

2015

'FOI' 101 Workshop Materials

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FOI 101

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Hands-on Skills Training Workshop

RELEASED UNDER THE ACCESS TO INFORMATION ACT
DIVULGUE SOUS LA LOI DE L'ACCÈS À L'INFORMATION

Canada Border Services Agency
Agence des services frontaliers du Canada

UNCLASSIFIED

For: Action

DIRECTION REQUIRED ON THE EXAMINATION AND DETENTION PROCEDURES FOR THE SECOND ARRIVAL

For the Executive Vice-President

PURPOSE:

- The purpose of this briefing note is to obtain guidance on procedures for processing migrants arriving by marine mode.
- An arrival is imminent, so your decision is required as soon as possible.

ISSUE:

- If CBSA officers follow the standard process for processing refugees, who are otherwise not inadmissible, it is very likely that there will be no authority to detain individuals arriving by marine vessel.
- It is very possible that individuals on board marine vessel may pose a security risk. However, with no evidence of criminal history, it is uncertain under what authority these individuals could be held.

BACKGROUND:

As per normal processing procedures for refugee claimants, when an individual, who is not otherwise inadmissible, arrives at a port of entry and is able to satisfy a Canada Border Services Agency (CBSA) officer of his or her identity, he or she is released on relatively general conditions. When considering an individual's identity, officers may consider the totality of documentation and statements and may not necessarily require the individual to present a valid and subsisting passport. In cases where an individual, who is not in possession of a valid and subsisting document, is released, conditions of release may be modified to take into account the lack of formal documentation.

In cases where there is credible and trustworthy evidence of criminality or inadmissibility on security grounds, the Act allows for the individual to be detained. This evidence will often take the form of admissions from the individual or official records from a government source.

STATUS:

With the information currently provided, it is likely the claimants will be released almost immediately as it is quite possible they will be in possession of valid documentation. Even if they do not hold travel documents, as soon as an officer is satisfied of the individual's true identity and there is no evidence of serious inadmissibility, they may be released. This, however, is still dependent on whether there is a unique discovery for which a more extensive investigation is warranted, but not including a government source in Sri Lanka.

Furthermore an argument for "Unlikely to Appear" is not applicable as past experience indicates that these individuals are likely to appear at least until removal is apparent.

Section 58 (1) (c) of the Immigration and Protection Act states:

The Immigration Division shall order the release of a permanent resident or foreign national unless it is satisfied, taking into account prescribed factors, that

(c) the Minister is taking necessary steps to inquire into a reasonable suspicion that they are inadmissible on grounds of security or for violating human or international rights

Unless this section is invoked, detention will need to be based on "Danger to the Public", which is a complex burden to overcome.

RECOMMENDATION:

The Pacific Region recommends that headquarters identify a Detention Strategy to provide guidance on whether future mass refugee claimants will be detained. Additionally, should the refugee claimants be detained, it is recommended further direction be provided by Headquarters on the reasons for detention.

'Flag for Follow-Up' Exercise

Objective: Demonstrate the practice of reviewing documents obtained through ATI/FOI in order to generate ideas for follow-up requests.

Scenario: It is August 2010. You are a researcher studying issues related to citizenship, migration, and borders.

In early August, Canadian authorities intercept the Sri Lankan vessel MV Sun Sea off the coast of British Columbia. You file an ATI request with the Canada Border Services Agency for "Memoranda to the Executive Vice-President, CBSA regarding the detention of migrants arriving by boat / ship". Two months later, you receive the above memorandum.

Question: How can this document be 'mined' for ideas that could inform one or more follow-up ATI/FOI requests?

Getting Started

Objective: Walk through the steps that connect the identification of a new research idea with the preparation of an ATI/FOI request.

1

Identify a general research topic / idea that could be explored using ATI/FOI.

2

Identify one or two key research questions (things that you want to know).

3

Make a list of government bodies that might have information that could help you to explore your research question(s)

4

Make a list of the types of records that might pertain to your research idea.

Drafting a Request

Objective: Build on the ‘Getting Started’ exercise by drafting a formal ATI/FOI request.

- Request Preparation Checklist
- ☐

Target agency is specified
- ☐

Records of interest are clearly described
- ☐

Optional: Contextualizing statement is included
- ☐

Optional: Desired record format is described
- ☐

Optional: Document versions of interest are indicated
- ☐

Optional: Indication of types of records that are *not* of interest
- ☐

‘Problem phrasing’ is avoided
- ☐

Date range is indicated (if possible)
- ☐

Contact information is included (and preferred mode of contact, if desired)
- ☐

Request form / letter specifies preferred method of viewing records (attend government office / receive copies of originals)

Consider: Is the request too broad? Should it be split into several focused requests?

Government Body:

Description of Records: