Detained in the New Refugee Determination System:
Highlighting the Experiences of Detained Refugee Claimants

Tyler Goettl and Jenny Jeanes
March 2015
Acknowledgments

Action Réfugiés Montréal is pleased to acknowledge a grant from Canada Summer Jobs in 2014 which enabled this report to be researched and written.

ARM would also like to thank the twelve participants who generously agreed to be interviewed and to share their experiences in order to make this report possible.

Lastly, ARM would like to thank Tyler Goettl for his efforts during the interview process. Mr. Goettl’s contributions, both as a volunteer and intern, have been greatly appreciated by staff and the many refugees he has assisted.
# Table of Contents

List of Acronyms 3

Executive Summary 4

A. Introduction 7

B. Action Réfugiés Montréal and Canadian Detention Practices 9
   (i) Description of Detention Facilities in Canada 9
   (ii) Action Réfugiés Montréal’s Detention Program 10

C. Methodology 11

D. Interview Results by Theme 12
   (i) Experiences in Detention 12
   (ii) Interviews with CBSC and CIC 18
   (iii) Preparation for the Refugee Hearing before the RPD 24
   (iv) The Refugee Hearing 29
   (v) Experiences Accessing Social Services and Interaction with Refugee Service Providers 31

E. Summary of Specific Challenges 43

F. Conclusion 46

Annex A: Participants’ Biographical Details 47

Annex B: Overview of Legal Dynamics of Canadian Immigration Detention 48
List of Acronyms

ARM: Action Réfugiés Montréal
BOC: Basis of Claim (form)
CBSA: Canada Border Services Agency
CCR: Canadian Council for Refugees
CIC: Citizenship and Immigration Canada
DCO: Designated Country of Origin
IFH: Interim Federal Health (Program)
IRB: Immigration and Refugee Board of Canada
IRPA: Immigration and Refugee Protection Act
POE: Port of Entry
PRAIDA: Programme régional d’accueil et d’intégration des demandeurs d’asile
RAD: Refugee Appeal Division
RPD: Refugee Protection Division
UNHCR: United Nations High Commissioner for Refugees
Executive Summary

Action Réfugiés Montréal (ARM) is a non-governmental organization which has been providing support to refugees for over 20 years. A specialization has been developed in providing support to persons detained for administrative reasons at the Immigration Holding Centre located north of Montreal in Laval, Québec. The Centre is operated by Canada Border Services Agency (CBSA) and ARM visits the Centre on a regular basis, having a signed protocol with CBSA.

Canada receives over 10,000 refugee or asylum claims annually. A small percentage of these persons are detained for administrative reasons. Given ARM's specialization, a study was conducted with persons who had been detained in order to discover the experience of these persons through the refugee claim procedure. Legislative changes to Canada’s refugee determination system in late 2012 had, among other modifications, the effect of refugee hearings being conducted within a 60-day period after the claimant had made their request.

While studies focusing on asylum-seekers have been conducted since the legislative changes occurred, it was deemed pertinent to study formerly-detained persons in order to add to the available literature. A total of 12 persons were interviewed. All participants were met by ARM personnel while detained at the Centre and following their release.

The interviews revealed the following trends in these subject matters:

(i) Experiences in Detention

All participants expressed some degree of negative sentiment with respect to their time in detention. They differed only in the extent and magnitude of their expressions of discontent with having been detained. Participants tended to highlight the rigid schedule and rules, handcuffing during transportation, lack of sleep, and being detained with persons who had committed crimes. Moreover, they discussed both the effects of detention on their mental health as well as on the preparation of their file.

(ii) Interviews with CBSA and CIC

Most participants expressed strong negative sentiments with respect to their interactions with CBSA investigating officers. However, two participants described positive experiences. Some participants, particularly those who spent one month or more in detention, received intervention packages prior to their hearings before the Refugee Protection Division (RPD).

In these ministerial interventions, CBSA officers recommended that the RPD reject the refugee claim based on the claimant’s perceived lack of credibility. Based on this small sample, it does not appear that CBSA intervention packages doom a claimant’s file to rejection. All three of the participants who had, at the time of the interview, received both a CBSA intervention package and a decision in their file had been accepted.
(iii) Preparation for the Refugee Hearing before the RPD

Some of the participants believed that the shortened timelines were sufficient for the preparation of their file. They felt that preparation should not be too difficult if their testimony was sincere and genuine. Others, particularly those who were still awaiting a decision, felt that they could have used more time. Almost all participants experienced some degree of difficulty in gathering evidence, completing the Basis of Claim (BOC) form, or communicating with their lawyer while in detention.

In this section, it is particularly important to recall that only one of the participants’ claims had been rejected at the time of the interviews. Thus, despite the participants’ stated challenges in preparing their files while in detention, their perspectives on the amount of time required to prepare a successful file was likely skewed in favour of the current short timelines, allowing them to quickly obtain refugee status and move forward with their lives. One person explicitly recognized this in his interview, explaining that, “I can tell you right now that it was all okay... because I got a positive result, but at that time I was going crazy. I might think differently if I got a negative [result].”

(iv) The Refugee Hearing

Participants’ experiences at hearings ranged from very positive to extremely stressful. Of particular interest to the specific challenges faced by refugee claimants detained on identity grounds are the experiences of two individuals. Each individual had satisfied the CBSA officer of their identity and was released from detention; however, the question of identity was raised thoroughly by the Board Member at the RPD. In each case, the Board Member seemed either not to have read or received information from the CBSA investigating officer with respect to the reasons for which he or she had become satisfied with the claimant’s identity.

(v) Experiences Accessing Social Services and Interacting with Refugee Service Providers

Most of the participants made use of, and expressed great appreciation for, the various services provided by Programme régional d’accueil et d’intégration des demandeurs d’asile (PRAIDA), the YMCA Residence, the PRAIDA-YMCA Day Centre, and ARM. Participants benefited widely from support in filling out social assistance, Interim Federal Health (IFH) reinstatement and work permit applications; attending workshops on housing and healthcare; enrolling in language courses; and participating in other workshops at the Day Centre.

Participants were unanimous in describing staff members and volunteers as friendly, welcoming, and kind. With the exception of government-funded French language classes, most participants had not consulted or interacted with other community-based organizations that assist immigrants.

The most common concerns among participants related to housing. Seven of the twelve participants commented on what they perceived as PRAIDA’s overly strict conditions for temporary shelter at the YMCA Residence. Three participants expressed frustration at not
qualifying for free temporary housing, and four others complained that they were refused extensions when their housing expired shortly after receiving their first social assistance cheque.

Moreover, multiple participants felt as though no one assisted them in the search for an apartment. While these complaints have been shared by participants in other studies there are important disproportionate effects of such strictness on formerly detained persons in the new refugee determination system. One specific experience is instructive, and may be typical of persons who are released at their first thirty-day review hearing, after around forty days in detention. He was told that his housing at the YMCA Residence was about to expire in the same week that his refugee hearing was scheduled to take place. This created a particularly stressful situation.

One major difference between the experience of detained persons and non-detained persons is the requirement that former detainees apply for the reinstatement of their IFH coverage after release from the detention centre. This is a challenge unique to detained claimants, whose medical coverage is cancelled once they are released and only re-instated several weeks later after they submit a renewal application. The application must be sent and accepted before one may undergo the immigration medical exam, and the immigration medical exam must be completed before one can apply for a work permit.

Participants were mostly unaware of the expiry of their coverage until after they were released from detention, and expressed frustration at having to apply and wait for their coverage to be reinstated. Three participants had medical concerns and attempted to seek treatment while they were temporarily without IFH coverage; two were refused treatment while the other was made to sign a contract stipulating that he would return to the hospital with proof of reinstatement when it arrived.
A. Introduction

This report addresses the experiences of refugee claimants who have been detained in the current Canadian refugee determination system. The new system came into effect on December 15, 2012, by way of amendments to the Immigration and Refugee Protection Act (IRPA). The report highlights claimants’ time in detention, interviews with the Canada Border Services Agency (CBSA), preparation for the refugee hearing before the Refugee Protection Division (RPD), as well as navigation of and access to social services in Montreal, Québec. To facilitate this research, interviews were carried out with twelve former immigration detainees at the Action Réfugiés Montréal (ARM) office.

ARM makes weekly visits to the Immigration Holding Centre in Laval, Québec, through its Detention Program, described in greater detail in section B “Action Réfugiés Montréal and Canadian Detention Practices” (ii). Since the major changes to the refugee determination system, ARM has witnessed a significant increase in needs for its services: visits the Immigration Holding Centre have been increased to twice per week instead of once as before; the legal information we provide is increasingly complex; requests for phone cards have skyrocketed as claimants need to gather evidence for their claims – not just identity documents – while in detention; and more claimants remain in contact with ARM after release, seeking assistance in the short delays leading up to their refugee hearings.

The inspiration for this study stems from these observed shifting needs. Given its frequent interaction with and assistance of detained refugee claimants, ARM is particularly well-situated to study the effects of the recent legislative changes on this target population.

This study should be read concurrently with a recent report (referred to as CCR Report¹) produced by the Canadian Council for Refugees (CCR), as well as focus group research prepared collaboratively by the Programme régional d’accueil et d’intégration des demandeurs d’asile (PRAIDA), the YMCA and the United Nations High Commissioner for Refugees (UNHCR) (referred to as Focus Group Research²). Both studies address the experiences of refugee claimants in the new refugee determination system. While some overlap certainly exists among the research carried out by these organisations and the research carried out here, this report differs in that it focuses exclusively on the experiences of detained refugee claimants.


The objective of the research is to sensitize refugee service providers, lawyers and institutions such as the Immigration and Refugee Board (IRB), CBSA and Citizenship and Immigration Canada (CIC), to the particular challenges experienced by detained refugee claimants following the December 2012 amendments to IRPA. The hope is that the information will result in the adoption or modification of services or practices which may positively impact refugee claimants at risk of detention as well as the experience of formerly detained claimants.

It is important to note that the refugee claimants and accepted refugees interviewed for this report are not a representative sample of all refugee claimants in Canada. Given that they were recruited by ARM to participate in this research, they are likely disproportionately connected to support networks relative to other refugee claimants.

The experiences of persons interviewed for this report are not representative of all detained refugee claimants in Canada, either. Canada’s immigration detention infrastructure varies by region; some claimants, for example, are detained in provincial jails. Likewise, services available to refugee claimants and detainees vary by region. The persons interviewed here were all detained at Laval’s Immigration Holding Centre and continued to reside in the Montreal area after release.

Three additional disclaimers are necessary. First, it is important to note that only one failed refugee claimant consented to participate in the study. With that exception, participants were either accepted refugees, refugee claimants who had attended their hearings and were awaiting a decision, or refugee claimants who had not yet attended their hearings. This may have affected participants’ overall perception of the fairness of the system, as well as their interactions with social service providers in Montreal after release.

Second, all participants had advanced oral language skills in either English or French. This also undoubtedly affected participants’ perceptions of their experiences, perhaps especially in preparing for their hearing and accessing social services. Indeed, a number of participants noted that they would have been “lost” without knowledge of English or French. Third, none of the participants were from a Designated Country of Origin (DCO). Claimants from DCOs have less time to prepare for their hearings relative to claimants who are not from DCOs; moreover, they do not have access to an appeal before the Refugee Appeal Division (RAD) of the IRB.

While the participants are not necessarily representative of all refugee claimants or detained persons in Canada, useful insights may nonetheless be gleaned from their experiences navigating immigration detention, the refugee claim process, and a web of social services within short timeframes after their arrival in Canada.
B. Action Réfugiés Montréal and Canadian Detention Practices

For readers less familiar with Canadian immigration detention and the services of ARM, this section has been included to provide the appropriate context. For a summary of the legal dynamics of Canadian immigration detention, please see Annex B.

(i) Description of Detention Facilities in Canada

Canada’s immigration detention infrastructure has been thoroughly described elsewhere, notably by Janet Cleveland in her research on the detention of refugee claimants in Canada. Cleveland explains:

“Detainees are under constant surveillance by cameras and uniformed guards, subject to repeated searches, in a facility with centrally controlled locked doors surrounded by fences topped with razor wire…Movement from one area to another within the centre is prohibited unless escorted by a guard.”

Moreover, detainees are subject to strict rules and their schedules – including waking up, sleeping and eating – are tightly regulated:

“All aspects of daily life are controlled by rigid rules, and failure to respect rules may be punished by brief solitary confinement or withdrawal of privileges (such as visits). There are virtually no activities except watching television. Primary medical care is provided but no mental health services. All detainees except pregnant women and minors are handcuffed during transportation.”

The Immigration Holding Centre in Laval is one of three detention facilities in Canada designated exclusively for immigration purposes. As Cleveland notes, however, some 30% of persons detained for immigration purposes are held in provincial jails or remand centres.

---


4 Cleveland, supra note 3 at 7.

5 Ibid; CBSA has recently added some basic psychiatric care to the health services contract at the Laval IHC.

6 Ibid.
(ii)  **Action Réfugiés Montréal’s Detention Program**

ARM staff and interns visit the Immigration Holding Centre in Laval twice per week through ARM’s Detention Program. Staff and interns provide services to immigration detainees in various circumstances. With respect to newly arrived refugee claimants – the focus of this report – the majority of persons with whom ARM interacts are detained because their identities have not yet been confirmed by Canadian authorities.

ARM is the only organisation that makes weekly visits to the detention centre. The main goal of the visits is to provide accurate legal information to detainees. ARM also supplies phone cards, exchanges currency, offers clothing donations, refers claimants to community organisations, and offers other forms of moral support to detained persons.

ARM has an agreement with CBSA which allows it to make weekly visits to the detention centre. At any given time there are between 30 and 70 detainees held there. ARM also regularly accompanies claimants to their detention review(s) and refugee hearing(s) at the IRB. As described in the Introduction, ARM has observed noticeable shifts in detained refugee claimants’ demand for its services since the December 2012 legislative changes.

In the new system, individuals who make a refugee claim upon arriving in Canada are given only 15 days to submit a Basis of Claim (BOC) form after their claim has been found eligible. This form must include details about the grounds of persecution. For most of ARM’s clients detained on identity grounds, this means that the BOC must be completed while the claimant is detained. Moreover, claimants have only 60 days or less to prepare for their refugee hearing after the claim has been found eligible. If claimants are from a DCO, they will have only 30 (if the claim is made inland) or 45 days (if the claim is made at a port of entry) before the refugee hearing takes place. ARM’s role in providing legal information, offering calling cards, and facilitating communication between lawyers and claimants with fast approaching refugee hearing dates has become increasingly important.
C. Methodology

Interviews were conducted with twelve former detained refugee claimants whom ARM met in detention and remained in contact with after release. The interviews focused on a number of broad themes and questions. These themes and questions were largely adapted from the Focus Group Research and the CCR Report, with an added emphasis on the specific concerns faced by detained and formerly detained individuals.  

The themes included:

1) Experiences in detention
2) Interviews with CBSA and CIC
3) Preparation for the refugee hearing
4) The refugee hearing
5) Experiences accessing social services and interacting with refugee service providers

The ultimate goal of the interviews was to arrive at holistic accounts of how immigration detention affects claimants’ experiences in the new refugee determination system.

The interviews were intended to be relatively unstructured and open-ended. Participants were not asked a series of precise questions. Rather, the interviews aimed to facilitate the individual’s recounting of his or her narrative in relation to the various themes. Due to the unstructured nature of the interviews, participants chose to speak about those elements of each theme which were most memorable or important to them.

Participants have consented to participation in this research. Their names have been changed and their countries of origin have not been disclosed.

---

7 See Focus Group Research, supra note 2 at 28-31; CCR Report, supra note 1 at 29-31.
D. Interview Results by Theme

Please see Annex A for a table detailing select biographical information of the twelve participants. Summaries of the interviews are broken down by theme. Within each theme, the participant’s experiences are separately detailed.

As is explained in greater detail in Annex B, Canada’s immigration law, IRPA, allows for the detention of foreign nationals whose identity is not confirmed to the satisfaction of a CBSA officer. For refugee claimants, this decision is usually made at the end of their eligibility interview, the first formal step in their refugee claim process. Detained claimants are then referred to CBSA investigating officers, who examine documents, conduct interviews and make other verifications until they are satisfied with the claimant’s identity. The IRB conducts regular hearings to review the reasons for detention and to decide whether to maintain detention or make an offer of release. In general, once CBSA is satisfied with the claimant’s identity, the person can be released by the IRB.

CBSA may also detain on grounds including flight risk and danger to the public. However, in ARM’s experience, most refugee claimants detained at the Holding Centre are held on identity grounds.

(i) Experiences in Detention

All participants expressed some degree of negative sentiment with respect to their time in detention. They differed only in the extent and magnitude of their expressions of discontent with having been detained. Participants tended to highlight the rigid schedule and rules, handcuffing during transportation, lack of sleep, and being detained with persons who had committed crimes. Moreover, they discussed both the effects of detention on their mental health as well as on the preparation of their file. The effects of detention on the preparation of their file are detailed predominantly in part (iii) “Preparation for the refugee hearing before the RPD”.

Victor

Victor was released at his thirty-day detention review hearing after about forty days in detention. He explained,

“I was really, really getting depressed. In detention was the first time in my life that I did try taking a depression pill. I had really gone crazy.”

He felt agitated, and despite normally being social and easy-going, found himself getting into arguments with other detainees. He felt that the detention centre was a very tense environment and was concerned that any negative behaviour could result in consequences for his claim. They could “write [any negative behaviour] down against you.”
With respect to the schedule, Victor noted,

“We didn’t have enough time to sleep. You go to bed at 12. Then at 5 they wake you up. So technically you sleep from about 12-5. Then you go down and have your breakfast. After that, [they yell] ‘go up!’ It’s like [makes shuffling sound] you’re an animal, a sheep, going to your fences to eat…and go to sleep.”

Victor was surprised to have been locked up with persons who had committed crimes in the past. He noted that some detainees would talk about the crimes they had committed.

In response to a question about his suggestions for improvement, Victor felt that people should be told their rights when they are detained. He was unsure of what legal rights he had, if any, while he was in detention.

Moreover, he explained that no one helped him find his way after he was released. Victor was given the address of the YMCA, a short-term residence for refugee claimants in downtown Montreal. Upon release from detention, most claimants have to travel the 30 km from the Laval Immigration Holding Centre to the YMCA on their own. Victor asked multiple people where the YMCA was, but no one seemed to know about it. Eventually he asked a police officer, who had to use Google maps on his smartphone to find it.

Victor noted, however, that the bus driver in Laval was very nice; he not only let Victor ride for free, but gave him $10 of his own money because he was “new to Canada”.

Jean

Jean, who was also released after about forty days in detention, does not understand why he was detained, as he was a refugee claimant and not dangerous. Jean described the embarrassment and humiliation associated with being handcuffed. Moreover, when he had to make a visit to the hospital while detained, he was handcuffed, and guards also cuffed his legs to the wheelchair in which he was sitting. Other people in the hospital were staring at him as though he were a dangerous criminal. He explained,

“Il faut que les choses changent. Le Canada, on dit que c’est un pays de droits, c’est un pays où la Charte reconnaît les droits et libertés à tous et à toutes. Mais non.”

With respect to the security guards at the detention centre, Jean described two guards in particular who were extremely nice to him and helped pick up his spirits. These two guards, along with ARM visits, gave him strength to continue.

He noted that ARM helped him find a lawyer while he was in detention. Initially, he was not aware of why he would need a lawyer, and was surprised when it was suggested that he should obtain one.
With respect to life within the detention centre, Jean noted that, “C’est presqu’une vie militaire là.” He explained the difficulty associated with everyone waking up early and only having ten minutes to shower. However, the food was good at the detention centre.

Jean’s biggest complaint about detention was the mixing of persons who had committed crimes in the past along with refugee claimants.

**Damien**

Damien, who was detained for over two months, described his time in detention as awful. He tries not to think about it because it is in the past. At the time, however, he felt that he was going crazy and even got into a minor fight with another detainee.

Just like Victor and Jean, Damien too described it as unfair that refugee claimants were put in the same holding centre as ex-criminals. He provided another insight in that regard, however. He noted that the ex-criminal detainees had less of an incentive to maintain good behaviour because they were all awaiting deportation: “They had nothing to lose.”

On the other hand, refugee claimants have everything to lose, so they have to muster more patience and refrain from losing their tempers. Damien explained that there was a lot of tension between different people within the centre. “This kind of thing happens,” he said, “when you put many people facing difficult situations in the same room together.” He expressed feeling stress to this day when he is in the area of Montreal in which the IRB is located, where he had to go several times while detained for hearings.

**Thomas**

Thomas, who was also released at his thirty-day review hearing, feels that if he had not been mentally strong, the experience in detention may have broken him. He had expected that the Canadian system would be sensitive to the fact that refugee claimants have problems at home, and would not create more problems for them once they arrived. However, there was a series of things in detention which put him ill at ease.

For example, most people are not used to being handcuffed, and he found this experience troubling. Moreover, the long trips from Laval to the IRB for hearings, or to CBSA interviews in downtown Montreal were uncomfortable.

Third, he found it very difficult to wake up at 5:30 AM. He explained that many refugee claimants have left behind families at home, and thus are up late at night thinking about them. The result was that he was only getting three hours of sleep per night, which added to his stress. He noted that this problem was not unique to him; in fact, often times at night Thomas and his roommate would call out to ask if the other had fallen asleep, and they would always respond “no”.

In his experience, the guards in detention were generally nice. However, when he was released, he found that no one at the detention centre offered to help him. He was released and expected to
find his way to the YMCA. Despite French being his first language, Thomas found it very
difficult to find it. He got lost a number of times along the way and had to stop and ask for
directions.

**James**

James, who was detained for a long period of time extending beyond one month, explained that
while he was expecting to face some difficulties in Canada, he never expected to be detained for
so long. At the most, he thought perhaps it would last several days. James explains, “I had a lot
of fear, anxiety, and stress there.”

He found it to be a very rigid environment in which you had to do everything that was asked of
you or face consequences. Like Damien, James explained that some detainees caused trouble for
others, particularly those who were being deported and did not have any negative consequences
associated with bad behaviour. James explained that one detainee awaiting deportation, “made it
clear to us that anyone who had a problem with him could enjoy being deported with him.”

Everyone was facing a lot of pressure, and James preferred to keep to himself. It took a long time
before James was comfortable enough to speak to ARM staff during weekly visits, and even then
it was at the urging of another detainee.

**Raul**

For Raul, who was released at his seven-day review hearing, it was not his first time
experiencing immigration detention. He had spent four months in a European detention centre,
describing it as a “pigsty” where there was an absence of humanity. Raul noted that compared to
the facilities which he had experienced previously in Europe, the Canadian facilities were really
good. He cited no major problems with being in detention.

He found a lawyer with the help of ARM staff, and found that the phones in detention were
sufficient to be in contact with him. However, he had difficulty communicating with his family
because they do not have a landline and normally communicate with others over Skype. Because
there was no internet access in detention, this was impossible. On release from the detention
centre, he had no change with him. Luckily, the bus driver let him ride for free.

**Carlo**

Carlo was released at his seven-day review hearing. Unlike Raul, Carlo had not previously
experienced immigration detention prior to being detained in Canada. In fact, it was the first time
in his life that he had been handcuffed. He was not expecting at all to be put in detention, and
thought it strange that the government would lock up people who had come to Canada to ask for
protection.

He found that the guards at the detention centre treated him like a criminal. For example, he was
surprised that the guards frisked him every time they made trips downtown. Moreover, in his
opinion, it was excessive to be searched by guards both on entering the vehicle and on exiting.
On the first day he was detained, he got into an argument with the guards. Nonetheless, he says he knows that the guards working at the detention centre are not bad people.

The rigid schedule was also upsetting. He notes that everyone was woken up at around 5:30 AM and had to go downstairs to eat. Then, from 8:30-10:30, the guards made you go upstairs to your rooms, where you tried to sleep a bit more. At 10:30 AM, the guards made you go downstairs again. He noted that “this is like a prison” and that the schedule “makes you go crazy.”

Finally, Carlo was not getting enough sleep. He explained that the lights had to go out at 11 PM, but since you had to get up at 5:30 AM, you were only getting 6 hours of sleep at the most. Carlo notes that people need at least 7-8 hours of sleep regularly, or they will “go crazy”.

Carlo noted, generally, that the CIC website was misleading. It appears there that Canada is an open and welcoming place, but from his perspective this is not true. It is all talk and politics. He was disappointed that refugee claimants are treated like criminals.

Ali

Ali was detained for approximately two weeks. He thought that it was normal that when one goes to a new country, the country will want to check identification documents. Thus, he was not surprised that the government would send his documents for verification and then release him once they realised that he was who he said he was.

With respect to the rules of the detention centre, Ali explained that as long as you followed them, you could otherwise do whatever you wanted. His only complaint was that they were given last minute notice for interviews with CBSA downtown. He noted that he and others who were being transported downtown were sometimes not aware of whether they were going to the IRB or for an interview with CBSA until they actually arrived at their destination.

Espoir

Espoir, who was released at her thirty-day review hearing, spent approximately forty days in detention after making her claim inland. When she presented her claim at the CIC office, she was already feeling sick and nervous due to health concerns she had experienced shortly after arrival and prior to making her claim. Espoir had gone to the hospital, but despite having a fever and high blood pressure, she left when they told her she was going to have to pay about $1000 in order to see the doctor. Prior to her first formal interview, Espoir had no health coverage; by the time she obtained health coverage she was detained.

When she presented her refugee claim, she was handcuffed and taken to Laval directly from the CIC office. Never before in her life had she been handcuffed. She had never even interacted with police officers before. She notes, “J’ai pleuré comme je n’ai jamais pleuré dans ma vie.”

When she arrived at the detention centre, she had her blood pressure and temperature measured by a nurse, who expressed concern for her health. The doctor came the next day and explained everything very clearly: “C’était un homme très correct.” Espoir took medication for her illness.
Overall, Espoir did not have any problems with the guards at the detention centre. “Elles ont un règlement intérieur à suivre.” So if they seemed tough on the exterior, it was because they had a job to do. One complaint, however, was that, “elles oublient que le sommeil est difficile à retrouver.” When the guards changed or moved around at night, there was a lot of noise and it interrupted her sleep. Espoir sees no reason why people should not be allowed to sleep past 5:30 AM: “Si elle n’a pas l’habitude de prendre le café le matin, puis laisse-la dormir.”

Joyce

Joyce was released at her thirty-day detention review hearing, after spending approximately forty days in detention. She found the experience in detention to be very stressful. “Je ne pouvais pas dormir ni manger à Laval. Il y a trop de dérangements là-bas.” Like Espoir, she noted that the guards made noise while the detainees were sleeping. Moreover, they turned on lights outside their doors, which made it even more difficult to sleep. Joyce explained, “Je comprends qu’elles doivent faire leurs contrôles, mais elles devraient être plus sensibles.”

