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**The Challenges to Responding to Human Smuggling in Canada:
Practitioners Reflect on the 1999 Boat Arrivals in British Columbia**

**Alexandra Charlton, Suzanne Duff, Dan Grant, Alison Mountz, Robin Pike,
Joshua Sohn, and Chris Taylor**

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**The Challenges to Responding to Human Smuggling in Canada:
Practitioners Reflect on the 1999 Boat Arrivals in British Columbia**

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December 2002

Dedication:

In memoriam, we dedicate this paper to Chris Taylor, Regional Director General of the Regional Headquarters of Citizenship and Immigration Canada when the events discussed took place. Chris devoted many years of his professional career to citizenship and immigration in Canada. He was an avid participant and constructive leader in all matters pertaining to immigration, including this project.

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Abstract: This paper is the collective contribution of seven people involved in the response to human smuggling in British Columbia. All were involved in the events surrounding the arrival of four boats that landed 599 undocumented migrants from China on the BC coast in the summer of 1999. The seven participants spoke at a workshop held at the Fifth National Metropolis Conference in Ottawa in October 2001. They dedicated the first half of the workshop to presentations in which individuals from a variety of institutions explained the mandate and culture of their institution, their roles and responsibilities in the response to human smuggling, and the main challenges that they faced in the cross-institutional coordination of that response. They, together with other workshop attendants, dedicated the second half of the workshop to a facilitated dialogue in the form of a question and answer session.

Key words: human smuggling, boat arrivals, Canada, British Columbia, cross-institutional collaboration, refugee determination process

Acronyms:

BC	British Columbia
CIC	Citizenship and Immigration Canada
CSIS	Canadian Security Intelligence Service
DND	Department of National Defense
NGO	Non-Governmental Organization
NHQ	National Headquarters of Citizenship and Immigration Canada
POE	Port of Entry
RCMP	Royal Canadian Mounted Police
RDG	Regional Director General
RHQ	Regional Headquarters of Citizenship and Immigration Canada
UNHCR	United Nations High Commissioner for Refugees

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* Please note that the views and opinions expressed in this document are those of the individual speakers and do not represent the views and opinions of the institutions where speakers are members or employees.

Introduction

During the summer of 1999, four boats arrived off the west coast of British Columbia (BC) carrying a total of 599 migrants smuggled directly from Fujian, China. After their arrival, most of the migrants made refugee claims. Once the first group of migrants had been processed and released, many disappeared, thus abandoning their refugee claims. In response, the federal government detained most of the migrants who arrived on the following three boats. Because of the scale of the boat arrivals and the decision to detain refugee claimants, Canadian governmental and non-governmental institutions faced unprecedented challenges in responding to this migration. Many of these challenges involved collaboration and resource sharing among institutions. While other federal departments and other levels of government were involved, Citizenship and Immigration Canada (CIC) held primary responsibility, with its mandate to facilitate immigration and to enforce international borders in relation to human migration.

This paper is a collective contribution made by seven people – with distinct perspectives – involved in the response to human smuggling in BC in 1999. They convened at a workshop held at the Fifth National Metropolis Conference in Ottawa on 20 October 2001 with the goal of furthering the dialogue about the cross-institutional response to human smuggling. They dedicated the first half of the workshop to presentations in which individuals explained the mandate and culture of their institution, outlined their roles and responsibilities in the response, and reflected upon the main challenges that they faced in the cross-institutional coordination of that response. Together with other workshop participants, they then dedicated the second half of the workshop to a facilitated question and answer session.

The objective of this paper is to continue the dialogue about the many challenges to responding to human smuggling in Canada, as outlined by speakers. Speakers were asked to address the following questions:

- (1) What is the framework within which you work (e.g., the mandate and culture of your institution)?
- (2) What are your roles and responsibilities in responding to human smuggling?
- (3) What have been the main challenges in the cross-institutional coordination of the response?

Organizers tape-recorded the workshop with the hope of documenting and contributing this exchange to a broader audience, thus drawing additional people into dialogue. The tapes were then transcribed at the University of British Columbia. What follows are seven statements that have been edited minimally. Excerpts from the question and answer session follow the seven statements.

Speakers' Statements

Dan Grant, Senior Planner, Citizenship and Immigration Canada RHQ BC/Yukon

We've been working with Alison and Metropolis for about a year now, looking at the particular issue of how we responded to boats in the summer of 1999. I had a key role in that, as did the gentleman on my left [Chris Taylor]. I was involved in the planning and operations with critical response, at the Command Centre at our regional office. Jim Redmond – who is not here due to a family emergency – was the one you saw on TV all the time. He was the Incident Commander out on the boats with our response team. Chris Taylor, who will speak next, was the executive head, the Regional Director General; so he was the boss of the department.

I guess what we're, or Alison's looking at, and we're trying to help her understand, is to give her some insight as to how the bureaucracy operates during a critical incident. People tend to run for cover, and others tend to rise to the occasion, and all sorts of things happen that don't usually happen during the regular workings of the bureaucracy, in my experience.

What I'm going to try to do is speak about context. Most of you know what CIC does. I think we were on the front page of the paper 80 times. So how we responded is generally a matter of record because it was done in the public eye. But maybe I can give you some idea as to why we did what we did, when we decided to do it that way. Certainly I'm going to be challenged by my colleagues up here who work for other constituencies, who have other mandates, or are with other levels of government. The framework in which I work – of course, we have a federal mandate flowing from Section 95, the Constitution Act, as well as various other pieces of federal legislation, specifically the Immigration Act and Regulations. We tend to have, particularly in this line of work, an "enforcement culture" in this particular business line of examinations and inspections. There's other business lines – citizenship, settlement and integration – but certainly in this operation, there was an enforcement culture. We apply legislation; we interpret regulations. We have a public safety mandate, and the Department seems to be focusing a fair bit on the public safety side of our mandate, certainly since September 11th. But we also have a client-service culture. Chris Taylor was the champion of client-service for the Department. We're people-focussed because our primary clients are people.

In planning and leading the response, we were most concerned with the safety of clients and the safety of our responders – our first priority. This was potentially a very dangerous situation for all people involved. We were concerned with the privacy of refugee claimants. That’s a close second to safety. We don’t necessarily want their pictures in the paper. Most of the migrants were making refugee claims and so both of those factors – safety and privacy – figured in our operational responses.

We are a very small department, CIC, notwithstanding our public exposure. And you have to understand exactly how small we are. Compared to say Canada Customs and Revenue, there are very few people in Immigration. I think in the Regional Office in Vancouver, there are maybe 400 staff. Not in the Regional Office, but in the entire *region*; in the whole province, including all our points of service. And of those, maybe 125 would be actual immigration officers. So we’re a small office, and yet we have a huge mandate with a very public focus. We have tactical units and policy units, but policy people tend to be at [National] headquarters (NHQ), here in Ottawa. In the region, I guess it’s the Regional Director General (RDG) and anyone whom he has in his Secretariat Services, such as myself, who tries to marry policy to operations, or make it up if there’s a gap, and there were gaps here.

Now my planning responsibilities include developing the annual priority exercises, writing business plans and tactical plans. In this instance, it was tactical planning. Every year we write do environment scanning – internal and external environment scans – so that our managers can set their priorities and then focus their delivery. We first identified a risk, or recognized a risk, from marine smuggling in our 1993 scan.

By talking about marine, there’s three ways they come at us: “dedicated boats,” which is really what happened in 1999 – we had five boats. Four of them we got; one we missed. We actually also had a boat in 1998. We got the boat but we missed the migrants, so there were six boats all together. We also have “container smuggling,” and we now have what we call “vessel piracy,” such as what we saw this summer. We had one off the west coast where they dropped them on the *West Coast Trail* after the Master of a Taiwanese shipping vessel claimed that the vessel was pirated. They forced him to drive the boat to Canada and dump them on shore, and then the boat went back out to sea. So those are the sorts of response that we’re having to deal with.

We began to recognize a risk in our 1993 plan. We actually had an existing contingency plan for marine arrivals that was written in the late 1980s. The threat then was seen as coming from Europe. I don’t know if you remember the *Motor Vessel Amelie*, which was a boatload of Indian

nationals that arrived off the east coast and came ashore in lifeboats near Halifax. So we had a west coast marine arrivals plan, but it was really out-of-date by the mid-1990s, and actually it was based on legislation that we no longer had. So we were concerned about capacity and responsiveness. In those early years the primary objective and the favoured target of marine smugglers was the continental United States. And occasionally boats were migrating towards South American destinations for trans-shipment by land to the United States. But by June of 1998, things were developing in the United States. With respect to the “picket line” they had out in the Pacific and what they were doing on Guam and Tinian, we anticipated that we might get boats too, so we started planning in June of 1998.

The previous plan was a “catch and contain” plan where once they got on the land you would sort of try to round them up; we called it a “high water plan,” once they’re on the beach. We began to examine whether we should have an operational response on the water, in terms of exercising sovereignty right out to the territorial limits of Canada. We held a number of meetings in the summer of 1998, between all the federal departments; well not all of them, the ones that we thought about at the time; that’s one of the concerns – we probably left a few out. But certainly CIC, the Royal Canadian Mounted Police (RCMP), and Canada Coast Guard began planning our collective response. We did tabletop exercises and our last one was done in May of 1999 – and we got our first boat on the 9th of July, 1999.

From our planning, a recommendation was made to Chris Taylor, the Regional Director General (RDG), that we set up a dedicated marine response team of immigration officers that would actually go out on the water and try to deal with the sort of situation that we saw in the United States: a boatload of migrants in the control of smugglers who were probably nefarious individuals, [placing] the migrants under some threat. So we actually outfitted a team, and we trained them through the Canadian Navy. It’s difficult, for example, to board a vessel at sea and at speed. Sometimes you’re dropping from one vessel to the other; it’s like 17 feet and the boats are going like this [hand motions]. So we had issues around health and safety for federal officers, and our people. Finally in 1999, we encountered our first boat, and we really commenced what we call the ‘Summer of the Boats.’

