are applying to return to Canada. Pursuant to R25, an officer shall not issue a visa to a foreign national who is the subject of an unenforced removal order.

In limited circumstances, R240(2) authorizes officers outside Canada to enforce an unenforced removal order. To enforce a removal order outside Canada, officers must have the designated authority under the *Designation of Officers and Delegations of Authority by the Minister of Public Safety and Emergency Preparedness under the IRPA and IRPR*, item 224 of the Designated Officials of the International Network.

Officers should keep in mind that the CBSA's overriding priority is to maintain control of the removal process. The CBSA aims to ensure that persons who are subject to removal orders verify their departure at a POE when they depart from Canada. The enforcement of removal orders outside Canada is not to be encouraged, but applied in limited circumstances where a foreign national is applying for a visa or authorization to return to Canada [IMM1203B] and satisfies a designated officer that all of the criteria under R240(2) have been met.

41.1 Criteria for the enforcement of a removal order outside Canada

In order for an officer to enforce an unenforced removal order of a foreign national outside Canada, R240(2) establishes that the foreign national must make an application to an officer for one of the following documents:

- a permanent resident visa;
- a temporary resident visa; or
- an authorization to return to Canada under A52(1).

Before a visa or an authorization to return to Canada can be issued, the officer conducting the examination must first determine whether the person has been previously issued a removal order and whether the removal order has been enforced. If the foreign national is the subject of an unenforced removal order, the officer shall enforce the removal order under R240(2) if they establish that the foreign national is the person described in the order.

The onus is on the foreign national, who is making the application to return to Canada to prove that they are the person described in the order, and not with the officer conducting the examination. If the foreign national cannot satisfy the officer who is assessing the application, the removal order must remain unenforced and any application must be refused.

41.2 Positive decision to enforce a removal order outside Canada

After the foreign national has satisfied an officer that they have met the requirements for verifying departure outside Canada as outlined in section 40.1, the officer conducting the examination or a designated officer in the same office must enforce the removal order and issue a Certificate of Departure.

The Certificate of Departure, [IMM0056B], is a serialized, multi-copy document that serves as proof that a removal order has been enforced. This form is available in hard copy at visa offices outside Canada. For detailed instructions on completing the Certificate of Departure, see section 39.1.

Copy 2 of the IMM0056B should be accompanied by a memo instructing the in-Canada CBSA officer to input the IMM0056B information into GCMS/NCMS. Upon receipt, the CBSA officer must input the IMM0056B and other case details into GCMS/NCMS to ensure that the systems reflect the fact that the removal order has been enforced.

It is important to note that pursuant to R224(2), all departure orders that are not enforced at a POE upon departure of the foreign national from Canada *must be enforced as deportation orders*, even if the 30-day period for enforcement at a POE has not yet passed.

If the removal order is a deportation order, exclusion order (within the excluded period), or a departure order that has become a deportation order through operation of law, the applicant should always obtain the Authorization to Return to Canada under A52(1) prior to the visa issuance. This is to avoid the contradictory situation of a person appearing at a POE with a visa but without an Authorization to Return to Canada issued by an officer pursuant to A52(1).

After an Authorization to Return to Canada is granted, officers outside Canada must ensure that any outstanding warrants are cancelled by contacting the CBSA office that issued the warrant.

41.3 Negative decision to enforce a removal order outside Canada

If a foreign national who has made an application does not satisfy the examining officer outside Canada that they are the person described in the order under R240(2), the foreign national's removal order will remain unenforced. In such circumstances, any application for a visa must be refused [R25]. A foreign national who is the subject of an unenforced removal order is not entitled to obtain a visa or an Authorization to Return to Canada.

The officer should advise such persons that they are ineligible for a visa due to the outstanding unenforced removal order against them, and that if they attempt to re-enter Canada, they will be subject to enforcement action.

42 When a removal order is administratively enforced by an officer in Canada – R240(3)

A foreign national who leaves Canada and does not comply with the departure requirements of R240(1) cannot be said to have enforced their removal order. In these cases, the order remains unenforced.

In the case of a departure order where a foreign national does not meet the requirements under R240(1)(a), R240(1)(b) and R240(1)(c) within the prescribed period of time, the order becomes a deportation order by operation of law under [R224(2)]. As such, departure orders enforced under R240(3) must always be deemed deportation orders.

42.1 Verifying departure by an officer in Canada

An into force removal order against a foreign national may be enforced under R240(3) by an officer in Canada when the officer confirms, on a balance of probabilities, that the foreign national has departed from Canada, and has not returned. **R240(3) does not apply for situations where the removal order is stayed**. For additional information on stays of removal orders, please refer to Procedures 10-12.

The following list of non-exhaustive information may support an officer's determination that the individual has departed Canada:

1. Information from partners and stakeholders
2. Information directly submitted by the foreign national
3. Open source Information

To determine that the foreign national has not returned to Canada, the officer must conduct verifications in the systems, including GCMS, NCMS and CPIC.

As the foreign national is outside Canada, they will not have the opportunity to sign the Certificate of Departure or be provided with a copy of the form. Officers must complete the IMM 0056B with information that they have at their disposal. The items under Section C – Verification of Departure must be entered as "Unknown". Officers must sign and date the form on the date the officer completed their determination, based on the evidence and on a balance of probabilities, that the foreign national has departed from Canada. Note that there will be no duty to inform the foreign national that their removal order has been enforced. The copy of the IMM 0056B should remain on file and uploaded into GCMS. Additional direction is available in Operational Bulletin: PRG-2018-65.

43 Procedure: Persons refused entry to their country of destination after a Certificate of Departure has been issued

When a foreign national has been issued a Certificate of Departure [IMM0056B] and is subsequently refused admission to another country, they remain the subject of an unenforced removal order (see definition of "Unenforced removal order" in section 6 above). When refusal occurs and the person appears back at the port of entry, officers should take the following steps:

a) examine the person [A18(1)];

b) cancel the "PDP" screen in GCMS (make sure appropriate Notes are added);

c) delete the IMM0056B if it has not been microfilmed or, if it has received a microfilm number, send an e-mail to GCMS Data Quality Control at National Headquarters with instructions to delete the IMM0056B from GCMS.

d) Add note to GCMS that the removal order has not been enforced. Also include any circumstances surrounding the person's refusal into another country and include instructions to the Warrant Response Centre (WRC) to delete the PDP information from CPIC;

Note: The WRC will receive daily reports on the cancellation of "PDP" screens. Based on instructions in GCMS notes, the WRC will delete the PDP information from CPIC.

e) in the case of a departure order, advise the person of the time remaining before the departure order becomes a deportation order. The departure order remains enforceable and

can be enforced like any other removal order. Under R224(2), if a departure order is not enforced within 30 days, the foreign national has not complied with the departure requirements under R240(1) and the departure order becomes a deportation order;

f) advise the foreign national that after being refused entry to yet another country, they will be allowed back into Canada, but the removal order against them remains unenforced. (for the options available to officers after a foreign national has been refused entry to another country, refer to section 42.1 below); and

g) later, when the person departs Canada, the officer should complete and issue a new Certificate of Departure.

43.1 Options available after being refused entry to another country

When a foreign national has been previously issued a Certificate of Departure and has been refused entry to another country, the officer at the POE must conduct an interview to determine the method of enforcing the removal order. Although this assessment was previously conducted before the foreign national departed Canada, they are subject to a new determination of how their removal order should be enforced since the circumstances surrounding their removal may have changed. In addition, officers should keep in mind that the removal order is unenforced and the foreign national must comply with the criteria for a removal order to become enforced. The following options are available to officers after a person has been refused entry to another country and is being examined under the authority of A18(1).

1. Allow the person to proceed into Canada

Officers should interview the person to determine the person's ability and intent to depart Canada, and, in the case of a departure order, the likelihood of the person's leaving Canada within the 30-day applicable period (if any). When an officer believes that the person will continue to make every effort to leave Canada as soon as possible or within the time remaining in their 30-day applicable period, they should allow the person to enter Canada under R27(3). Before the foreign national is allowed to proceed into Canada, the officer should take the following steps:

- obtain information that would be useful to investigators, such as the person's Canadian address and the addresses of relatives and friends in Canada;
- remind the foreign national of the importance of leaving Canada and that they remain the subject of an enforceable removal order (if there are no stays of removal);
- counsel the person that, under A55, they may be arrested for removal if they fail to depart Canada, in the case of a departure order, after the 30-day applicable period or, in all other cases, as soon as possible;
- counsel the person that they will have to appear before an officer at a POE to verify their departure from Canada; and
- amend GCMS/NCMS to reflect the action taken, specifically that the person has returned to Canada, and provide other information concerning the person's travel plans.

2. Impose conditions and/or the payment of a deposit or the posting of a guarantee for compliance

Under A44(3), an officer may impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, on persons subject to a removal order. The purpose of the conditions and/or the deposit or guarantee for compliance is to encourage compliance with IRPA after the officer is satisfied that the person will leave Canada. Refer to ENF 8, for further information on taking a deposit, and to ENF 8, for taking a guarantee for compliance. After an officer issues a deposit or guarantee for compliance, the officer should follow the procedures outlined in Option 1 above. It is important that all deposit or guarantee information, including any conditions imposed, are input into GCMS/NCMS.

3. Arrest and detention for removal

Where an officer has reasonable grounds to believe that the foreign national who is the subject of a removal order is a danger to the public or is unlikely to depart Canada and present themselves before an officer to verify their departure from Canada, the officer may arrest and detain the person for removal [A55(2)]. After a foreign national has been arrested and detained, this information should be input into GCMS/NCMS. For procedures on making an arrest, see ENF 7.

44 Procedure: Removal to the United States

The following subsections contain detailed information about removals to the United States following the termination of the Reciprocal Arrangement on October 30, 2009.

44.1 Persons who can be removed to the U.S.

The following classes of foreign nationals may be returned to the U.S:

- a foreign national who is a citizen of the U.S.
- a foreign national who is a national of the U.S.

A national of the U.S. is a person who is not a citizen of that country, but who owes permanent allegiance to it. Similar to Canadian Immigration laws, U.S. Citizens have the legal right to return to their country whereas permanent residents have the right of abode that only a U.S. Immigration Judge will determine if it is in question. The receiving U.S. POE will accept verbal notice of the deportee's return to the U.S. if they are properly documented.

44.2 Documents required when removing to the U.S.

U.S. officials require that all individuals entering their country be properly documented.

In line with the documentary requirements under the Western Hemisphere Travel Initiative (WHTI), which are the primary recognized documents to assert an individual U.S. citizenship, other satisfactory confirmation of U.S. status can be presented.

During the course of their investigation, officers will continue to perform database checks and gather all the necessary evidence providing status to the individual in the U.S and be prepared to provide identity documents; such as passports, emergency travel documents, birth certificates, certificate of naturalization etc. The documentation will support and provide evidence to U.S. officials during the removal.

44.3 Advance notice of deportees of interest to U.S. law enforcement authorities

If, well before the actual removal, officers are aware that a deportee is or may be of interest to law enforcement authorities in the U.S., officers should provide the appropriate law enforcement agency with advance notice of the relevant facts and circumstances of the case and the person's travel arrangements.

44.4 Persons issued a direction to leave or a direction to return to the U.S. after applying for entry at a Canadian POE

In these cases, the foreign national will have:

- a copy of the *Direction to Leave Canada* [BSF503] because an officer is unable to examine the person under R40(1); or
- a copy of the *Direction to Return to the U.S.* [BSF505] under R41 because an officer is not available to complete an examination, the PS Minister is not available to review an A44(2) report, or an admissibility hearing cannot be held.

45 Procedure: Removal to the United States for variable cases

This section contains detailed information about removal to the United States for variable cases.

45.1 Notice to the U.S. in cases involving medical care or treatment

The officer must provide advance written notice of the return of any removal case to the U.S. if the officer has evidence to suggest that medical attention is required because of a mental or physical condition. The written notice of the return of the person being removed must include:

- a written opinion of a competent authority (such as a medical doctor or an official of a medical institution) confirming the need for care or treatment;
- a description of the facts and circumstances of the case; and
- the deportee's travel arrangements. The officer must supply this information as soon as possible if they are not able to do so when giving notice.

45.2 Official records and privacy consideration

Under the *Privacy Act* the officer may provide information from the CBSA's files to U.S. authorities:

- to establish that a deportee is returnable;
- to ensure that appropriate arrangements for reception are made for deportees requiring medical care;

- to find out whether the deportee is wanted by U.S. law-enforcement authorities; and to assist port-of-entry procedures if safety and security factors may be indicated.

The USDHS may provide information from its files to Canadian government offices for these purposes. In cases involving criminality (such as deportees wanted by Canadian police authorities), U.S. authorities will communicate directly with the RCMP.

Officers may furnish U.S. authorities with fingerprints and photographs obtained under A16 only when identity is in doubt.