In the end, there was very little time to sleep; not only because of the disturbances during the night, but also because they were obliged to move from room to room during the day. Joyce described waking up at 5:30 AM and eating while their rooms were cleaned. Then, they had to go back to their rooms at 9 AM while the main room was cleaned. This made it very difficult to get any kind of continuous sleep. Every time she was able to fall asleep she would then have to wake up to leave the room so that a different room could be cleaned. Joyce was critical with respect to the centre’s description as a detention centre and not a prison: “Si on dit que ce n’est pas une prison, il faut ramener la différence.”

Joyce also expressed stress with respect to receiving visitors. She had heard from other detainees that CBSA could investigate people who visit you at the detention centre, which made her worried. She did not want anyone who visited her to end up in trouble, and worried about the effects that their visits could have on their immigration status.

Above all, though, “La chose la plus difficile était les ménottes.” It was an exceptionally stressful experience to be placed in handcuffs every time she had to go to a hearing or an interview. The stress she experienced in this respect has continued even after being released from detention. “Dès que j’entends un camion qui fait la même sonnerie qu’à Laval, le stress revient.”

Marc

Marc, who was released prior to his thirty day review hearing after about one month in detention, found detention very difficult, particularly being handcuffed. He had never before interacted with law enforcement officials in his life. Marc also explained that it was uncomfortable to have to wait long periods of time in between trips from Laval to downtown Montreal.

On more than one occasion his detention review hearing or interview with a CBSA investigating officer lasted only twenty minutes. Then, he was made to wait for around three hours while other detainees’ CBSA interviews or detention review hearings took place. Detainees often had to wait
for others to complete their procedures before being transported back to the Holding Centre together in the same vehicle.

Marc was the only participant to have commented negatively with respect to the food at the detention centre. He was unfamiliar with many of the dishes that were served and, as a result, could not muster up much of an appetite.

He also experienced stomach pains while in detention, but had to wait several days before being seen by the detention centre’s doctor.

Saleem

Saleem, who was released from detention after less than one month, found detention particularly difficult. From his perspective, it was unfair that Canada detained refugee claimants. He noted that while the Immigration Holding Centre in Laval is called a “detention centre” and not a jail, there is little difference.

Saleem found that the guards’ multiple searches before and after transportation to the IRB or to CBSA interviews were excessive: “This puts a lot of stress on people.” Moreover, Saleem had to make a visit to the hospital while detained. He described feeling angry when his ankles were chained to the hospital bed in which he was seated.

Saleem also complained about the rigidity of the rules at the detention centre. While it may make sense to wake someone up at 5:30 AM if they have an appointment at the IRB or with CBSA, it made little sense, from his perspective, to wake up everyone else up at the same time. He explained that everyone was made to return to their rooms at 8 AM, where they tried to get some more sleep. However, at 10 AM, they were woken up again and told to go downstairs so that their rooms could be cleaned. One day shortly after his arrival in detention, he refused to wake up at 6 AM because he was sleep-deprived and not feeling well. In response to his protests, he was put in a cell as punishment and told that he could sleep there. The issue was eventually resolved.

(ii) Interviews with CBSA and CIC

Most participants expressed strong negative sentiments with respect to their interactions with CBSA investigating officers. However, two participants described positive experiences. Some participants, particularly those who spent one month or more in detention, received intervention packages prior to their hearings before the RPD. In these ministerial interventions, CBSA officers recommended that the RPD reject the refugee claim based on the claimant’s perceived lack of credibility.

Based on this small sample, it does not appear that CBSA intervention packages doom a claimant’s file to rejection. All three of the participants who had, at the time of the interview, received both a CBSA intervention package and a decision in their file had been accepted.
While most of the participants understood that the interviews were conducted for the purposes of establishing their identity, none of the participants felt they received advice from counsel with respect to them. Participants did not know the role of the interviews within the context of the refugee determination process, were not aware of any rights they possessed during the interviews, and did not know that their responses in the interviews could be brought up at the refugee hearing.

**Victor**

Victor explained that at the Montreal airport, the officer who conducted his initial eligibility interview was supportive, kind, and smiled; he felt that the interviewer believed him and apologised for having to detain him. He understood why he was detained and felt that it was fair, given that he had arrived with no identification. Victor thus expected that the CBSA officer assigned to follow his case would be similar. However, despite the fact that he was cooperating in an honest and straightforward manner, the same was not true, in his opinion, of the officer. Victor described the interviews he underwent with the investigating officer as the worst experiences he has had to date in Canada: “It was a horrible experience. I hated it.”

Victor met his CBSA officer on 3-4 occasions. He complied with all her instructions, having his passport sent to Canada from his home country immediately. When it arrived, it was sent for verification by a document expert. He found that it took an unreasonably long time to verify his identification documents.

The officer made remarks about his ease of communication English, suspecting that he had spent time in Europe. Victor explained how he had learned English and that he had never been to Europe. Victor was surprised that his level of English could be held against him. The officer told him directly that she did not believe or trust him. According to Victor, “She was telling me that she didn’t believe in my case, that my chances were weak and that I was likely to be rejected.”

Victor says that he was forced to repeat himself over and over again. Although the CBSA officer did explain the purpose of the interviews (she would tell him what “wasn’t adding up” with respect to his identification), he was not “informed of his rights” with respect to the interviews. He did not know whether or not he had the right not to answer certain questions, or whether answers to certain questions could hurt his claim. He was unable to get advice from his lawyer prior to going through the CBSA interviews.

In the end, despite his identity having been proven, the officer sent an intervention package to the RPD. She included the transcripts of all their interviews together and recommended that his claim be rejected due to a lack of credibility.

Victor also complained that he had to go downtown for the interviews and was then forced to wait, occasionally for significant amounts of time, to see the officer. Occasionally, those who had been to interviews had to wait for the other detainees to finish at their IRB hearings before
heading back to Laval. He felt that the officer should have spoken to him over the phone instead of calling him back downtown to ask the same questions to which he gave the same answers.

**Jean**

When Jean arrived at the airport, the first border officer that he met was welcoming and friendly. With respect to the interviews conducted by CBSA while he was in detention, he expressed no particular challenges. On the other hand, he felt that he had an excellent rapport with the officer, who behaved respectfully and courteously towards him. The officer, to Jean’s knowledge, did not submit an intervention package for his refugee hearing before the RPD.

**Damien**

Although Damien had very negative experiences with his CBSA officer, he saw the problem as systemic rather than individual. Whereas Victor saw the problem as emanating from the specific individual with whom he was interacting, Damien noted that “she was just doing her job” to keep him detained and investigate his identity. People in positions higher than her would have been dictating policy, according to him. The interview process was, nonetheless, very difficult: “They were trying to control me.”

Damien found that the officer brought up minor details relating to his Facebook account and did not trust anything that he was saying. He was called back “every week” to do another interview because they had more questions. The officer believed that he had been living in Europe and asked the same questions repeatedly. Despite his repetition of the same answers over and over again, she did not believe him. She submitted an intervention package to the RPD arguing that the claim should be rejected because he was not credible. Despite this intervention from CBSA, Damien was found credible by the IRB decision-maker and his refugee claim was accepted.

**Thomas**

Thomas arrived in Montreal late at night. He was taken to detention and had to wake up early to go back to the airport in the morning for his eligibility interview. He found the eligibility interview at the airport to be a very intimidating experience. He saw officers with guns, which made him uncomfortable. At that time, he was very tired and unaware of how things worked in Canada; he felt that he was not aware of his rights or of whether or not he was obligated to respond to all of the officers’ questions immediately.

He recommended that claimants be given a little more time before having to go through the eligibility interview, or at least that claimants be informed of their rights and given an opportunity to talk to a lawyer prior to doing the interview.

Thomas noted, for example, that certain things he said during the initial eligibility interview were brought up in his refugee hearing. He felt that the Board Member “voulait me requestionner” and attempted to use his earlier responses during the eligibility interview against him. He explained that even when people are telling the truth, they become nervous and may not respond with
100% accuracy. It seemed unfair to Thomas that he had to do the eligibility interview under such stress and without sleeping or knowing his rights, and then that his responses were quoted in his refugee hearing as an attempt to say that he was not credible.

While he was detained, Thomas had 3-4 interviews with his CBSA officer. According to Thomas, the agent engaged in lots of speculation and believed that he had come from Europe. He explained that the officer said “beaucoup de choses méchantes”, and was continually trying to trip him up. The officer “s’est cassée en mille morceaux” to prove that he had come from Europe and was lying.

In his country of origin, Thomas spoke French as a first language, and was thus very surprised that the officer held his education and language skills against him. In the end, the CBSA officer submitted an intervention package at his refugee hearing, arguing that he was not credible.

James

For James, like Victor, the CBSA interviews stood out as being the worst of all his experiences in Canada. He explained that interviews with CBSA were much more stressful than attending detention review hearings. In the morning, prior to departure from Laval, those detainees who had detention review hearings (and not interviews with CBSA) were considered “lucky” relative to their peers who had interviews.