I have to say that we didn’t know in advance that we were going to get hit. I remember being in a meeting with Chris Taylor, and the media was really hammering us on that: “What did we know, and when did we know it?” And “we must have known because we were so well prepared.” And Mr. Taylor challenged them to put that in the paper: “Immigration is too prepared.” We didn’t know. Everyone was convinced we knew, that there was some secret US spy satellite up there that was

telling us stuff. I took the first call on the 20th of July from the Canada Coast Guard and it was the Captain of the Coast Guard Vessel Tanu, and he said, "We've got some migrants here, and two of them are swimming to shore. What should we do?" I said, "Well where are they?" He gave me the latitude and longitude, and I said, "Well where the hell's that?" And he said, "Nootka Sound." I said, "God, way over there!" That was the first landing place in British Columbia centuries ago, and here they were at Nootka Sound again. I said, "Well how far off are they?" He said, "Oh about 100 metres from the shore." So we were going, "Wow, this is weird." We said, "What are you going to do?" And he said, "Well what are *you* going to do?" I remember him saying, "You know, we've got boats." And I said "Of course you've got boats, you're the Navy." And he said, "No, no, *you* have a boat." And it was then we realized that we do have a federal mandate, and we felt good that we had a response plan that we could exercise and that we had been thinking strategically and tactically at the local level. But we didn't know until they were on the beach.

By the end of the summer we got a little better in our immediate response because we started using Auroras and C-130s that the Department of National Defense (DND) had deployed and were flying out on surveillance. The last boat – I remember I was actually in Washington when the Regional Director General [RDG] phoned me to say, "Come home." We had 36 hours before arrival; so I got all the way back from Washington, D.C. to Vancouver and set up the Command Centre before we even had to go out. So we got a little better at knocking them off further out.

Basically what happened is I briefed the RDG; we flashed up our Regional Command Centre; and then all the decisions had to be made. I was acting as the Command Centre Chief. The Director of Marine Operations was Jim Redmond (who was supposed to be here). He actually went out with his team on the boats. So we had to get a lift – get the team lifted out – it was way up and out in Nootka Sound, and the second and third boats were up on the Queen Charlottes. The second boat was a tremendous logistical nightmare, that one, because people were at risk of drowning and hypothermia. The Captain had actually jockeyed the boat right up onto the beach and then dumped them over. Some of them fell in the water, and there were people in the bush. It was a logistical nightmare.

So then we essentially implemented our existing detailed response plan. In my function, I was the point of contact between the Regional Office [in Vancouver] and the National Headquarters [in Ottawa]. I have to admit, well, they're not here so ... they were pretty low profile for the first couple of days. I think they were saying, "Well, let's see what BC does on this." Mr. Taylor was in meetings all the time with Admirals and the like because we had to get capital ships; we had to task

the Coast Guard or the military to fly us; we had search and rescue operations running; we had a guy literally die on the beach and we had to get him out of there – he actually lived. We had Buffalo airdrops onto the beach, equipment to protect, because it was so remote – to feed them and things like that. And then the whole thing kicked in. We took calls from, and were working with Emergency Preparedness BC, as well as the Red Cross, and later we got involved with the United Nations High Commissioner for Refugees (UNHCR) and some of the local non-governmental organizations (NGOs), and a lot of the people at this table.

Jim Redmond set up a team of 14 Immigration Officers who were deployed on the water. Twice the working platform was a Coast Guard vessel, and twice it was a DND capital ship, like the HMCS Huron. The primary task was the safety of officers and migrants. And keep in mind, the whole purpose of this research Alison is doing is to look at how government marries policy and operations. So, imagine all the policy issues behind all this stuff, plus the different federal and provincial mandates, plus mandates of other partners – that is going on as I talk about this. We deployed with a medical team, a doctor, and two paramedics; we deployed with an RCMP boarding team to secure the vessel. There tended to be 14 smugglers on each vessel, and they weren't nice people. Most of them had been thrown overboard by the time we boarded the vessel. Most of the vessels were 50 metres, so about 150 feet. They were very unsound. The second one was listing 11 degrees when we boarded it. They tried to sink one from under us. They tried to pull the sea cocks, so the vessel was going down. The third vessel almost blew up. The Navy was concerned that if we turned the motor back on, the vessel would blow up. Two hundred people were on the vessel, including 50 responders. So there was an issue of the security of the vessel. The migrants were in fair shape medically, but they'd been on the vessels for 30-50 days, so dehydration was the biggest problem. We were working 300 metres to 2 miles offshore and twice in pretty heavy seas of about 4 metres, like 9-12 foot swells. One boat dropped a load and ran back to sea. That was the second boat. One was actually arrested through hot pursuit with the RCMP. Our task was to secure the vessel and the subjects and take them off to a Port of Entry (POE) for examination. It was logistically very demanding, as you can probably imagine, distances and all that.

There were a total of 599 people over 4 boats. We missed 70 on the first boat [prior to the four that were intercepted] that we never found. The boat sank, but they weren't on it. We got roughly 120 to 155 people per boat. I think 10 percent of those were minors, meaning children, and about 15 percent were women. We released the first boatload after examination, and they absconded. They just disappeared. So from boat 2 to 4, they were detained. Most made refugee claims, and some were excluded. We built a detention facility at Victoria, at Work Point Barracks in Esquimalt.

By boat three, we had a large site there with 30 Britco trailers and a gymnasium, fenced and everything. We used it for examinations. It took 10 to 14 days to move them through medical triage and everything, through the process; and there were doctors and nurses completing the x-rays. Some were in detention for quite long periods, over a year. And the whole operation cost upwards of \$60–70 million, above normal operating budgets of CIC and other federal partners.

Chris Taylor, former Regional Director General, Citizenship and Immigration RHQ BC/Yukon

I'd been Regional Director General (RDG) for five years in British Columbia. The summer of 1999 was, without a doubt, the most difficult period of my work life in the federal government, having joined the service in 1981. As Dan was giving you glimpses of it, it's an absolutely unbelievable story; and I'm so glad that Alison is going to be, through her research, telling parts of that story. There is so much to tell and so much to learn from this story. To keep my presentation to ten minutes is my main challenge; because as some of you know, I could talk on this topic for hours and have.

The first question is what was the mandate or framework within which I worked at that time as the RDG. The clear mandate of the Department [is] addressing the four major objectives for immigration and refugees – the selection objective overseas, the protection of refugees within Canada, the settlement support or citizenry programs, and finally, the enforcement of the Act. The culture of the organization, which Dan described from his perspective and the perspective of human smuggling. The broad culture is one of this continuing balance between facilitation and control. It is, I think, one of the most difficult tasks for a Minister to have to represent both the admissions, selection, and facilitation aspect; and at the same time represent the control, enforcement, and security aspects of the organization; and especially with the recent events of September 11th, where you have such a massive shift in some of the emphasis.

It's sometimes forgotten, but needs to constantly be kept in front of us that on the admissions side, we are the country with the largest per capita immigration intake in the world. *In the world*. We have the highest rates of in-Canada refugee acceptance as far as I know from the recent sets that I've looked at in the West, and we have generous settlement programs combined with active promotion of citizenship. On the other side, on the control side, at least last year when I checked these figures, we had over 8,000 deportations a year, which is prioritized and has been for as long as I've been watching the business by first focusing on criminals, second field refugee claimants, and then anybody else; and usually we don't get to anybody else. We have a high profile war crimes program. We have – obviously now – a large emphasis on terrorism and security. [We do] close work with

federal police and agencies, and not withstanding Dan's comments about the enforcement and control obligations, it is a constant challenge in working with these agencies – who come from clear command-control frameworks with investigative powers – to work with them because we are not there yet, either legislatively and culturally.

The second question was what were my roles and responsibilities with respect to human smuggling. As Dan was alluding to, as RDG, you sit on top of the complete process. So you look at prevention, receiving, processing, prosecution, protection, removal. [In terms of] the RDG's roles, you work with Ottawa, the Assistant Deputy Minister and Deputy Ministers developing and implementing strategic operational plans with respect to human smuggling. You work with the regional management team to give an effective plan at all levels, program levels, corporate levels, communications. You work with government partners to support the plan, many of which Dan mentioned: DND; Department of Fisheries and Oceans; Health; Justice; RCMP; Canadian Security Intelligence Service (CSIS); the Province in different aspects: Ministry of Children and Families (MCF), BC Corrections. You work with non-governmental organizations to explain the goals of the plans and results.

One of the things that I was doing was thinking about the roles and responsibility relationship, how the time – *my* time at least – was divided up across those. This is how my time was allocated. I didn't actually rationally allocate it. It was in many ways, as Dan said, responsive. In terms of managing the issue, daily calls to Ottawa, contact with Ottawa, dealing with Ottawa ... about 35 percent of my time through that period of the start of the crisis in July through the end of September/October. In terms of managing the media – the hundreds of calls, the press conferences, the constant monitoring of this, protecting of information, working on key messages, working on Q & As – another 35 percent. Another 35 percent of my time was spent on this, because in the end we knew that no matter how well we ran the operation, no matter how well we did things that met the program objectives, if we couldn't communicate it clearly, if we couldn't make it understandable, it was going to be awful. And it was awful at times, because we did have problems at times. Then about 15 percent of my time was spent managing across government partners, and that includes the provincial partners and all the governmental agencies. So that would include high-level meetings with my counterparts and others working through this. This might interest you: 10 percent of my time was spent managing the issue directly; that is to say, contacting all the operations on water and on land. And basically, what you have is the RDG not managing the issue directly. You are basically letting the Managers manage. You have a plan in place, and if it's well set-out and directions are clear, it works. And if it isn't, you're in constant crisis management. So that's about 10 percent.

And then an element here of up to 5 percent of your time was spent on what I wouldn't call necessarily managing, but working with non-governmental organizations: the community and external sources to explain, respond to, et cetera.

So that's kind of how I broke it out. I don't even think that adds up to 100 necessarily, but the main point that I wanted you to understand is when you sit on top of a region like this and you have a crisis like this, the bulk of the time, just over two-thirds, is either dealing with Ottawa or dealing with communications. That's what it's all about. That's what, in my experience, it was all about.

Finally, what are the main challenges in cross-institutional coordination of the response? This was an interesting one. Number one, Citizenship and Immigration Canada owns the issue. It's ours. We're seen as if it's our issue. It's what Dan said earlier: "It's your boat. What are you going to do? These are your immigrants. What are you going to do?" But we have very few assets, and many other departments and agencies have a piece of the responsibility. We talked about some of those already. So, it's really an interesting one, because when things go well, the partners and others with accountability want to take credit for it. When things go badly, CIC is the one that's going to take the crap for it. So you're in this constant situation where you're seen publicly as: it's your issue, you own it. You know you cannot manage it without the cooperation of others, credit goes to everybody. Discredit goes to yourself. It's just a really, really tough one to manage.

Number two, lack of policy clarity in some of the key processes is a main challenge in cross-institutional – in my view – coordination. So, for example, [we have] lack of policy clarity on who has lead responsibility on the water. We have lack of policy clarity around ports of entry functions, vis-à-vis exclusion orders in processing of migrants who are making refugee claims. And lack of clarity around detention – for whom, for how long, which continues to be an issue discussed in policy circles. These are just three [areas where policy clarity is lacking]. There are many.

And the third main challenge: resource needs. That's always going to be there. Some people would say that's number one, always, but whether you're dealing with partners or within your own structures, who pays and for how long and why. And, why prepare for the future? As we all move into the second year with no boats, people begin to think, "Well, maybe it's all over. We can just stand down now. We don't have to plan anymore." You know, we got lucky once, but ... resources are short, we need to allocate properly. There's no crisis, so we go to sleep and go back to where we were before. Or do we?

Joshua Sohn, Lawyer, Larson Boulton Sohn Stockholder – Immigration Lawyers

As a lawyer in private practice, I'm not formally with any institution. And generally, lawyers don't come into the system until we're retained by clients. In this case, a lot happened before the migrants even hit shore. A centre was set up in Esquimalt, which has not traditionally been a port-of-entry, but was deemed to be one. This is far from Vancouver where most immigration/refugee lawyers in British Columbia live. This created issues of access to the clients. Aside from being private practitioners, we're also members of the Law Society of British Columbia, which mandates and regulates us and also provides a Code of Conduct. This is important in terms of conflicts that can arise between our clients. We're also members of the Canadian Bar Association, which although it has been traditionally an organization to put forward representation for lawyers, it has developed into a lobbying body. In British Columbia, the immigration subsection of the Canadian Bar Association has been very active, not just on the issues of the boats, but also Bill C-11.

It was with respect to social justice issues that the lawyers in BC first got involved with the boats before we were retained to represent any of the individuals. We realized that people were being detained at port-of-entries in Esquimalt without representation. Immigration Officers were interviewing them and taking their statements; in some cases, individuals were being excluded from making refugee claims prior to having even seen counsel. The lawyers got involved, urging CIC to allow the individuals to have access to lawyers. We were also involved pushing with the Legal Services Society of British Columbia that provides legal aid to fund counsel, because these migrants at this point hadn't been able to go into a legal aid office and make claims for legal aid. And we were successful to some degree. Legal Aid sent over one lawyer from Vancouver to manage various lawyers in Victoria. There were some very good lawyers in Victoria, but not all of them were experienced in refugee issues. Most refugee claims in British Columbia happen in Vancouver.

Initially, a number of the detained individuals were prevented from making refugee claims because removal orders were issued prior to them saying the magic words: "I want to be a refugee." If at some point you are issued a removal order prior to making the claim, you're barred from making a claim. In a number of cases, this happened. People were issued removal orders prior to being found eligible to make a refugee claim. They were barred from the system.

Lawyers got involved and a number of lawyers obtained legal aid certificates in order to represent some claimants in federal court to try to overturn the exclusion orders. The lawyers who were working on those particular cases found in the notes of some of the immigration officers from the interviews, that some of these people *had* made statements about being afraid to go back to China.

Such statements were right in the notes of the people who had been excluded. In a number of those cases, we didn't even have to wait for a decision from federal court; there were agreements made between the Department of Justice to have those cases sent back down and reviewed and allowed to enter the refugee process. As a small note, ironically, there were a higher percentage of successful claims from the batch of people who had been initially excluded than from all of the claimants from the boats combined. The reasons for this are not quite clear, and there are a lot of hypotheses. It underscores, however, the importance of having people represented by lawyers at the front end.

The other big issue is when everyone got moved off Vancouver Island onto the mainland – and Dan alluded to the fact that there was an enforcement culture in Immigration Canada – this led to wanting to detain the migrants. And once the issue of detention came about, it was a question of where they were going to be detained en masse. They were detained outside of the Lower Mainland in Prince George. This was very significant because again it limited access to legal counsel for the detainees. Prince George is halfway up the province. There aren't a lot of refugee lawyers practicing in Prince George. There are also not a lot of certified interpreters and translators in Prince George. The claimants were being detained in a facility run by BC Corrections; not a federal institution, but a provincial institution.

Legal Aid funds lawyers for people who cannot afford to pay for legal representation; but Legal Aid did not want to fly legal counsel from Vancouver to Prince George. That led Legal Aid to create a bidding system where they asked for bids from lawyers to take on blocks of clients that they would represent in Prince George. Four lawyers got the bids and subsequently, there were questions regarding the criteria used in selecting the lawyers.

Even those claimants in Prince George with funds to hire lawyers directly still experienced difficulty in accessing lawyers. Getting into the facility to interview clients with properly certified interpreters proved difficult. We tried to go up there with our own interpreters, and BC Corrections wouldn't let them in because the interpreters hadn't been vetted. We were stuck using interpreters from Prince George who had been vetted, but weren't very qualified. We also had problems because when we were in the facility with the interpreters, we only had set times to meet with the claimants. There were very few rooms where a lawyer could meet with a client, and these rooms were hot and cramped. If you happened to go to the prison while other lawyers were meeting with their clients, there may have been a lack of physical space to meet with your clients.

The whole preparation was done in an accelerated fashion as well; because these people were detained, the Immigration and Refugee Board gave priority to having their claims heard. So the

regular process that you would have to sit down, meet with a client for three, four, five times with a certified interpreter to prepare their statements was out. Lawyers were preparing the forms in less time and without the qualified interpreters, and with claimants who didn't really know if they could trust you or not.

On top of this was the fact that there were a lot of unaccompanied minors on the boats. That offered another issue from the perspective of the lawyers because in those cases, we're not retained by Legal Aid. Our retainers come from the Provincial Attorney General's Office; and the Ministry of Children and Families (MCF) were guardians for the unaccompanied minors. So as lawyers we're retained by the Attorney General; we're taking instructions from the MCF; we're representing the unaccompanied minor refugee claimants – which may lead to conflicts. Who are we representing? Who are we taking instructions from?

Also, because these claimants came on four boats, there could be conflicts between claimants. When you have the four lawyers who are dealing with block bids, representing a bunch of claimants, all of whom arrived on boats together, there could be conflicts between one client that you have and another. In our firm, we were approached to represent some of the people who had allegedly been involved in running the ships. In order to avoid conflicts, we decided not to represent anyone who was allegedly working on the boats. We were concerned about the possibility of one client having been harassed by another client. So we had to stay alive to such issues and potential conflict situations. Limiting the number of counsel who might represent the nearly 600 people increases the likelihood of conflicts.

The most significant theme in this process was detention. It was the enforcement culture that led to the detention, which resulted in limited access to legal counsel. Yesterday, the Minister in her address made a throwaway comment that the experience of other countries with respect to detention showed that it was not a good deterrent. It was interesting and heartening to hear her say that, but that came after a year or two of advocates arguing over and over again that these detentions weren't really justified. Some people stayed in detention 18 to 19 months, I believe, and you've got to remember that these were people against whom there were no criminal allegations. All they had done was come to Canada. The media played a massive role in criminalizing these people by referring to them as illegal migrants. Also the fact that they were seen to be in detention added to the specter of illegality. We tried to get out the fact, and I think not always very successfully, that refugee claimants are not illegal. They are not operating outside the law.

According to our laws, a person has the right to make a refugee claim after arriving in Canada – regardless of how they get here. To come to Canada and make a refugee claim is not illegal. That is

not an illegal refugee claimant. It was something that I don't think was ever properly explained in the media or elsewhere. The illegal aspect is that they arrive without valid documents; they arrive without a visa, but they make their refugee claims after arriving in Canada in accordance with Canadian law. They're not jumping queues, but following a set process for persons who claim to have a fear of persecution.

Lawyers worked with many institutions: Legal Aid, the Provincial Attorney General's Office, Ministry of Children and Family, some of the NGOs that were offering support. We had to deal directly with BC Corrections in order to get into the facilities to meet with our clients, and the culture in BC Corrections raised a lot of issues. The response from Immigration was that once refugee claimants were in detention, they were under BC Corrections' rules; Immigration took the position that it could not direct BC Corrections on how to deal with non-criminal persons in detention. We also had some dealings with the UNHCR. But at the most basic level, we were acting in our role as lawyers for individual clients.

Still, the Bar tried to come together to operate in a somewhat cohesive fashion, which included lobbying efforts on behalf of these individuals, and also developing and sharing legal arguments and precedents for these cases.

The smuggling and trafficking aspect of these cases raised some interesting questions as well. Citing international instruments against trafficking, we argued that trafficking minor children was persecution in itself. This argument met with varying degrees of success.

To identify an underlying theme for us, it would be the lack of access that clients had to retain lawyers and to meet with their lawyers. This primarily resulted from first, CIC's decision to detain these people en masse; and second, to detain them in areas where there were limited numbers of experienced immigration and refugee lawyers and qualified interpreters.

Alexandra Charlton, Centre Coordinator, Storefront Orientation Services

We were asked to speak of the framework in which we work. SOS is a refugee organization. We're a little bit of an oddity in that we're actually a coalition of workers. By that I mean each of us is sponsored by another community agency, and this ranges from community centres in the area to immigrant serving agencies, to a group that works with street youth in the Downtown Eastside in Vancouver. So we already tap into a number of other resources, which helps us in our job.

Our mandate is set largely by our funding, and by what activities we can legitimately carry out. If anybody was at the NGO panel yesterday you heard some of the frustrations around that, about how limiting that might be to activities. The other side of our mandate is that set by the code of ethics for settlement practitioners and sometimes – as Joshua mentioned in terms of the Bar – this may bring up some conflict in terms of a different interpretation as to confidentiality, for example. Our mandate specifically within our organization is to work with claimants and encourage them to stick within the legitimate system. So we try and deal with the issue that Joshua just raised about the concept of illegal claimants, (which is often a misnomer). We are not the Immigration and Refugee Board. We do not judge the merits of the case; we don't decide whether somebody is a legitimate claimant or not. We advise them how the process works and suggest – if we don't think they're on the right track – we suggest to them that maybe the refugee system is not for them. But we can't force anybody in one direction or the other. Another aspect is that we do advocacy and public education about the refugee context, so a lot of hours too, as Chris mentioned, were spent working with the media and trying to get over this idea of legal claimants and illegal arrivals – and the difference. Obviously it wasn't too successful. Everybody was trying to work the same way there.

Within the smuggling context, and our roles and responsibilities towards that, I'm going to shift the emphasis a little bit from the boats, and point out that almost everybody we work with has been smuggled, not just these people who came with the boats. The rare exception for us – recently over the last few years – are the middle-class Mexicans who've been coming in with legitimate passports and papers, arriving thanks to the NAFTA agreement. Apart from that, everybody we deal with has been smuggled in some way, whether it's to a complete degree, as in they've paid for their entire trip from China and been guided the whole way; whether they've come by bulk boat arrivals as the very publicized group did; or whether in fact they're Chinese who've been smuggled as individuals or very small groups and have come in on the plane because they had more money. Other groups may have just been smuggled for a small portion of their journey, across borders, say from Guatemala to Mexico and then across the US border. Everybody's had something of that experience.

The extent to which they were able to pay affects the mode of transport and how comfortable they were, and in what form they had to pay. We end up dealing with a lot of women who were smuggled across the border, and part of the payment was rape. So then that affects the jobs that we do at the end of it and how we work with those people. So it's a little bit different. Also it means that even if they set off with some money, they've usually been stripped of all their money and possessions, particularly by “coyotes,” if they're passing the Mexican border. So it means they arrive with very little, even if they thought they were being responsible when they left.

And what's our specific role in that? It's to try and steer them away from the influence of those smugglers wherever possible. This is a little bit difficult because it reminds me of – I think it's referred to as the Stockholm Syndrome, you know where people who have been held hostage actually form some sort of bond with their hostage takers. If the smuggler is the only person you know, you actually start to rely on them a little bit, and not exactly trust them, but they're the only person that you know that has any kind of credibility, because they did get you across that border or through that airport or whatever it happens to be. So the smugglers will often control people by their use of information or misinformation. This is added to by the incorrect information that people get on the street. So our role comes to try and provide correct and accurate information, which is frequently in contradiction to what they've already heard. So it's a battle of credibility at that point, and can we get people on the right track then.

With the boat people, they didn't even know they were in Canada. The agency that first dealt with the released people in Victoria, the Inter-Cultural Association, realized people didn't have the faintest idea where they were and had to get out a large map of the world. Oh, where is that? Well, here it is in relation to China. There was that little information about what was actually happening to them. And we found that we had to continue that sort of orientation as well from a really basic level. Sometimes we also act as designated representatives. There are minor claimants, and they don't know anybody in Canada who can act as a reliable contact for them.

In terms of the main challenges, there were various subsections here: differences in mandates; time and space continuum; the sheer numbers involved; and as Chris said too, the communications aspect. In differences in mandates, I'm going to be really broad here and say that our perception was that the CIC mandate was enforcement, because of the context when we were looking at the bulk of the boat people as Dan mentioned, versus a protection mandate, which the NGOs tend to assume for themselves. You're setting up a difference in perspective there. I know both sides are supposed to look at the other aspects as well, but that was how it sometimes played out. Then, within the detentions, we were seeing what Joshua mentioned, difference in mandate with CIC and BC Corrections. This was very frustrating for us, trying to work with people or seeing people passed from one mandate to another, with the exception of Prince George, where people were contained entirely within a facility turned over to refugee detainees. In the other institutions, they were part of a regular institution where the rest of the space was already being used by people who had been tried, convicted and sentenced, as opposed to the people that we were dealing with. So they were being treated the same way, because once in Corrections, they had to follow that mandate. It

was very frustrating for us to deal with as outsiders. Some of us were very good at recognizing the difference and trying to deal with the human side of things, but essentially that was acting a little bit outside of that culture, which made it difficult.

Apart from the difference between the enforcement and protection mandates, we were also looking at the challenge of physical boundaries. You're looking at administrative and physical boundaries, set up by different jurisdictions and physically the space that we were working in Vancouver, which is essentially a conurbation. So physically you've got this big spread, administratively, you've got these little cantons trying to work together, and they have different mandates, different resources, different rules, and so on. The refugees don't recognize that and people are passing backwards and forwards. The Chinese migrants tended to stick within Chinatown, but would also access the other Chinese enclaves around town. When you're the agency dealing with them, you're constantly having to switch whoever else you're connecting with in terms of social resources, so that created extra problems in trying to switch both mandates and boundaries. People came under someone else's responsibility, and it's, "Okay, I'm not working with you anymore, it's a social worker from Region 2 now," or whatever it happened to be. So it really slowed down the process of trying to assist.

In response to the Honduran kids for example who came in considerable numbers too, we had tried for a year to get some kind of coordinated response to them, and get a ministry to try and organize a peripatetic worker who could work across three regions. That was very difficult to do. Eventually there was a youth worker set up to respond to the kids because she was a Spanish-speaker. We do feel that maybe this prep work helped in raising awareness, so by the time that the Chinese underage claimants came, and the group that Robin now works with was ready with more of a response, and that really did help. They did terrific work with that.

In terms of the time frames, both for the children who arrived and the adults, one of the challenges for us was that they were looking at immediate responses, immediate gain. The adults want to get into the system and work, whether they're genuine refugees or bogus and only want to work for economic reasons. That's the framework. It's immediate feedback in terms of getting money to send home. One of the underage Hondurans we had who was 16 years old was going to be responsible for 10 adults back home. Their livelihood depended on him. So there was considerable economic pressure on him to earn and send back money; medical problems and all sorts of other things.

What can we offer in return? The challenge is not very much and not immediately. We're trying to promote legitimacy. That's long term; it's developmental. It's in complete contrast to what they are looking at, so it's not too appealing. There's not too much our agency can do to combat that.

There was the volume of groups versus individuals. We're set up normally to work with individuals, and even that's a stretch. We have 1.2 Chinese-speaking staff. We have 1.6 Spanish-speaking staff. This is about to be cut again next year because of both federal-provincial transfer cuts and within province cuts. Those 2.8 people are dealing with 1700 clients.

We were completely taken by surprise. So we tried to build on relationships already established with provincial ministries, and they were extremely helpful in working together and doing group processing with us. Instead of being very bureaucratic and insisting that we take all the clients there, they did a big shift, brought people out to another local agency, which offered us both volunteers and space. We were able to do group processing for welfare. Human Resources and Development Canada came and did applications for SIN cards. Legal Aid came down there to do the processing because all of the claims had to be transferred from Victoria. So people were really very helpful at responding to the large numbers. So that diminished, to some extent, one of those challenges. We did get help from volunteers, but it meant that we had to train those volunteers. It would be suddenly like all you guys arriving and saying, "We'd really like to help with this extra work." Terrific, but we're trying to organize this group of very unlikely and suspicious looking claimants who've just arrived, and get you helping with those as well. So, it was a bit of a challenge.

Poverty is a huge concern, [as is] finding shelters for people. Where are we going to put them so that we can keep them on hand to work with them?

Communication was a really big issue because language underlies the whole thing. Everything you do takes twice as long because you have to translate it. In terms of the boats, they came from Fujian, and had another dialect. We had one information meeting: we had the government worker speaking in English, we translated to Mandarin, and then we had to have someone else translating into Fukienese so it was a lot of extra time needed for that. When people were in the jails, as Joshua mentioned, they couldn't connect with their lawyers very easily because they couldn't speak to them, because of the language problem. So they would phone us, and then we would have to contact the lawyers. They couldn't get to us because we were working with another client, so we had to set up a hotline system where we'd leave the phones open for an hour every morning, because they were often only allowed one call out of jail. They were being treated like regular inmates. So we'd pick up the phone during that hour regardless of whatever else was going on, even if we had another

client with us in crisis. So those were the kind of adjustments that we had to make to meet some of these challenges.

Robin Pike, Ministry of Children and Family Development

The first thing I would like to say is something that I learned from Dan just two days ago: through all of the planning, strategizing ahead of time, they hadn't anticipated or thought through the possibility of a large number of minors actually arriving. So we weren't at an advantage as far as seeing this coming. The other thing I'd like to say is that I personally didn't join this project until after the fourth boat had arrived, so I'm not totally clear – and Chris, you probably have a much better idea of our Ministry's role right off the bat from when the kids did arrive.

What I'll talk about is how we did respond, but first I'll mention that as a provincial child welfare ministry, our responsibility is to provide care and protection to children who are in need of such. We have a staff province-wide of about 4,400 workers; and at any one time, we have about 10,000 children in our ministry's care. They live in a range of facilities, from foster homes (by far the majority), small group homes, to independent living. This particular situation in 1999 certainly threw us a loop for a number of reasons. Despite the fact that we have that number of kids in care, to have 134 land on our plates in a very short space of time was quite unique ... plus all of the complicating factors of how they arrived, their language requirements, potential health issues.

With the first boat, I think there were 18 kids. And without obviously knowing what was coming along, we decided that we would look for Chinese-speaking foster homes. We did a fairly large recruitment in Vancouver where there's a large Chinese community, and the response was really overwhelming. Very large numbers of people turned out over two evenings of information sessions. Then we realized there was a real concern with this because we always have Chinese children in our care, and we [normally] have a really hard time finding Chinese-speaking foster homes. So this was a little bit curious for us [that so many had turned out this time]. Then we started to realize really when we thought this through, we didn't know what issues came along with these kids, and we didn't know what dangers we would be putting the children or the foster parents in by parceling them out across the community.

Whereas when boats two, three, and four arrived, what we decided to do was to set up fairly large centres where we could house the children under one roof. And in the end, we had a facility in Burnaby, an old seniors' complex with about 67 children, and a smaller one in Victoria with 25 children. And I have to say as a little side bar, these were wonderful kids to care for. I can't imagine

putting 67 Canadian children under one roof, and being able to really handle it. We did staff it fairly heavily for a number of reasons: that's a lot of children under one roof, and we weren't sure of the security issues in relation to this particular population and primarily, who might be trying to get at them. There is always the concern of the influences and how far away really were the snakeheads or the traffickers who had brought them here.

So we launched into setting up these facilities in as culturally sensitive a manner as we possibly could. The majority of the staff we hired were Chinese-speaking, not Fukienese-speaking, which was a problem; but Chinese-speaking, so that was a start. We had nurses on staff, we brought teachers into our facility and ... oh food, yes food was also a real challenge. And so we catered. We had it catered from a number of Chinese restaurants locally. That seemed to be the simplest thing to do. So without realizing what we were launching into, we then started to engage I guess with Joshua and other lawyers into the immigration-refugee process, which was probably our biggest challenge as a ministry. This was unfamiliar territory for us. We have two pieces of provincial legislation that we routinely deal with for child protection matters. The primary one is the Child, Family and Community Service Act, and that sets out when and how we take a child into care when they're at risk. The other piece of legislation is the Family Relations Act, which allows us to assume guardianship of a child who has been abandoned. So in this particular case, these children were taken into care under the Family Relations Act. But we did assist them all the way through their refugee claim process, worked with the lawyers, worked with immigration, worked with the refugee board to help us understand exactly what we were getting into and what our role was. In each case, we were also the designated representative under the Immigration Act for each one of these kids. That was certainly a complex and new role for us to take on.

That's a really quick overview on how we've provided services. What we did as a result of the Chinese kids coming in: we created our own migrant services team within the Ministry [MCF]. It's three persons, [a team of] three social workers, that has now gained considerable expertise in dealing with refugee claimants, unaccompanied minors; and we deal with *all* numbers of nationalities. Prior to the Chinese kids coming, we had dealt with undocumented minors, but in a very small number, and primarily – as Alex was saying – from Central American countries. So this was a new set of circumstances, and we felt it was necessary to have a dedicated team that could learn, understand, and develop the expertise in dealing with this situation. Despite the fact that most of the Chinese kids now have moved on from our care – they've either aged, passed the age of 19, which is our age of majority in BC, or they left our care – they fled when their refugee claims started to come back

negative. Some will return to China, and they actually hadn't been unaccompanied. They had come with a parent or relative or someone who had claimed to be their guardian. They were returned when the adult they'd come with had a negative claim, and they left the country. The majority of our kids have moved on. We're not sure exactly where, but we know that for the most part they all came with a plan, and the plan was not to stay in Vancouver. Vancouver was a transit point. They had obligations to move on. They had tremendous pressures the entire time they were in our care, primarily from their parents. Parents did not want them to stop and make a refugee claim in Canada. They wanted them to be moving on. And I think what we learned was the parents themselves were under tremendous pressure from the traffickers back in China. So the kids just held on as long as they possibly could. And once it appeared that they weren't going to be able to legally stay in Canada, they opted to move on.

Suzanne Duff, United Nations High Commissioner for Refugees

Sitting at the end of this panel reminds me of what a crazy time that was, what a complex issue, how amorphous, how intertwined, and how much hair we all lost. We can only do a brief overview today; we can't give any of these issues justice. Many of them are the subject for a whole other workshop.

To put UNHCR's role in some perspective, let me begin by explaining generally our mandate. Internationally, we exist to promote and protect the rights and physical security of refugees wherever they may be. Most people are a little surprised to find us here in Canada. Obviously, our role in a country like Canada is a little different than in the field operations most people associate with UNHCR. We're more involved in monitoring and informing policy initiatives and procedures that may affect refugees. We're not involved directly in refugee status determination or delivery of assistance because Canada has a sophisticated refugee determination system, and there are fairly sophisticated social, legal, and NGO supports in the country. I think our work with the Chinese boat arrivals was more similar to our field operations than our usual role in Canada.

To talk a bit about the issue of human smuggling generally and why it's of interest to UNHCR... At a basic level, we support international and national government initiatives to act against human smuggling. We've been involved in the UN Protocols relating to Trafficking and Human Smuggling in the Convention Against Transnational Organized Crime. We see it as exploitative and as a human rights issue. And the UN generally takes that position. UNHCR is

particularly concerned because the migration controls that are advocated as part of the response to fighting human smuggling and trafficking often don't take into account the reality that current migration flows associated with human smuggling include large numbers of refugees. More and more, the legitimate channels for flight – both for exiting a country of persecution, and more particularly, for entering a country of asylum – become strangled and very limited. As Alex says, the vast majority of refugees have no choice but to use illegal documentation at the very least, and often the assistance of smugglers, to reach their intended destination. So we can be fairly sure that efforts to cramp down on human smuggling will have an implication for refugees. For this reason, UNHCR has been involved directly with the Protocols and their negotiations, and we're involved with state parties as they respond to human smuggling.

I'll talk a bit about how we worked practically in Canada in the context of the 1999 boat arrivals and our primary areas of focus regarding the state response to human smuggling in this case. And as our colleagues at CIC have noted, this particular episode in 1999 was characterized by something of an enforcement mentality. That's not to say that Canada was without respect for its obligations towards refugees. In fact, I think a huge effort was made. But the public pressures and imperatives on CIC to maintain immigration control and address the security concerns were very evident.

The first and biggest concern for UNHCR, whenever there is a measure to address human smuggling, is to ensure access for those who need protection; not access to the country to stay necessarily, but at least access by asylum seekers to an effective system for refugee status determination, to determine who's in need of protection and to then look at what options might be available for them. This is becoming an increasingly significant refugee protection issue as more and more states are using interception as a method to address human smuggling, so that people don't even make it to the territory. In Canada's response to the Chinese boat arrivals, that was fortunately not an issue. Canada never looked at keeping the boats from the shore. I think human security, safety concerns were very much paramount in CIC's response at that time. So there was no question of keeping people off the shore or a wet foot/dry foot policy. The access issue that we were more concerned about was in some ways a broader issue. There was the public perception that these were not real refugees, given the method of arrival which most people associate with clandestine and irregular immigration, not refugee flight. There was also the likelihood, frankly, that the vast majority of those fleeing from or leaving Fujian by that method were in fact economic migrants. And I think after we've all had a chance to interview them in more depth to assess their refugee claims, that

turned out to be the reality. The access issues we were more concerned about were the potential impact of this perception on the processing of these individuals and on the public support for the asylum system under which they were all permitted to enter Canada to have their refugee claims determined.

In this context, how do you ensure that at a processing level, there is an open mind and generous approach? Joshua has referred to some of the issues that we did encounter, particularly in that first incident at Esquimalt. The officers in question at that point had processed that first boat, heard “refugee,” and sent them all on their way. No one was detained, and they all disappeared. So there was a very different pressure on these officers I think at whatever level, even at a very internal level, to respond a bit differently in the second boat, and they did. It appears that when some officers didn’t hear the word refugee right away and didn’t ask the further questions, or didn’t explore indications of fear, they didn’t make the referral.

But I would like to make a few comments about the access issues raised in the context of the boat arrivals to put the challenge in perspective. Identifying people who are in need of protection in the context of reception operations for people who have been smuggled is not a straightforward exercise. I’ve sat in on a number of eligibility interviews for the boat arrivals and for the subsequent container arrivals, and I’ve worked beside CIC officers. In many cases, it’s not a clear case. There are set questions that are asked to illicit the possibility of a protection concern: “Are you concerned about going back to China?” “Yes, because there’s no work there” “Why have you come to Canada?” “To seek protection” would be the expected answer. “To go to school.” There was no indication of a flight or fear of persecution. Even if the word refugee was used, when the responses were elaborated upon, there was no indication that these were the people for whom the refugee system was intended to operate. And yet these officers had an obligation to refer directly to the refugee board. I think that was extremely difficult for them, particularly claimant after claimant, and after so many who had been referred had disappeared. I observed and was told how this certainly undermined their confidence in the asylum process. For me this was understandable, but also extremely worrisome. Officers are the first point of contact for many refugees – the gatekeepers to the asylum process. Even with the best laws and procedures, meaningful access to asylum procedures depends upon their open-mindedness, their sensitivity to potential protection needs, even when the individuals before them are not immediately forthcoming.

At the same time, CIC and the refugee board were coming under intense public criticism for their lax response to human smuggling. So we urged that the Canadian authorities and the Canadian public keep a generous response to access and depend upon the fact that the Refugee Status

Determination process in Canada is sophisticated and will fully examine the claim and will weed out those who are not ultimately found to be refugees.

The other big part of our work, once people were in the refugee determination system in Canada, was looking at their rights as asylum seekers generally. I think most of the rights issues that we dealt with related to Canada's decision to detain. So we had to do some hard soul searching on our response to Canada's decision to detain so many asylum seekers. UNHCR's Detention Guidelines don't say explicitly that it's not appropriate to detain for flight risk, but they certainly don't allow for detention for flight risk. They allow for detention when there are security concerns, when there's a need for short term detention to ascertain identification. But [there is] no mention of detention for flight risk, I think largely because our own guidelines weren't designed for the human smuggling context. They were designed for asylum seekers who, whether they had a solid claim or not, at the very least had an incentive to stay around to see if their claim would be accepted by a government. In this respect, because the guidelines in the human smuggling context are so unhelpful on this issue, there's a risk that states will dismiss them. They contain some very important elements with respect to the rights of asylum seekers who are detained, but they are not helpful to most states in responding to individuals who may be using the asylum system for illegal immigration, and they are seen to fly in the face of the immigration challenge that most states are faced with in the context of human smuggling.

So we made a hard decision here, in the face of clear evidence that most of these individuals did pose a flight risk, and in the climate of exaggerated anxiety and concern by CIC and by the Canadian public that the generous access to the refugee system in some ways made the country vulnerable. There was some sense that if Canada gives generous access to the refugee system and they all disappear, then even if you've got a system to determine who's in need of protection or not, you have no way of actually removing those who are not. So the asylum system becomes seen as a sieve. It's eroded, and its integrity is eroded, and it becomes seen as a conduit that facilitates human smuggling rather than a vital channel through which victims of human rights abuses can reach protection. That is significant for UNHCR in that it can lead the public to demand – and governments to respond – by tightening access to asylum procedures, looking at ways to keep fewer asylum seekers from reaching your territory. If you ultimately determine that they're not refugees and you feel there's no way to remove them, then you start putting up more control at the front end. For UNHCR, maintaining open access to asylum procedures was the more critical issue.

So, in some ways I could say we chose our battles, and we did not intervene to prevent detention or formally request that all detained individuals be released. Particularly in this context, when there was clear evidence that the vast majority were not, strictly speaking, the people for whom our guidelines were intended. I'm being very frank here, probably more frank than I should be, but in the very clear evidence of flight risk, we chose to fight the battle to maintain open access and to allow people to go through the system, to have their claims heard. That imposed on us a corresponding obligation to really work in a practical way to ensure that detention conditions were the best they could be, that they were humane and to the extent possible, that they reflected the status of these individuals as asylum seekers, as opposed to criminal detainees, particularly in the Canadian context in BC, where the only option for detention was within the corrections system. While detention of asylum seekers in correctional facilities is abhorrent to UNHCR, there were no options for alternative or preferable detention arrangements. At least the correction authorities had some expertise in the emotional and mental health issues, the issues of maintaining well-being of detainees. If it had been a purely immigration enforcement-based facility and based only on the need to prevent flight, it would nonetheless have been detention, and I think CIC would have in many ways been even less well equipped to deal with it humanely. That's just the counter-argument for all of the very legitimate reasons why a corrections facility is not an appropriate arrangement.

A huge part of work on the detention issue, therefore, related to capacity building with BC Corrections: really getting in there, meeting with administrators, meeting with staff, spending days in the facility, explaining to them the unique profile and rights of the individuals they were dealing with. Many of the officers felt that they were dealing with irregular immigrants, in the officers' perspective, associated with criminality at some level. So we worked with them on that issue, to go through procedure by procedure, how the individuals were being dealt with in the facilities, to the extent possible to try to ensure that the conditions of detention were as free as possible, and that anything that had a disciplinary or rehabilitative function was weeded out. We worked directly in those detention facilities, and we tried to work with individual vulnerable cases and to assist the authorities to identify vulnerable cases in detention and to advocate directly on their behalf: family units, mentally ill people, people who were – due to the length of detention – developing problems. We also urged the authorities in that context to find a way to weigh the evil of the risk of flight materializing against, in those cases, significant human rights abuses. Our work was largely tied to detention, and many projects for on-going work and intervention stemmed out of our initial work on the detention issues.

UNHCR also had a big public awareness challenge relating to the Chinese boat arrivals. There was a lot of hostility towards asylum seekers at that time, and a blurring of the line between illegal immigrants and refugees, a sense that the people who were coming to Canada were not real refugees and that the system was flawed. We tried to remind people that the refugee system has a protection basis and a human rights basis, because if confidence in the asylum system is eroded, not only does it lead to change in the system, but the ability of refugees to integrate in this society, and the welcome for those individuals is compromised.

Finally, to say a few words about the cross-institutional challenges. In our work together, the challenges stemmed largely from our slightly different mandates. It occurred to me that the first time that we all really sat around the table to discuss our respective mandates and concerns was in 2000, after most of the boats had arrived and many of the cross-institutional challenges had been battled and addressed – or not. It was a little late, but still very useful. And I think had boats arrived in 2000, things would have worked more smoothly. I'll name a couple of cross-institutional challenges.

With CIC, we had very good cooperation and amazing transparency as we poked and prodded and criticized through this in a way that I must say would not have worked in many other states in which we work. We were grateful for that. But there existed nonetheless: the competing mandates and imperatives, the enforcement immigration control imperatives, and the pressure to respond to security concerns versus our concerns about maintaining the quality of asylum systems in Canada and the rights of individual asylum seekers. I addressed the access issue as being one of the ways we could understand where our conflicting mandates created some problems. We also worked with legal counsel, and there were some frustrations, certainly by counsel with us: that UNHCR was not being more vociferous on some issues. The reality is that our mandate is in some ways limited, and our ability to push governments is limited to the obligations they have assumed under refugee international law. In a country like Canada, there are much higher standards for access to legal counsel, which is not something that is guaranteed in the 1951 Refugee Convention in any way: issues like when counsel should be granted access, or whether counsel should be permitted in the first interviews are not specifically set out. In many states if a refugee in the first interview says, "I'm a refugee because I want to be a student," [that person is] not within the refugee definition, so "off you go." That's what's done, and there's nothing in the Convention that necessarily stops that. Canada has a higher standard regarding when and how legal counsel must be involved. Some of the battles, we had to say to the Bar, have to be fought by you and by Canadian NGOs to hold your Government to the higher standard; but our authority with the Canadian Government on that is limited. We have

to fight the battles where we actually do have some authority. We were asked to assess quality of counsel issues by the Legal Aid Division, and we had to respond to them: we've sat in on the hearings, we are satisfied that the process worked to enable this person to get their full claim out. That's what we must assess. *You*, as the appointing body for Legal Aid, have an obligation to assess the quality of individual legal counsel. Send somebody to Prince George to look at that.

We worked with NGOs, and many of the NGOs involved were not the traditional refugee-serving NGOs. They were more involved on issues of racism and human rights abuse, and many of these NGOs thought that it was a human rights abuse to send people back. They were angry and disappointed with Canada for sending these impoverished people who were here in Canada to contribute to Canadian society back to China. And they were very disappointed that we were not advocating more strongly on some of those issues. Our position is that the integrity of the asylum system and our ability to ask states to keep the most open and generous asylum system possible depends in some ways on states being permitted to return rejected asylum seekers when they have been fairly found not to be asylum seekers. So we had to support that, and in fact urge it, because quick removal of rejected asylum seekers was the humane response.

Finally, there were real arguments and criticisms of the government regarding the length of detention. Not many people really understood that detention for many of these claimants was prolonged by the fact that they were involved in protracted reviews for which their chances of success were as limited as their chance of success in the initial refugee status determination. In some ways, when a claimant is not in detention, there's not as strong an onus on counsel or other advocates to be really judicious when they decide to assist a client or advise a client to pursue those reviews. Many of these people believed that if counsel was doing that for them, there was some hope. The detention was prolonged for many, and I felt that had they understood a bit better, they might not have launched all those levels of review and appeal.

Alison Mountz, Department of Geography, University of British Columbia

This is symbolic that I'm the last speaker as a researcher because I have the good fortune of following a panel of front line experts and in practice, I sort of run along after them, pestering them, asking questions. Research can be more participatory, but in this case it has been more reflective about what took place in 1999.

I began dissertation research with the research question: What is the capacity of the nation-state to mediate transnational flows? I then picked a case study to address this, and chose the '99

arrivals from China that we've all been discussing. The methodology was to do qualitative research, to interview people about many of the issues that we're discussing now: what roles and responsibilities they had, what the challenges and strategies were to responding to smuggling. I've done about 60 interviews in Vancouver, Victoria, Ottawa and Hong Kong with people within and outside of government. The core has definitely been with people in Citizenship and Immigration Canada, and I've been fortunate to be able to move up and down along the structure within CIC, but also across branches. I've talked to people, for example, doing Marine Responses, but also to people in Communications, Intelligence, and Legal Services, all of whom play different roles. I've also interviewed people in provincial ministries in BC, like the Ministry of Children and Family Development (MCF), BC Corrections [under the Attorney General's Office], and the [former] Ministry of Multiculturalism and Immigration. Outside government, I've interviewed people in NGOs, refugee advocates, immigration lawyers, international bodies like the UNHCR, and the media. I asked each what their different roles were, how they interacted, and particularly, how they interacted with government.

I'm going to identify some of the broad patterns that have emerged in my analysis, and I'm going to connect them to potential policy implications. I want to proceed with one caveat which is that given everything that I've learned – the circumstances, the surprise, the scale of the movement in '99 – the response on all counts by all parties here and beyond was pretty amazing. It was quite a feat to mobilize the resources that everyone did to respond. Having said that, there's always room for reflection and discussion of best practices.

The first finding is, quite simply, that government, or the Canadian government, is far too simple a category to talk about within this response. That's been evident in the presentations today: the number of federal and provincial departments and ministries, as well as the number of institutions outside of government that were involved. And then within those institutions, it's even too simplistic to categorize the position of one department. There are many different branches within CIC, for example, and they have different perspectives on the response to smuggling. What may work best for someone in Intelligence for example, may not work well for someone who is in Communications. They may face different timing issues. We need to pull apart the categories of governmental and non-governmental actors and put them back together in ways that make sense for a comprehensive understanding of this response. That's something that I'm trying to do within my research. An immediate starting point in relation to policy would be that policy and infrastructure development should include all of these other partners from the beginning. I know that that is happening to an

extent now as policy is being designed. There are many different government bodies involved, but I'm not sure of the extent to which those dialogues are taking place with non-governmental partners.

The second broad finding is that it matters that the boat arrivals were a crisis for people responding. Stress levels and emotions were high, and people were exhausted. Everything changes in times of crisis, including the bureaucracy, which you've heard in the presentations today. And a corollary I'd add is that this still may potentially be a crisis because not a whole lot has changed [since 1999]. Bureaucracy has a high turnover rate and a short institutional memory. A lot of people involved regionally in the response in '99 have left, have been transferred to other parts of CIC or to other departments. (I track them down for my research.)

Additionally, it's very difficult for government to project costs to support something that may not happen. Some people are trying to plan and build infrastructure for a response to human smuggling. But not everyone is convinced that the resources for a comprehensive response are really necessary. The policy implication is something that Alex brought up, which is that smuggling movements are happening all of the time. All of those involved need a comprehensive picture of what is happening and what type of response is needed. Better planning could mean that the next response might not have to be a crisis.

Third, a crisis unfolded in the media, and the media were therefore part of the crisis engendered by the boat arrivals for government. Media representations and public opinion mattered and matter very much to people in government. In interviews I always ask people what role the media played. Their physical responses – the sigh, slump, groan, roll of the eyes and just this look of utter frustration that comes over them in response to my question – speak as loudly as their words. I want to read two short quotes taken from interviews. These are from people working within CIC and discussing the media:

“Everything you did you were in the fishbowl. I just waited for something to go left. You're so tired and you could say something that could haunt you for the rest of your life. There's always the potential to go left.”

This is someone else speaking:

“We couldn't get out in front of the cameras fast enough. As soon as another issue came up, we were arranging to get in front of the media again. They were all slobbering. They wanted us. They could smell blood.”

I heard about this fishbowl a lot. This is extremely meaningful. I heard countless times that “in government, you're not allowed to make mistakes.” But what are the ramifications of the media being informed of and reporting the response from the start? How can government do an honest

assessment of practices when they can't make mistakes? Who decides which decisions are the right ones? How can an institution be transparent when it always has to look as though it's in control? Here, the policy implication actually has to do with research, and with the role of the media in relation to government. I don't think that the mainstream media should be the only conduit of accountability between the government and the public because it creates a climate where you can't have an open, reflective process because you're not allowed to have an entirely open discussion about what went on. The current climate, shaped largely by the relationship between the federal government and the media, makes it more difficult for federal employees to work collaboratively with other institutions. This is an important place for research because – in some regards – researchers have more freedom than people in government. And so if there can be institutional arrangements worked out, there is a place for research that is reflective. Again, these are the kinds of things that we need to think about when it's not a time of crisis; when everyone's not thrown into crisis mode.

Number four, geography matters. Other speakers have highlighted some of the very geographical issues underlying the challenges to responding to human smuggling at different scales. Locally, for example, there was a geography to where migrants arrived, where they were detained, and where services and legal counsel were based. These are all important issues to examine in relation to access. And geography matters at scales beyond the local. Nationally, there's a particular geography, for example, to the federal government and to where decisions rested. I've heard a lot of things about the growing distance during that time between Ottawa and the region and about some infamous daily conference calls that took place to attempt to bridge that distance. Internationally, Canada's geographical location is important, as is the response that Canada takes in relation to other countries dealing with human smuggling and trafficking movements. Taking geography into account would have ramifications for how we think about the response.

Time is also a crucial concept that has come up a lot today. Time is also a subjective concept. Everyone has a very different time frame within which they work, even among those people working at CIC in different branches. The time it takes to gather intelligence is different from the time it takes to conduct an investigation, which is different from the time that communications has to respond to the media, which is different from the time that human resources has to shuffle people around, which is different from the time that lawyers might take to assess or respond to a legal issue. NGOs also work within different time frameworks, depending on mandate. In interviews, I heard a lot about these differences. Stepping back, thinking comprehensively about how all of these different institutions and branches within institutions work together is crucial to understanding and planning

the cross-institutional response. We need to think about what those different frameworks are and how they can work together.

And finally, I found that law and finance tend to dictate many of the cross-institutional negotiations when perhaps they shouldn't always be the most important influence or starting point. But that's often what happens because – as others have mentioned – it's important who's going to pay for what and what the legal responsibilities dictating that are. To what extent should costs influence policy decisions? In terms of policy recommendations, we need to think of alternative environments for decision-making processes, such as retreats. Something I've heard over and over again in interviews is that often it's not the policies dictated by mandate that enable this response, but rather the interpersonal relations and trust that's built among individuals within different institutions. So if that's the case, is it possible to negotiate a collaborative response with trust and relationship-building as a starting point?

Excerpts from the Question and Answer session

In anticipation of this portion of the workshop, speakers were asked to think about the following:

- (1) What would enable you to improve the work that you do?
- (2) What are the implications of our discussion for policymakers?

Regarding the enforcement mandate of CIC and the Department's status as an investigative body:

Chris: This leads to my major contribution – policy implications. I have worked on both sides. My background was in demography; my focus was on the whole question of the selection system, demographic goals, where we are going, the graying, aging society, et cetera. I made comments earlier about this admissions and facilitation part. We are the number one country [with the] largest per capita intake. If the US intake equaled ours on a per capita basis, it would be four times what it is now. And as the Minister indicated when she announced targets, there will be a 10 percent increase and we have this goal to get to 1 percent of our population immigration flow.

In this movement there was, for the first time, a realization amongst the public and a concern amongst policymakers that everything we put in place for our system to allow access – to ensure protection and the right to remain, the right to be landed, and the right to become a citizen – was awash because these individuals were not destined for Canada. There was a tremendous cost to everything that we put in place to process them, and in the end, for what reason? Not for the whole basis upon which this selection/admission system had been geared right to the end: citizenship. [But

rather] for a transiting purpose. That combined with 9/11, which is the realization that our system – by a very small number of people – is being abused for the purposes of terrorism, brought to the fore a question. Can you in fact run immigration and refugee systems with both the enforcement objectives and the selection-protection facilitation objectives? And I guess I'm at the point in my life right now, having been away from it for a year where my answer now is, "No, you can't."

You've got to think about two systems, two structures, two organizations. What we need to think about now is that we have this Department of Citizenship and Immigration and these goals for selection: the demographics, the labour market, the protection issues for refugees, the settlement and the citizenship are all really important. But what doesn't fit in this are the enforcement goals and responsibilities, the security needs and issues. And that's got to be put somewhere else. It's what I alluded to earlier – this policing and investigation function that we don't have legally, the partnership for all of that – and we've got to think about a different structure.

Because I don't think it's fair to say – and some comments, I understand where they're coming from – well, the summer of '99 was about an enforcement mentality and culture. At the same time the Department was still expanding its intake with immigrants, was still working its settlement programs. All those things were still going on. Can one Department do both of these things anymore given the changed environment? We have got to fundamentally rethink and reconceptualize the two main goals for the program, and in fact have them delivered differently, managed differently, politically done differently – the whole thing, top to bottom. Will that happen? I don't know ... probably in a fragmented, ad hoc way we'll get there, as we do in Canada.

Question: My background is in Enforcement. One of the things that I've been doing in the last couple of years is working on a committee to investigate the gain for the department investigative body's status. This would enable and facilitate the kind of work that we do on the enforcement side by allowing us to protect against at least certain aspects of information and to obtain information from other bodies, like the RCMP and CSIS and other people, to assist us in our administrative investigation. This has been a long road to follow and has met, as one might well understand, a lot of opposition from government and the private sector because it's a restriction and diminution of people's privacy rights. And any time there is such a thing, we have to definitely look very carefully at whether there is a balance in the value of your gain. The Department of Justice didn't think that

there was to begin with. The events of September 11th though, have led to an about face in the view of a number of people in Ottawa, including the Department of Justice. This impetus is now going ahead at full speed.

Once this happens, we'll have to figure out the training and the rollout of the delegation and how this is going to happen. And one of the alternatives, and the favourite alternative among those of us who are putting this forward, is the creation of the CIC Investigative Service, which goes along the line of what Chris is talking about. It might not go all of the way, and might be a more loose or amorphous organization than a separation of the departments into two complete functions, the supreme functions. But it would be a beginning, it seems to me, of the separation of the very important enforcement functions that our department is mandated to perform, from those equally important functions that are facilitative in nature.

One further point is that when we're talking about facilitation or multi-level cooperation, which we have to have on issues of this sort and many others, there's an overarching need to be considerate with the conflicts between the federal privacy legislation, provincial privacy legislation, and who is bound by what. When we're sharing information, it's one thing to share with another investigative body, and it's hoped that that would engender a level of trust that that sort of change could take place. It's another thing to share information that might otherwise be personal or protected in some other way, with an NGO organization or with a provincial government or with a municipal government because one cannot be sure that the information provided will be held in the confidence required. So when we're looking at all of these things, if we're looking at barriers to the kinds of things we want to achieve here, this is one of them.

Dan: For those of us that work [in the response to human smuggling], I don't think we can do it much longer unless we get investigative agency status. We used to have investigative status years ago. We were audited, lost it, and have been spending the last two decades it seems trying to get it back. And I spend probably a week a month doing access requests.

Regarding POE interview notes:

Joshua: We talked earlier about the POE notes that are taken down, the interviews that Immigration Officers do at the very beginning. Those POE notes are very significant because they are used at the refugee hearings, and if anything is different between the POE notes and the testimony, if there are any omissions, it goes to the credibility of the refugee claimant. And the Refugee Board, particularly in Vancouver, has a culture of credibility. It's easier to find a negative decision for lack of credibility

because it protects from judicial review. Given that, and given what Dan just said about the control that these people had, even past the time of these interviews, it's something that ... because Immigration will often argue that these POE notes should be used at the refugee hearing, that they are significant to find out what the true story is. And I think in terms of assessing the whole process, how likely is it that somebody who is controlled, even in a situation or institution where we have our own policy and our own officials, how forthcoming are they going to be at the very beginning with the whole story?

Regarding flight risk and detention policy:

Question: Given the higher than average flight risk statistic, I just wondered how that affected federal policy in the last two years?

Chris: As I understand it, we never had a policy that we were going to detain. We saw these migrants as different from our regular traffic, as there was discussion to not take people at the airports and there are thousands that come in at the airport. Why the boat migrants? And I never remember a discussion where we all sat down and said we're going to detain these people... They were undocumented ... this is different from someone who arrives at the airport and makes a claim. These people were trying to avoid us. Two of the boats ran from Canadian ships who were signaling them to stop. They were trying to enter Canada without reporting and get to New York is how we understood it. It was an apples and oranges situation, and yet the media were constantly saying why are you treating them differently? And we're saying because they *are* different. They're trying to do something different. Like at a point of entry what usually happens, a guy will come off an airplane – if they've come up to the line and say, "I have no documents, I want to make a refugee claim" – most of those people are released onto the street to make their claim. But these guys were trying to beat the line through the smuggling operation, and that factored into the decision to detain. That has to be reviewed by the adjudicators every week – every week for the time they're in detention. Thirty days once the certificate is issued, every 30 days.

The last point on detention – because Joshua referred to the Minister's comment the other day – I didn't hear the Minister say that detention was not justified. And she certainly wasn't – as I heard it – implying that during the summer of the boats it wasn't justified. She was implying that as a matter of policy, like what Australia's doing, everybody's detained in Australia if they're undocumented or in the United States ... that that policy decision hasn't been made [here].

Regarding the presence of enforcers locally:

Question: At every point in transit – and BC was a point in transit, I think we would recognize – there are local facilitators and enforcers. If they're detained, they post bail, and they are very present in sort of moving them on to the next stage. So my question really is to do with the presence of those local enforcers. What sense of their presence did you have? Where else in terms of the various stations that they are occupying in these institutions that [the migrants] were working through, could one see evidence of the enforcers trying to prize them loose and move them on?

Robin: We had a number of incidents with the minors. Most of the kids, we were very aware, were under intense pressure to move on. We knew the pressure was actually internal to our group too. We couldn't quite identify who, but we were sure some of the kids we were housing were some of the enforcing group. And in Victoria, all 25 kids left in one night, and it confirmed some of our suspicions about some of the kids who were living within that group of 25. I don't think Immigration knows a lot of this stuff either. But we did have a lot of runaways – really a lot.

I think the other thing that Immigration isn't entirely aware of is that we're pretty sure we know where most of the kids are, in fact at least 40 of them keep in very regular contact with us. And they're not all in New York. They fanned out across some major cities in the US, but mostly on the east coast. None of our kids are, from what we know, certainly of that group of 40, they're not being exploited, they're not into situations that we would really be concerned about. The majority had aunts, uncles, families. Some kids are even going to school. They're in high school in New York City. So, yeah, we've got a lot of stories about the enforcement end of things or some of the pressures the kids were under and what the consequences of that were.

Regarding disaggregate data, gender, unaccompanied minors, and federal and provincial resources:

Question: I would be very interested to find out within the, you know, 72 abandoned, 16 withdrawn, 24 positive, how many were men and how many were women. If we're doing this for our best practices and for future policy implications in terms of strategic planning, we don't want to be caught ever in the situation where you're all of a sudden saying, "There's all these minors! We never thought we'd get minors. We just thought we would get people." So that is if we disaggregate, then you've a better chance of targeting services, facilities, et cetera. I think it is important to do that at the front end, and the front end is at the operational level when we're actually seeing people come in.

I don't know if we can project estimates – that's a different situation – but even having the data come out brings us to a different place if we know that of the 468 that were negative, 400 of those were male. What does that say? What kind of policy implications does that have? What's in that? Of the ones that were positive, 24 were female. Why? What were the determinations, what were the factors that made those determinations positive?

The other question that I had is related to that. At one point or another, a decision was made about how to handle on the basis of gender. I mean, the minors were taken care of in one way, there were issues about having girl children and boy children or youth. When and how is the decision made about separating them? Was it part of the planning process at all? And that's not a criticism; I'm just trying to understand the process further.

Dan: I guess somebody mentioned earlier that we hadn't thought of kids. We actually did. In both tabletop exercises, which I've still got, the scenario had kids, and it actually had women. But it had more difficult experiences than the ones we actually encountered. We anticipated that women would have been raped or had troubles, and we never had anyone claim that that I recall.

We have female officers on the team, there's – each time – two female officers who actually board after the vessel's secure, and most of the responding Immigration Officers have at least 15 or 25 years of experience. Now it's interesting that you should raise this. There's a lot of discussion in Ottawa on how this should be delivered in the future and actually whether Immigration Officers should be on the water and should be responding, or whether it should be an RCMP and DND thing ... My personal preference is that Immigration are the best people to respond because we deal with immigrants all the time. We have a different mindset from an RCMP Emergency Response Team officer.

We were sensitive to women and children as we always have been. How we detained them at the facility was dependent upon the facility. It was a horrible facility for us because it's a gymnasium – horrible in the sense for security. And we got better at it, but it became more of an institution and that became difficult from an optics sense, from a footprint sense in the middle of Victoria. But the women had a room where the women were and the kids went in. We had to send the kids through the facility because they had to have chest x-rays and the delousing process because there was a lot of lice and scabies and all that stuff. So we had to get the kids through first and then out to the Ministry. And then we had to get the women in a separate section.

I remember [from] the first boat that we actually kept some kids in the facilities, for a couple of days actually, while we got our stuff together. We were talking about this just the other night in that we've had some differences of opinion with the Province, and a lot of it has to do with funding. And yet the Province was really there for us. In some instances, I think more than the federal family. The provincial government, BC Corrections was there for us, and completed restructured facilities for us so that we wouldn't have our migrants in with criminal detainees or in a remand centre. They even put walls up and built stuff and all that. Certainly later they came back looking for money.

I remember phoning Health Canada, and they said, If it's a quarantine issue, yeah, I'll talk to you, otherwise talk to provincial health. And I was boggled. I said, I need an x-ray machine! I have to do x-rays of all these people for TB. Where the hell am I going to get an x-ray machine? You can't go buy those things. You can't rent one. That was a big thing. I'm an immigration officer. Where do I get an x-ray machine? Phone Health Canada. Health Canada's saying, "Not!" And it was provincial health who went, "There's one over at TB Control in Vancouver that they use on the street kids. We'll let you use that. We'll haul it over to Victoria. In fact they'll send two technicians over. Do you need any blood work done?" So I think the Province stepped up to the plate – and granted Immigration is a federal-provincial jurisdiction under the British North America Act – but they were there for us, as well as the people at this table.

So in a way that's why we encourage Alison to look at these issues, and we're going to encourage and challenge you [audience members from the federal government] ... to not look at it from a federal headquarters level where you can assume that you can task. I mean I remember them asking us, well just get DND to give you a ship. Well, have you ever phoned the Admiral and asked for a destroyer?! Well, we had to do that and they laughed at us, but we got a destroyer.

I'm starting to shake just thinking of this as we're sitting here because Mr. Taylor is gone to another Department so we haven't seen each other in a while, and we're just going, "Do you remember that?" And it got so bad that he actually brought me a bed at the office, and I slept at my desk. It was just so bizarre! And we didn't see our families all summer. They just kept coming, you know, one after another.

Regarding the municipal level:

Question: I'd like to put the cities perspective in this because the issues that I find you talking about are absolutely incredible, where one government isn't quite speaking to another government; and looking for the resources and scrambling because this is not something that you know how to deal

with. It's when these people escape and are brought into the community that often times they then become part of our city's problem or whatever, and they're hidden in the system. They go to the illegal street, they sometimes become part of our security systems, they often times are looking for jobs or getting exploited. There's a lot of issues that deal with refugees that come in.

It certainly was on the front pages of the newspapers, and we knew they were struggling, and the officers and the system were struggling with this problem. Have you done a complete evaluation, have you made recommendations to policymakers, and are you going forward with this? We're still not certain that this has stopped.

Was the intelligence that we had in dealing with the sources of why they came? Who did this thing? What does our intelligence tell us now?

Dan: I think that it's really important that we engage the cities and the municipalities. As the RDG, Chris Taylor created an Advisory Committee, and we have municipal representation on it. There are cities issues ... there are zoning issues. I mean, what would Surrey say if we said that 200 of these guys should go live in houses in Surrey but under detention? I don't know; so there are issues like that. There are issues in the ports... Delta and New Westminster ports have container migrants going through there. So there are issues, and I think we do have to do more working with the cities, and certainly the issue in a municipality like Surrey with perceptions, whether it's perceptions after 9/11 or perceptions after the way that the media dealt with the summer of the boats; that your media have to be in touch with our media people so that at least we can say what we're going to say so that we're all sort of on the same page... I'll take that back to my Director General ... that there are people in the municipalities who have an interest in this, more than just [an interest in immigration] levels and things like that.

Question: And I'll say we've certainly pushed for the money to be put into municipalities because unless you have an understanding of what's truly happening there, you can't prove your policy is working ... what is written up. You have to know what's happening, and [to an audience member from CIC] you seemingly have an understanding so I appreciate that. Thank God.

Alex: My response [to the question of improving the cross-institutional response] was somewhat along those lines of involving all the levels. So if we either do a debriefing or better still, I was going to ask for a table top exercise as [Dan and Chris] had referred to so that we could find out what all the various levels were. Because those planning exercises don't involve what I'll very broadly describe

as “the community level,” which would be both the city and the impact it has there and the NGOs. As I was saying in the first half, we had to work across borders as well as different municipal jurisdictions, which made it difficult. So what I would like to see is that the planning exercise that goes through, using that as a case study, say, “How would this operationalize for all of you? Where would our mandates clash?” So that we can see in advance: this is what the operational and implementational difficulty would be, so that we look at it in sort of a real case scenario. Chris, you describe looking at the other federal level agencies and the difficulty you had there, but I think we need to look at the vertical axis too and see how it would play out that way. I think that could be quite productive for us.

Regarding research and the dissemination of information:

Question: [Regarding] the release of information. I guess the press and the media just has a life of its own, and the public reaction to some of the stuff that’s written in the media becomes shrill, vitriolic, and condemning. And then you end up with perceptions that simply aren’t true. So sooner or later the truthful information has to be released in a way that the public can understand this issue. And I’m asking as a question: when you go through the evaluation and setting up of intelligence, is there an opportunity to write a book, not a paper, not a research document, but a book that the general public can read and understand this phenomena? The questions I’m asking are very naïve because we don’t have the in-depth understanding that you do. And that has to be relayed, but in a truthful way, not through the media... And research papers become very hard to [read] ... not the average person reads them. And this has to be told. This is an incredible story, and it has to be told. I mean, it turned everyone’s life around ten-fold.

Chris: Can I just say in response to [the] question about getting information out. Alison, I don’t know if you noticed, but her PhD is on this whole thing. But it’s very true that the information that we say either has a government twist to it – so there are messages to things the government wants to get out – or has an NGO-twist, an advocacy message of some sort. But where is that more independent, you know, academic [perspective] ... there isn’t a whole lot of it. I look at Alison and think to myself, you can start to write on this. If I could encourage you to write on this, to try to put the pieces out in some way ... because you come to this from a more objective place, and we don’t have a lot of people that do. We’re all in it.

Concluding Remarks and Policy Recommendations

These statements, made by practitioners working toward common objectives within very different institutional frameworks, have many themes in common, such as the importance of communication, resources, safety, protection, and the clarification of policy and law, roles and responsibilities. One theme recurring throughout is the lack of opportunity for dialogue and reflection, and a desire to further this dialogue among individuals and organizations responding in British Columbia and elsewhere in Canada. While speakers made policy recommendations throughout, we would like to emphasize the following salient recommendations.

- (1) This project marked an entrée into what should be a more extended discussion of a range of important issues to do with the Canadian response to human smuggling. We recommend the facilitation of more extensive dialogue across responding institutions that enables reflective, constructive, and pro-active collaboration among governmental and non-governmental parties involved in responding in the past and in the future.
- (2) We recommend that more extensive discussion of the differing mandates of CIC take place, particularly in relation to the intersection between human smuggling movements and the refugee determination process in Canada.
- (3) We recommend additional regionally based workshops that will provide a venue to continue and expand this dialogue to include more parties: responders at different levels – municipal, provincial, federal – as well as non-governmental parties, advocates, services providers, immigration lawyers, and others, including perhaps the media.
- (4) We recommend planning in the form of tabletop exercises of the kind sponsored by the federal government in BC in 1999, dedicated to future responses. Future tabletop exercises, however, should include all organizations involved, including federal, provincial, and municipal levels of government as well as non-governmental institutions involved in the response. It is here that the issues to do with the operationalization of policy should be worked through.
- (5) We recommend the responsible dissemination of information in a form comprehensible to the public. This dissemination should take place not only during the height of a response when the public and the media are focused on an event, but after the event, in a more reflective mode as well. Furthermore, the dissemination of information should not take place exclusively through mainstream media outlets.

- (6) All groups involved should work more pro-actively with the media to discuss the presentation of human smuggling, immigration policy, and the refugee determination program to the public. This dialogue with the media should include a more thoughtful discussion about the language of human smuggling and refugee issues, including contemplation of what set this movement apart and in what ways it was similar to other movements to Canada.
- (7) We recommend policy clarification, not only within federal departments, but across governmental departments collaborating at different levels. Organizations have overlapping mandates that must be worked through in advance of smuggling movements.
- (8) The allocation and sharing of resources must also be planned in advance, rather than in the thick of the response and afterwards. Again this discussion should be not only “horizontal” across federal departments, but “vertical” as well.
- (9) We recommend more extended discussion of policy and legal clarification surrounding the decision to detain, and the geography of detention, which impacts greatly upon refugee claimants’ access to institutional support and the very refugee determination program itself.
- (10) We recommend more comprehensive planning and support for programs designed to support unaccompanied minors, an issue that also draws on federal, provincial, and municipal resources, as well as the support of non-governmental parties.

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