45.3 Notification of persons being removed for criminal or drug offences

Officers notify the missions abroad of persons being removed from Canada to any country for criminal or drug convictions. In U.S. cases, officers should also notify the U.S. immigration attaché in Ottawa and the receiving USDHS authorities.

Officers should ensure that the U.S. immigration attaché is notified of all persons being removed to the U.S. for all criminal or drug offences, and the reason they have been found to be in contravention of A34, A35, A36(1), A36(2) and A37.

45.4 Request for confirmation of vital statistics in the U.S.

An officer must make all requests in the most expedient manner, such as priority post, facsimile, e-mail and so forth.

For New York City, the request must be in the following form:

I have been authorized by (*name)* to obtain confirmation of the birth of (*name)* on (*date)* at New York City in (*borough)*, son of (*father's name)* and (*mother's name)*. Please confirm birth particulars as soon as possible, by courier, facsimile, telegram or whatever is local office procedure.

Officers should send the request to:

> Director of Vital Records,
> NY City Department of Health, 125 Worth Street, Room 133,
> New York City, N.Y. 10031

For foreign nationals under a removal order who were born in Georgia, officers should make the request, including all relevant information, through the Immigration Section of the Canadian Consulate General in New York City. The consulate will inform the officer of the findings of the search made by the Georgia Department of Human Resources. If the officer needs a birth certificate, the same procedure should be followed; the consulate will obtain the document and send it to the officer. The consulate will cover all costs.

Some states have specific requirements for confirmation of birth particulars, and several charge fees.

For the following states, officers should make the requests through the responsible Canadian consulate:

- Connecticut: requires a written government request and the written consent of the individual concerned;
- Iowa: send requests through the Buffalo office;
- Nebraska: fee, billed to the Buffalo office;
- New Hampshire: fee;
- Oklahoma: requires a letter of authority from the foreign national concerned and particulars of the foreign national's parents, including the mother's maiden name; fee;
- Texas: keeps statistics by county and requires the consent of the foreign national concerned for every county except Dallas; fee;
- Wisconsin: fee, billed to the Buffalo office.

If the officer encounters problems in verifying births in a particular state, they should contact the immigration section of the responsible Canadian consulate, which will then contact the vital statistics department with the request, guarantee payment of any fee, and return the information to the officer.

When the officer sends a request through a consulate, the officer must provide the office's financial code so that the consulate can recover any expenses incurred.

If a state refuses to release birth information because the foreign national concerned will not consent to its release, and all other methods have failed, the officer may have to contact the U.S. immigration attaché.

If the officer has asked the U.S. immigration attaché or USDHS to confirm or secure vital statistics for foreign nationals under a removal order, and the officer has then been able to get the information from another source, they must inform the attaché or USDHS immediately.

45.5 Removal via the U.S. to other countries

Escorted persons: Officers require the consent of the U.S. Immigration Attaché in Ottawa to remove a person under escort via the U.S. to a third country. On arrival at the U.S. POE, the escort officer must:

- obtain a US 1-94 form from the U.S. examining officer;
- have the form signed by the master of the vehicle by which the person's departure from the U.S. is effected;
- return the signed form to the U.S. port of issue; and sign the *Certificate of Departure* [IMM0056B] after the departure has been verified.

Unless the officer makes other arrangements with the USDHS, it is the CBSA’s responsibility to arrange for an escort for the removal via the U.S. of a foreign national deported after admission to

Canada, if the foreign national must disembark in the U.S. en route to a third country. This provision applies even if the airline does not require the foreign national under a removal order to be escorted.

Removal by air: If officers remove a person from Canada on an aircraft that merely calls for servicing at a U.S. airport and then continues to its destination in a third country, officers do not need to provide an escort through the U.S. Officers must give advance notice to the USDHS office where the aircraft lands regarding the expected date and time of arrival and departure, so that the person does not disembark and the USDHS can verify departure. Depending on local office procedures, officers may also inform the U.S. Immigration Attaché.

Removal on ships calling at U.S. ports: An escort is not necessary when officers are removing a person from Canada to a third country on a ship that may call at a U.S. port before proceeding abroad. If officers know the port of call, officers must inform the USDHS officer in charge or the USDHS regional director. The ship's master is responsible for safeguarding the person and informing the USDHS officer in charge that the person is on board.

The officer is still required to escort the person under a removal order who is brought into either country in transit for embarkation on a ship.