James met his CBSA officer on multiple occasions while detained. James’ perception is that the officer really did not like him. The officer submitted an intervention package to the RPD. The intervention package, which contained all the transcripts from his interviews, was submitted in order to undermine his credibility. James noted that he did not obtain any advice with respect to these interviews from his lawyer; moreover, he did not know that they could be used against him at his refugee hearing. He states that, in retrospect, he would have benefited from having his lawyer attend these interviews or at least advise him with respect to them.

From James’ perspective, the investigating officer was never friendly and was actually aggressive. He expected that as he came forward and made stronger efforts to cooperate with her investigation, she would become less hostile. However, she became more aggressive. The investigating officer told James that she would make him attend his refugee hearing while he was in detention, and that his refugee claim would likely be refused.

James felt that the officers have too much discretion and so much power that they can keep you in detention as long as they want for any reason: “It seems that once they make up their mind, then that’s it.” However, despite CBSA’s intervention, James was later granted refugee status.

Raul

Raul, on the other hand, experienced no difficulties with his CBSA investigating officer. He found that she “had a heart of gold” and wanted to help him. When he was released from detention, he called her and left a message thanking her and telling her that he had been released. At the time of the interview, no intervention package had been submitted in Raul’s case.
Carlo

Carlo described the person to whom he presented his claim at CIC as treating him like a criminal during the eligibility interview. The person asked normal questions, such as “How did you come to Canada?” and “Why did you come to Canada?” However, Carlo found that the tone of the voice was offensive and demeaning. He found it unfair that she was treating him this way.

Carlo explained that he would never have come to Canada if he did not have a problem in his country of origin; he had to leave his family at home due to this problem. For him, there was no choice, and it was offensive to him that the officer thought he had come to take advantage of Canada.

Because Carlo spent a relatively short amount of time in detention, he met his CBSA investigating officer on only one occasion. The meeting lasted about two hours. Like some of the other participants, Carlo noted that the officer was questioning his English, and asking why it was so good. She was convinced that he had visited European countries, but this was not true. At the time of the interview, no intervention package had been submitted in Carlo’s case.

Ali

Ali met with his CBSA investigating officer on two separate occasions. Nothing in particular stood out to him about these experiences. He felt that the officer was neither friendly nor unfriendly; she simply asked him questions and he responded. Ali did not have the opportunity to consult counsel prior to going for the interviews; indeed, he explained that they were often told about scheduled interviews at the last minute.

The officer clearly explained the goal of the interviews to him; namely, that she had some questions related to identity because she wasn’t sure who he was. Once she received results from an expert analysis of his identity documents\(^8\), the officer told him that he would be released at his next detention review hearing, and he was. To the best of his knowledge, no intervention package was submitted in his file.

However, he noted that despite the satisfaction of the officer with respect to identity, he felt as though he had to start again at square one at the refugee hearing. The Board Member did not seem to have received or read information from the CBSA officer pertaining to the establishment of his identity or the reasons why the officer had become satisfied with his identity.

Espoir

Espoir described the interviews with her investigating officer as demeaning. The officer repeatedly accused her of lying about her identification and her arrival in Canada; she was even told that her case would be rejected. “L’agent a dit qu’on allait rejeter le dossier, qu’on n’allait même pas regarder mon histoire.” This was said despite the fact that Espoir had presented

---

\(^8\) The CBSA investigating officer may send identity documents to a colleague who conducts an expert analysis of the documents and produces a report about the authenticity of the documents.
multiple identity documents from her country of origin, all of which were eventually proven to be authentic.

Espoir explains that CBSA investigating officers should remember that they are dealing with human beings; they should keep this in mind when doing their jobs. “Il faut comprendre que ce n’est pas facile de quitter ton pays”, and that most refugee claimants are not coming to take advantage of Canada.

Espoir notes that the officer’s job, at least in her case, was to investigate identity as well as her arrival in Canada. Espoir cooperated in this fully. There was no need for the officer to accuse of her of lying, to talk down to her, or to speak poorly of her country of origin (which the officer also did).

CBSA later sent an intervention package recommending that her claim not be accepted due to a lack of credibility. Despite this intervention, Espoir’s claim was accepted and she was granted refugee status.

Joyce

Joyce found that her officer was tough but that “elle n’a pas trop compliqué les choses.” From her perspective, it was really challenging to prove her identity; the officer was not prepared to accept her identification documents despite the fact that Joyce told her that they were authentic.

Joyce describes the interviews as frustrating due to her limited means of proving identity other than providing the identification documents which she had brought from her country of origin. The authorities had already taken her fingerprints and found that she had not made claims in other countries.

Moreover, Joyce felt that because the officer met with her face to face in her office, she had the opportunity to assess any risks to security she might present. Joyce did not see the need to keep her in detention while her identity was verified. She saw detention and the investigation process as a punishment for having arrived as a refugee claimant without having prepared everything in advance.

Marc

Marc met his CBSA investigating officer four times. He did not understand the role of the interviews. When he arrived in Canada he had no understanding at all of the refugee determination system. He was unaware whether he would eventually pass before a judge or not, or whether his written story constituted the only step he needed to take to present his claim. The interviews were thus, for him, another part of a confusing process. While he was in detention he received no advice with respect to the interviews from his lawyer.

He felt that the CBSA officer was constantly trying to catch him in contradiction: “Il y a une pression qu’on remet”. Marc would give the same response multiple times to a particular question, but the officer would not accept it. Then, when Marc tried to explain his response in
different words so that the officer would better understand, she criticised him for having changed his response. Marc was not sure if the officer had submitted an intervention package for his refugee hearing.

Saleem

Saleem met his CBSA investigating officer on only one occasion. The officer was nice to him and told him that he would be released after submitting his passport. The passport was submitted and he was released at an early review hearing that the officer requested. The officer did not submit an intervention package to the RPD in his case.

While Saleem’s experience with his officer was not difficult, he explained that he heard negative comments about his officer and other officers from detainees in Laval. It seemed that if the officer liked you and you submitted your identity documents very quickly, you would have less of a problem.

(iii) Preparation for the Refugee Hearing before the RPD

Some of the participants believed that the shortened timelines were sufficient for the preparation of their file. They felt that preparation should not be too difficult if their testimony was sincere and genuine. Others, particularly Thomas, James and Joyce (all of whom were still waiting on a decision from the RPD), felt that they could have used more time. Almost all participants experienced some degree of difficulty in gathering evidence, completing the BOC, or communicating with their lawyer while in detention.

In this section, it is particularly important to recall that only one of the participants’ claims had been rejected at the time of the interviews. Thus, despite the participants’ stated challenges in preparing their files while in detention, their perspectives on the amount of time required to prepare a successful file was likely skewed in favour of preference for the current short timelines, allowing them to obtain refugee status and move forward with their lives. Damien explicitly recognised this in his interview, explaining that, “I can tell you right now that it was all okay...because I got a positive result, but at that time I was going crazy. I might think different[ly] if I got a negative [result].”

Victor

Victor had to collect most of the supporting documents and evidence for his claim after he was released. He did not have the patience to gather evidence in the detention centre. “My mind wasn’t working well.” He had to add explanatory information to the BOC, supplementing the short narrative he had been able to produce while in the detention centre.

9 Note, however, that Carlo and Espoir had made their claims inland; they had already consulted a lawyer and submitted the BOC prior to being detained.
After he was released, Victor had about two weeks to submit additional documentation and three weeks before his refugee hearing. His lawyer was very helpful and understood that he had not been doing well in detention. He thus “did everything for me.” Victor was able to obtain solid evidence, which helped his case significantly. Victor did not wish to try to postpone his hearing. He could not sleep for two nights leading up to it.

**Jean**

Jean noted that the majority of his preparation for the hearing took place while he was in detention. He was able to make calls from the detention centre in order to ask his family to facilitate the sending of documents. Like Victor, after he was released there remained approximately two weeks to submit additional documentation and three weeks before his refugee hearing. The shortened timelines were sufficiently long to permit him to prepare adequately for the hearing. From his perspective, by shortening the timelines, “Ils ont bien fait.”

**Damien**

Damien, whose hearing was postponed several months, felt that he had enough time to prepare for the hearing. With respect to producing documentary evidence, he noted that “everyone knows what is happening in [his country of origin]”, so it was not too difficult to get evidence. He noted specifically that the Board Member did not even ask him about the conditions in his country of origin, as she was aware of them. He was particularly grateful for the help of his lawyer, whom he was able to meet on multiple occasions after release, in preparing him for the hearing.

**Thomas**

Thomas found it difficult to communicate with his lawyer while in detention. He often had to call multiple times before getting a response, and had to remind the lawyer about his file. The lawyer did not come to visit him in detention, but they did have a chance to meet twice after his release and prior to the refugee hearing.

After being released, Thomas had two weeks to prepare additional documentary evidence and three weeks before his refugee hearing. Thomas would have liked to have more time to meet his lawyer prior to the hearing itself, as the lawyer was very busy.