PART VI – File Closure

46 Procedure: File clean-up after removal

Once a person has been removed from Canada, there are still additional procedures that must be completed before the file can be considered complete. The officer responsible for the removal should ensure that:

a. the IMM0056B is on file and entered into GCMS/NCMS and any local case-tracking procedures are completed;
b. NCMS is updated and all processes concluded;
c. the appropriate copy of the removal order has been sent to the Records Services Division, Microfilm Unit at IRCC-NHQ to be microfilmed; and
d. case notes that are relevant to the removal are added to the file, including a copy of any incident report if the officer encountered such actions as physical resistance or threatening comments on an escorted removal.

The officer should also take the following steps:

e. if necessary, request that the return of a security deposit or guarantee for compliance is actioned. For further information on the refund or forfeiture of a security deposit or guarantee, refer to ENF 8;
f. for billing purposes, contact the appropriate officer in transportation liability cases where the CBSA has made removal arrangements on behalf of the transportation company. In cases where the transporter is liable for the removal costs, the officer should ensure that an BSF501 form is completed and a copy sent to the Transporter Obligations Program along with associated e-ticket/s and any supporting documents (e.g. Certificate of Departure, escort expense statements). This form outlines all costs incurred in removing a person from Canada (with the exception of detention costs). Expenses include flight costs for deportees and escorting officers, fees for travel documents, fees for visas, wages of escorting officers

including any overtime, accommodations, meals and incidentals, public transportation costs, entry/exit permits, etc.;

g. if appropriate, contact the Crown counsel to confirm that a person has been removed from Canada;
h. notify other agencies (i.e., parole, probation, welfare, health, Human Resources and Social Development Canada, etc.) to confirm that the person has been removed from Canada; and
i. return any seized government-issued documents to the respective agencies (i.e., driver's licence, social insurance cards, health cards, etc.). For further information on disposing of seized documents, refer to ENF 12, section 11.

There may also be other local procedures in place for larger offices, such as archiving files. Officers should refer to local office policy for concluding removal cases. On occasion, a file can be closed for reasons other than the successful removal of a person from Canada. Some possibilities include the following.

j. If a person is deceased, GCMS should be updated accordingly, along with explanatory remarks. Officers should update NCMS and complete the notes to file.
k. If the USDHS advises the CBSA that a person has been apprehended in the U.S. and deported to their country of nationality, CBSA can confirm a person is no longer in Canada. An update to GCMS should be entered along with explanatory remarks. Officers should update NCMS and complete a memo to file;
l. If an officer at a Canadian mission outside Canada has enforced a removal order pursuant to R240(2) and issued a Certificate of Departure, visa officers have been instructed to send the responsible removal office in Canada a copy of the notes and the IMM0056B. Upon receipt, the officer at the removal office in Canada should input the provided information into GCMS/NCMS.
m. If a decision is made to grant permanent resident status, officers should update NCMS. The removal order becomes void when the person becomes a permanent resident under A51.

Officers must be satisfied that the file is no longer considered an active removal case before concluding. If officers have any concern about whether a case should be closed, they should contact their manager or supervisor for assistance.

47 Procedure: Entering previously deported persons into CPIC

The primary objective for entering previously deported persons (PDP) into the Canadian Police Information Centre (CPIC) is to enhance public safety and security by providing peace officers with the necessary information to form reasonable grounds that the person may be arrested without a warrant under A55(2)(*a*). The CPIC-PDP database will equip peace officers across Canada with information that a foreign national has been deported from Canada, has returned to Canada without the authorization prescribed under A52(1) and, at the time of the person's removal, there were reasonable grounds to believe that the person was a danger to the public or was unlikely to appear.

After a name is queried in CPIC and is a direct match with a person found in the PDP database, CPIC will instruct law enforcement partners to contact the WRC for further assistance. For the purposes of arrests made without a warrant under IRPA, peace officers as defined in section 2 of the *Criminal Code* have the authority under A55(2)(*a*) to arrest and detain a foreign national without a warrant. For further information on arrest and detention by peace officers under IPRA, see ENF 7, section 16.

Information on individuals in the CPIC-PDP database originates from the GCMS-PDP database. For more information on who will be added to the GCMS-PDP database, see section 46.1 below; for information on who will be added to the CPIC-PDP database, see section 46.2 below.