**James**

James found it very challenging to prepare for his refugee hearing while in detention. The lawyer was only able to meet him once in Laval. However, the lawyer had also met him previously at detention review hearings.
If he had not been detained, James believes that he would have been able to gather more evidence for his case. However, since he spent a long time in detention, he was not able to be in sufficient contact with people in his country of origin to facilitate the gathering of additional support for his claim.

**Raul**

Raul, who will have had approximately 1.5 months after release to prepare for his refugee hearing by the time it takes place, has so far had enough time to prepare. He notes that the sooner the hearing takes place after arrival, the better. There are several additional documents that are being sent to Canada in support of his claim, but they will not need to be translated (they are already in French). Raul expressed the opinion that if one arrives with a genuine story of persecution from his or her country of origin, there is not necessarily much for which one needs to prepare.

**Carlo**

Carlo, who made his claim inland, met his lawyer on multiple occasions and completed the BOC prior to being detained. From his perspective, he had already done the majority of the work for his claim prior to being detained. Indeed, when he arrived in Canada, he already had all his evidence with him.

He does not feel any time pressure currently and is just awaiting his hearing date. After his release from detention, he will have had an additional 1.5 months to prepare for his refugee hearing by the time it takes place. Like Raul, he feels that when you arrive in Canada with your story, you are already prepared; thus, the shorter the timelines, the better.

**Ali**

While he was in detention, Ali had to change representation because the first lawyer he had was too busy and could not come to meet him in Laval. He was in contact with his new lawyer while in detention. They worked together to complete a rough draft of the BOC form over the phone.

Luckily, Ali was released after thirteen days in detention, which gave him two additional days after release to complete the BOC. The lawyer was able to meet Ali to complete it, which they submitted and filed on the last possible day (i.e. on the fifteenth day after his claim was found eligible). He explained that it would have been very difficult to fill out the form himself.

After his release, he had approximately 1.5 months to prepare for his refugee hearing. He was able to obtain evidence from his home country without too much difficulty. However, it was somewhat difficult to find someone to translate his documents.

Overall, Ali felt that it was better that the refugee hearing take place a short time after arrival rather than after two or more years. Ali found that the timelines were sufficiently long for him to prepare for the hearing; however, at the refugee hearing, the Board Member asked him about details related to his identity documents for which he had not prepared.
Espoir

Espoir, who made her claim inland, was able to meet her lawyer twice and submit her BOC prior to being detained. While in detention, Espoir had to change lawyers because the first lawyer was busy and was not able to come to see her in Laval despite her repeated requests. Eventually, she grew tired of speaking only over the phone and contacted a different lawyer, who was able to come to meet her prior to her next detention review hearing, at which she was released.

After she was released, Espoir had about two weeks to submit additional documentation and three weeks before her refugee hearing. Although she was very nervous, she did not find that it was overly difficult to prepare. She specifically chose not to request a postponement because she felt that would cause her to experience more stress over an even longer period of time.

She noted that there are indeed various ways of telling a story, depending on to whom you are telling it. However, as was also expressed by Carlo, Raul and Ali, the story itself remains the same. If you have lived something, it is not difficult to repeat it multiple times. Espoir’s main concern was with her overall health leading up to the hearing.

Joyce

Joyce had approximately two weeks after release to submit additional documentary evidence and three weeks prior to the refugee hearing. She found it very difficult to obtain both identification and additional supporting documents from her country of origin.

With respect to the identification documents, some of the documents sent from her country of origin had spelling errors, which her investigating officer did not accept. However, this is a common occurrence in her country.

Joyce found it odd that CBSA and the IRB expect you to have everything ready within a short timeframe (ID, evidence), despite the fact that refugee claimants typically have to leave their country quickly.

“Comme on est en fuite là, c’est très difficile de tout préparer avant. On vous demande de venir avec tout ça, mais ce n’est pas possible. Préparer pour l’audience, ça demande le temps et l’argent, c’est stressant.”

She noted, for example, that a courier service such as DHL is very expensive. In order to have documents sent from her country of origin, she had to call various contacts to see who was willing to pay for the postage.

Joyce found a lawyer based on the suggestions of others in the detention centre. She found that the lawyer was very busy and tended to stress her out. The lawyer called her at the detention centre and told her that she had to write her story in fifteen days; moreover, she needed get documents from her country of origin as soon as possible.
The lawyer did come to detention to visit her, and she appreciated that. The BOC was submitted on time. However, as the experience in detention was very stressful, it was very challenging to write her story and complete the BOC.

**Marc**

Marc’s lawyer came to detention to help him complete the BOC. The lawyer told him over the phone prior to the meeting that he should prepare his story in advance. Although Marc was able to write down his story, he felt stressed doing so and was not able to concentrate. He was never told that he could add clarifications or explanatory notes to the BOC after he was released. In retrospect, he would have liked to clarify and expand on certain elements of his BOC.

Like some of the other participants, Marc noted that the most important element for the refugee hearing is to have a genuine and sincere fear of return. Whether the hearing takes place sixty days after arrival or at a shorter interval, he noted that claimants can manage their time accordingly if they know how much time they have.

In his case, however, while he was in detention all he could think about was his eventual release. He had forgotten when his refugee hearing was, and felt that he was never actually informed of a precise date. When he was released from detention, he was surprised to learn that his hearing was in only four weeks. Marc explained that he was not able to collect a lot of evidence for his claim.

**Saleem**

Saleem experienced significant challenges preparing his file while in detention. First, although he called Legal Aid Québec shortly after arrival and was able to obtain counsel, the lawyer was not able to meet him in detention because the centre was too far away. Saleem explained that this was a common occurrence; very few claimants whom he met were able to meet with their lawyers at the detention centre.

In particular, filling in the BOC was challenging: “If someone is in detention and you only give them fifteen days to do the BOC, it is not reasonable or fair.” After ten days in detention, he asked his lawyer for an extension. The lawyer advised him to fill out the form to the best of his ability, and explained that they could make corrections afterwards. Saleem thus filled it out to the best of his ability, but was not confident in his grammar or eloquence in English.

Saleem eventually had to change lawyers because the first lawyer went on vacation. The new lawyer looked over his BOC and determined that substantial amendments needed to be made. “I think my whole case was wrong because of [the way I filled out the BOC].”

Saleem explained that the problem with preparing the BOC in detention was twofold. First, as already mentioned, most lawyers do not go to the detention centre to visit their clients. Thus, it is
difficult to obtain advice with respect to your responses to the questions on the BOC. Second, there are no interpretation services available at the detention centre. Even though Saleem speaks English well, he did not feel confident in his written responses on the BOC.

Overall, though, he found that the 60 day timeframe was sufficient to prepare for his refugee hearing. His perception was that if you really needed an extension or more time, you could ask for a postponement. He did not wish for a postponement in his case, though, because he wanted to get the stressful process over with.

Saleem’s identity documents from his country of origin were already in English. Most of the evidence for his claim was delivered through oral testimony at the hearing.

(iv) The Refugee Hearing

Participants’ experiences at hearings ranged from very positive to extremely stressful. Of particular interest to the specific challenges faced by refugee claimants detained on identity grounds are the experiences of Damien and Ali. Each individual had satisfied the CBSA officer of his identity and was released from detention; however, the question of identity was raised thoroughly by the Board Member at the RPD. In each case, the Board Member seemed either not to have read or received information from the CBSA investigating officer with respect to the reasons for which he or she had become satisfied with the claimant’s identity.

Victor

From Victor’s perspective, the refugee hearing was relatively straightforward. He noted only that he established a one-on-one relationship with the Board Member and was accepted from the bench.

Jean

For Jean, the hearing was his most difficult experience in Canada to date. He felt that everything he said was called into doubt by the Board Member. Nothing was accepted at face value. He describes his feeling that Board Members have a pre-conceived notion about people coming to Canada to seek refugee status and are not welcome.

Jean explained that he had a good job in his country of origin, and was shocked that the Board Member could suggest that he would give up everything to come to Canada and tell lies. His case was not decided on the bench, as the authenticity of a document still needed to be verified. Jean was extremely happy with his lawyer and told him so. He waited for over three months for the decision, which was a difficult and stressful time. He was eventually granted refugee status.
**Damien**

Damien was nervous for the hearing, but was calmed when the lawyer told him that he had a “nice Board Member.” However, once the hearing started, he was a bit confused because the Board Member and the lawyer did not seem to be getting along. Moreover, the Board Member spent a lot of time asking questions about Damien’s identity, despite the fact that the CBSA investigating officer had already been satisfied with it. Damien had to wait for over a month to receive a positive decision.

**Thomas**

Thomas noted that even when people are telling the truth, they can become nervous and may state things in different ways. He had a difficult time responding to some of the Board Member’s questions at the hearing. He became more nervous as the questions became more serious, and responded with greater difficulty. However, the lawyer took a five minute break and encouraged him to respond with confidence.

The second half of the hearing went more smoothly; the lawyer, too, noted that he did well. No decision was given from the bench, but Thomas is hopeful that he will receive a positive decision soon.

**James**

James was scared because he had never heard of anyone who had been detained while attending his or her refugee hearing. Overall, the hearing went well and he hopes for a positive response. He felt that the lawyer’s visit to the detention centre several days before the refugee hearing prepared him sufficiently because she went over the kinds of questions that the Board Member would ask.

**Ali**

Ali’s hearing was stressful. The Board Member was thorough with respect to investigating his identity. The Board Member did not seem to have understood details about the establishment of his identity that Ali thought were clear. Ali had to wait for over one month before receiving a positive response.

**Espoir**

For Espoir, the hearing went very well. Leading up to the hearing she had experienced problems speaking confidently. But, she explained, “j’ai trouvé ma voix ce jour-là.” Espoir was accepted from the bench.
Joyce

Joyce, who is still awaiting a response from the RPD, does not think that her hearing went particularly well. She was stressed out and found that the Board Member was tough. The Board Member kept insisting on one point over and over: “C’était un juge très, très compliqué”.

Marc

Marc also explained that his Board Member was “très compliqué”. His lawyer told him prior to the hearing that he would have a difficult time because his Board Member was tough. This made him nervous. It was a stressful experience overall. While he felt that he did well in responding to the questions, he was not able to gather a lot of documentary proof for his case.

Marc also noted that in his country of origin it is not customary to look people who occupy positions of superiority directly in the eye. He learned at a PRAIDA-YMCA Day Centre workshop, however, that it was important to look the RPD Board Member in the eye when delivering testimony. Otherwise, it may give the impression that he was not telling the truth.

He explained that it was difficult for him to adjust to this cultural difference. In his country of origin, resting one’s chin in one hand is a sign of despair, and looking one’s superior in the eye is a sign of disrespect.

Saleem

Saleem explained that his Board Member was tough and did not understand the scope of his problem in his country of origin. He believes that she had made up her mind to reject him before the hearing had even started. He found it unfair that friends from his country of origin who had similar problems were accepted, but that he was rejected because of his tough Board Member.

He felt that if he were to have been lucky and been assigned to a different Board Member, there is a good chance that he would have been accepted. He noted that it did not appear to him to be a fair system, because “everything depends on the Board Member.”

(v) Experiences Accessing Social Services and Interacting with Refugee Service Providers

Most of the participants made use of, and expressed great appreciation for, the various services provided by PRAIDA, the YMCA Residence, the PRAIDA-YMCA Day Centre, and ARM. Participants benefited widely from support in filling out social assistance, IFH reinstatement and work permit applications; attending workshops on housing and healthcare; enrolling in language courses; and participating in other workshops at the Day Centre.

Participants were unanimous in describing staff members and volunteers as friendly, welcoming, and kind. With the exception of government-funded French language classes, most participants had not consulted or interacted with other community-based organisations that assist immigrants.
The most common complaints among participants related to housing. Seven of the twelve participants commented on what they perceived as PRAIDA’s overly strict conditions for temporary shelter at the YMCA Residence. Three participants expressed frustration at not qualifying for free temporary housing, and four others complained that they were refused extensions when their housing expired shortly after receiving their first social assistance cheque.

Moreover, multiple participants felt as though no one assisted them in the search for an apartment. While these were complaints shared by participants in the Focus Group Research, there are important disproportionate effects of such strictness on formerly detained persons in the new refugee determination system.

Thomas’ experience is instructive, and may be typical of persons who are released at their first thirty-day review hearing, after around forty days in detention. He was told that his housing at the YMCA Residence was about to expire in the same week as his refugee hearing was scheduled to take place. This created a particularly stressful situation.

One major difference between the experience of detained persons and non-detained persons is the requirement that former detainees apply for the reinstatement of their IFH coverage after release from the detention centre. This is a challenge unique to detained claimants, whose medical coverage is cancelled once they are released and only re-instated several weeks later after they submit a renewal application.

The application must be sent and accepted before one may undergo the immigration medical exam, and the immigration medical exam must be completed before one can apply for a work permit. Participants were mostly unaware of the expiry of their coverage until after they were released from detention, and expressed frustration at having to apply and wait for their coverage to be reinstated.

10 Focus Group Research, supra note 2 at 22.

11 The first thirty-day review hearing is a relatively common point at which to be released from detention for individuals detained on identity grounds. Claimants often have to wait for documents to be sent from their country of origin, and then must wait for their documents to be verified. The 30 day review often corresponds to about forty days in detention.

12 PRAIDA offers free short-term housing to many refugee claimants in Montreal until they receive their first social assistance payment, after which they must find their own housing right away. A claimant who has been detained can only apply for social assistance after their release, whereas a claimant who has not been detained can apply as soon as their claim is found eligible. Claimants who are detained for around 40 days often end up receiving their first social assistance cheque close to the date scheduled for their refugee hearing.

13 This is an administrative problem that has emerged after changes to the IFH program in 2012, which created different categories of coverage. Claimants who have been detained are required to re-apply for coverage upon release from detention but are often unaware until a medical need arises or when they make an appointment for their immigration medical exam. It can take weeks to restore coverage.
Three participants had medical concerns and attempted to seek treatment while they were temporarily without IFH coverage; two were refused treatment while the other was made to sign a contract stipulating that he would return to the hospital with proof of reinstatement when it arrived.

**Victor**

Victor initially attempted to contact a lawyer from the detention centre by dialing the Legal Aid number posted in the centre, but unfortunately it was difficult to reach anyone at the Legal Aid office. The number always seemed to be busy. Eventually he found a lawyer with the assistance of ARM staff.

Prior to his release, he found out about PRAIDA and the YMCA through others at the detention centre. He found it difficult to find the YMCA Residence.

The social workers at PRAIDA were very helpful, but he often had to wait a long time to receive service. He was told to come “in the morning” rather than at a specific hour, which increased waiting times from his perspective. He stayed at the YMCA Residence for about three weeks.

Victor found his current apartment by using resources at the PRAIDA-YMCA Day Centre. The Day Centre provided relevant addresses, and he was able to find an apartment through Kijiji, about which a staff person at the Day Centre had informed him.

Volunteers at the PRAIDA-YMCA Day Centre helped him fill out the forms for social assistance, and then he went to the social assistance office himself to hand in the form. He experienced no problems in this regard.

Victor explains that it would have been better if, on release from detention, claimants were given updated contacts for community organisations. He explained that some of the phone numbers on the list of community services he received did not work. Moreover, some of the services they list in the pamphlet were not particularly helpful. In his case, he had to call every organisation listed to learn about their services and how to make appointments to see them.

He has benefited from the services of Promotion, Intégration, Société nouvelle (PROMIS), which has facilitated and paid for concerts and group outings. From his perspective, they are truly concerned with helping immigrants integrate: “One thing I was looking for was places that could integrate, seriously integrate, people in society. Integrating means having group activities for newcomers.”

Victor stated that meeting ARM staff in detention was very helpful. The staff member helped him through some psychologically challenging times in detention.

With respect to his IFH coverage, Victor was not told anything about it in detention. When he first went to see a doctor after being released, he waited three hours, only for the doctor to tell
them that his coverage had expired and that he should come back again when it was reinstated. He had been unaware that he had to apply for the coverage to be reinstated.

Jean

Jean found that PRAIDA and the YMCA helped him a lot, and in many respects. At the Day Centre, he benefited from English classes, “groupes de partage” and support in filling out his social assistance application. A social worker from PRAIDA helped him in the search for a job, including improving his CV, and also gave him the doctor’s address so he could complete his immigration medical examination. He has not used any services in Montreal other than those provided by PRAIDA, YMCA, and ARM.

With respect to housing, however, he notes that he had to pay $43/night at the YMCA because he declared having arrived with some savings. He spent only 1.5 weeks at YMCA because it was so expensive. He was eventually able to find his first apartment with the help of friends he met at the YMCA. Like most refugee claimants who receive social assistance, Jean had to spend most of his monthly amount on housing.

With respect to improvements that could be made in the services offered by PRAIDA and the PRAIDA-YMCA Day Centre, Jean explained, “Je ne vois pas qu’est-ce qu’on pourrait ajouter à ce qui est là-bas pour s’intégrer davantage.”

Damien

Damien benefited from the services at the PRAIDA-YMCA Day Centre. In particular, staff at the Day Centre helped him fill in his social assistance application. He also benefited from group French classes at the Day Centre, in which he was enrolled until he became too busy. He is now enrolled full-time in Government of Québec-funded French classes in Montreal. Other than these services and those provided ARM in detention, he has not consulted any other immigrant service-providing organisations in Montreal.

However, Damien found that the social workers at PRAIDA were overly strict with respect to granting free emergency housing. When he went to the YMCA after being released from detention, he was sent to PRAIDA. PRAIDA told him that because he had arrived with some money he was not eligible for free emergency housing.

He stayed at the YMCA as a paying guest before returning to PRAIDA when his money ran out. However, the PRAIDA social worker did not believe that he had ran out of money. He said the social worker also seemed to think that he may have some family with whom to stay in Montreal, so she told him that he “had to go out for a few days and then come back.” He noted, “They were testing me.” It was only after the social worker called and confirmed that he had stayed at a shelter in the intervening days that that they agreed to give him free housing at the YMCA Residence.