47.1 Who will be added to the previously deported persons database in GCMS?

Persons issued a *Certificate of Departure* [IMM0056B] and removed from Canada under a deportation order or a departure order that has become a deportation order will be added to the GCMS-PDP database, except where the removal order was issued to a person described in A42(b) as an accompanying family member and is therefore exempted from the need for authorization to return to Canada as required under A52(1).

In such cases, the deportee will be added to the GCMS-PDP database and a previous deportee (PREV.DEP) flag will be enabled in GCMS.

Note: Persons removed pursuant to exclusion orders and departure orders will not be added to the GCMS-PDP database at this time.

47.2 Who will be added to the previously deported persons database in CPIC?

There will be an automatic transfer to the CPIC system of PDP information on individuals who meet the criteria in section 46.1 above and for whom, at the time of departure, there are reasonable grounds to believe that the person is either:

- a danger to the public; or
- unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under A44(2).

48 Procedure: Repayment of removal expenses

As per section 243 of the IRPR, all foreign nationals removed from Canada (under deemed deportation, deportation, departure or exclusion order) at the CBSA's expense are required to repay the costs of their removal in order to return to Canada, provided the costs are not recovered from a transporter.

In the absence of transporter liability, foreign nationals must repay:

- $3,840 for removal without escort or under escort other than by air; and [R243(a)]; and
- $12,880 for removal under escort by air [R243(b)].

Foreign nationals must be counseled on the requirement to seek repayment of removal costs should the CBSA pay for their removal from Canada. Many foreign nationals opt to purchase their own airline ticket for removal purposes in order to avoid this fee.

In most cases, foreign nationals who are required to repay removal costs will pay the fee as part of an application for an Authorization to Return to Canada or application for a temporary resident visa at a visa office overseas before travelling to Canada. Additional information on the ARC can be obtained at IRCC - Authorization to return to Canada (ARC) (ci.gc.ca).

However, there may be situations where foreign nationals are required to pay the fee at a port of entry. For example, foreign nationals who are visa-exempt may arrive at a port of entry and seek entry to Canada without having paid the required fee as part of an application overseas. In these cases, it will be the BSO's responsibility to properly assess and collect the fee, as required. Additional information for BSO's at the POE can be found in OB PRG-2014-49.

49 Procedure: Victims Bill of Rights

As part of statutory obligations under the Canadian Victims Bill of Rights, subparagraph 26(1)(b)(v) of the Correctional and Conditional Release Act requires that Correctional Services of Canada (CSC) notify registered victims of the offender's removal from Canada, if removal occurs before the expiration of the sentence. Because of this, the CBSA must provide CSC with the removal date through the Offender Management System (OMS).

As part of departure verification activities following the removal of a federal offender (relevant dates can be found in OMS and/or on file), the officer shall input the date of removal in the immigration screen of the OMS if the offender's sentence has not expired. This should be done as soon as possible following removal in order that CSC can meet its statutory obligations to provide victims with relevant and timely information concerning the removal, and should be part of regular post-removal file clean-up activities.

50 Procedure: Electronic Travel Authorization Cancellation

The Electronic Travel Authorization (eTA) is an entry requirement that allows Canada to pre- screen visa-exempt travellers, apart from U.S. citizens and certain other exempt travellers, in order to flag foreign nationals with any known inadmissibility concerns before they travel to Canada by air.

An eTA will be valid for up to five years or until the passport expires, whichever comes first. However, an eTA can be cancelled in cases where an officer determines that a foreign national is inadmissible. Pursuant to section 12.06 of Immigration, Refugee Protection Regulations (IRPR), an officer may cancel an electronic travel authorization that was issued to a foreign national if:

(a) the officer determines that the foreign national is inadmissible; or

(b) the foreign national is the subject of a declaration made under subsection 22.1(1) of the Act.

As per the IRCC Instrument of Designation and Delegation, inland enforcement officers are delegated to cancel an eTA. If an individual is removed but still has a valid eTA, the officer must first review the file and determine that the person is inadmissible to Canada, make notes documenting that decision, and then cancel the eTA when closing the file. Once the removal has been enforced, the officer will inactivate the eTA in GCMS and issue correspondence that will notify the foreign national by email of the reason the eTA was cancelled and further options they may pursue (may seek a Judicial Review of the decision at the Federal Court level). The "How to Inactivate an eTA, Issue eTA Cancelled Letter" guide provides instructions on how to inactivate the eTA and notify the traveller of the cancellation.