Moreover, Damien had some difficulties finding housing following his free stay at the YMCA. After receiving his social assistance, he was told that he had only one week remaining of
emergency housing and had to find an apartment. But because everything was very expensive, he felt stressed. In the end, he saw a man at the YMCA whom he had met in detention; this man was looking for a roommate and sharing the rent made it affordable. They found an apartment together.

When asked if there were any programs from which he could have benefited had they been available, Damien noted that, “If you ask anyone working at the [PRAIDA-YMCA Day Centre], they’re going to help you with whatever you need. But my mind wasn’t working at that time so I didn’t ask [about housing in Montreal].”

Damien, who now lives by himself, has been able to benefit from friendships and community events within his ethnic community in Montreal. For example, he is often invited to a new friend’s family’s house for dinner.

**Thomas**

Thomas benefited from a number of services at the PRAIDA-YMCA Day Centre. A volunteer helped him fill out his social assistance form, and he attended workshops on healthcare and housing. Overall, he is very satisfied with the services provided by the Day Centre. He noted, in particular, that staff and volunteers were welcoming, spoke to the claimants, and tried to orient them in the right direction.

While the Day Centre information sessions were very helpful, they only give Thomas a basic idea of what to do. With respect to finding an apartment in particular, Thomas found it much harder when he was alone and under pressure. It was not clear to him how things worked in Canada, and what the signing of a lease contract entailed. Thomas imagined that the process would have been next to impossible to figure out for someone who did not speak or read English or French.

With respect to housing, Thomas found that he was not given enough time to find an apartment. He was released from detention after approximately forty days, and received his welfare cheque about two weeks later. When he received his welfare cheque, he was told that he had only one week to find his own apartment or would have to pay $43/night to stay at the YMCA Residence.

His refugee hearing was only five days away when he was told that he only had a week left to remain at the YMCA Residence. As he was busy preparing for his hearing in the five days leading up to it, he had to scramble to find an apartment in the two days immediately following his refugee hearing.

Because of this, Thomas was unable to find a roommate and ended up leasing an apartment in a non-central location which cost $450 per month. However, he feels that he could have got a cheaper and more centrally located apartment with a roommate. He felt as though he did not have a choice in selecting the apartment that he did.

Given that the apartment was so costly and that he has less than $200 remaining for all other costs, Thomas does not yet know how he will manage to cover all his expenses in the coming
month. He thinks that PRAIDA should refrain from cutting people off from emergency housing without ensuring that claimants are assisted in finding a suitable apartment. Thomas would have found it useful to have someone accompany him in the search for housing, or to be able to talk to his social worker to get advice about good spots to live.

Thomas also felt that while the social workers at PRAIDA were nice, they should do more than give refugee claimants “lignes à suivre.” He was surprised not to receive follow-up calls after his appointments to see how he was progressing.

With respect to IFH coverage, Thomas expressed frustration that his coverage was cancelled because he was in detention. It was time consuming to apply for its reinstatement after he was released. A social worker at PRAIDA helped him send an application for IFH reinstatement about two weeks prior to this interview, but he had still not received a response.

Thomas has a medical concern that he would like to have examined, but was turned away at the doctor’s office because he did not have IFH coverage. Moreover, not having IFH coverage delays other processes; he was not able to apply for a work permit until he had completed his medical exam, but could not undergo the medical exam until his IFH was reinstated.

With respect to ARM’s services, he found it very helpful to talk to ARM staff in detention. One suggestion for improvement would be to better inform people of what to expect and what their rights and obligations are in interviews with CBSA or CIC.

James

James has attended the PRAIDA-YMCA Day Centre’s welcoming program and intends to register for French classes shortly. He also visits the YMCA Residence in order to see friends he made in detention. It was difficult to find the YMCA Residence at first and he had to ask for directions multiple times.

James has also seen a social worker at PRAIDA, who was very helpful. There, they helped him obtain a metro card and explained the services available for new immigrants in Montreal. James has submitted an application for social assistance by himself, and has had no need to search for housing yet.

He has been living at a housing facility designed to accommodate refugees. Staff there assisted him in applying for IFH coverage reinstatement online. In detention, he noted that ARM, “did a lot of work for me” and that speaking to ARM staff was calming. He explained, however, that he was particularly nervous to speak to anyone when he was first detained.

Raul

Overall, he found the PRAIDA-YMCA Day Centre to be helpful. Shortly after Raul’s release from detention, a volunteer helped him fill out the application for IFH reinstatement by hand and mailed it in. However, he has still not received a response from the government. He has thus
been unable to do his medical exam as of yet. He intends to register for French classes at the Day Centre shortly.

However, Raul explained that his social worker at PRAIDA was very strict. He arrived with $250 at the airport, which was noted down in his papers. When he went to PRAIDA, the social worker approved him for free shelter at YMCA, but would not give him a metro card because he had arrived with $250. She said that he needed to spend all his money before she could give him a free metro card. Because Raul did not want to waste all his money, he ended up walking between PRAIDA and the YMCA Residence for appointments, which took at least 45 minutes.

When he eventually did run out of money and went to get approved for a metro card, the social worker at PRAIDA was really demanding with respect to calculating how he had spent his $250. From Raul’s perspective, there was no need to be so demanding, given the numerous expenses that people must incur in Canada. For example, it costs about $4-5 per load to wash and dry clothes at the YMCA Residence; he also purchased a phone and monthly phone service. Eventually he was approved for a free metro card.

Raul also complained that, as soon as he received his first social assistance cheque, he had to leave or start paying $43/night to stay at the YMCA Residence. At that time, he did not feel ready to find an apartment and start paying rent. He asked for an exception to continue staying at the YMCA Residence, but they were not willing to give him one.

Yet, no one offered to help him find another place to live. As a result, since his emergency housing expired at the YMCA, he has been living at a shelter. Due to the costs of an apartment, he will stay there until he receives his next welfare cheque; then he will find an apartment that he can afford.

**Carlo**

After he arrived in Canada, Carlo (who would later make his claim inland) went to Old Brewery Mission at the suggestion of a police officer. The social worker at the Mission was very helpful and drove Carlo herself to PRAIDA the following day.

At PRAIDA he met a social worker who was extremely helpful and “did everything for me.” Since meeting her on that day, he has had no problems. The social worker helped him find a lawyer, who met him on multiple occasions and assisted him in completing the BOC. With the help of the social worker, he was given free shelter at the YMCA prior to presenting his inland claim at CIC. He was taken into detention after presenting his claim.

Following his release from detention after about ten days, his lawyer gave him $5 to take public transportation to PRAIDA. The social worker at PRAIDA was happy to see him and approved his continued stay at the YMCA. She also filled in an online application for the reinstatement of his IFH coverage.
However, like Raul, he complained that once he got his welfare cheque he was forced to leave the YMCA or pay $43 per night. Moreover, “there was no organisation to help find houses or apartments. I didn’t know where to start.” Carlo found it very difficult to find a cheap house; he called many different locations without any luck.

On multiple occasions he was asked whether he had a job; when he responded that he was on social assistance, the landlords would say that they could not rent to him. From Carlo’s perspective, the welfare cheque is not sufficient to make ends meet; after rent, there would be little left for other things like clothing and food.

Thus, he has been staying at an emergency shelter since his housing expired at the YMCA Residence. He will wait until he receives his next welfare cheque and try to find an apartment then.

Carlo noted that if it were not for his English language skills, he does not know how he would have survived up to now.

He was also very thankful for ARM visits in detention, noting that it was the only source of hope for a lot of people there.

**Ali**

Ali commented that the services offered by PRAIDA and the PRAIDA-YMCA Day Centre were highly beneficial. He was told about the YMCA Residence by his CBSA officer, whom he asked for guidance prior to being released.

At the PRAIDA office, a social worker helped him complete his social assistance application and also helped him with his work permit application. He received the work permit after waiting about 2.5 months for a response.

PRAIDA also approved him for a free metro pass and free lodging at the YMCA until he received his social assistance, and referred him to Government of Québec-funded French classes and a doctor to do his medical examination. At the Day Centre, Ali attended a workshop for general information on healthcare in Canada.

Staff and volunteers at the Day Centre gave Ali information about how to find an apartment once he received his first social assistance cheque. He received his first social assistance cheque approximately 15-20 days after arrival at the YMCA Residence from detention. They also helped him submit a change of address form.

However, once he received his social assistance, he explained that he had only 2-3 days to find an apartment, which was not sufficient. He eventually had to change apartments because the location of the first one, which he found in a rush, was not good.

Ali noted that his knowledge of English was crucial to the success of his experience; without it, it would have been very difficult.
Espoir

Espoir, who later made her claim inland, went from the airport to her sister’s friend’s apartment by taxi. She had never before met this person in her life, but she had agreed to house her temporarily. It was the taxi-driver who told Espoir about PRAIDA and the need to present herself there.

Thus, shortly after her arrival, she went to PRAIDA, who informed her about Legal Aid. She went to the office and through them found a lawyer who helped her do the BOC. Espoir was able to apply for social assistance and, eventually, a work permit. After receiving her first social assistance cheque, she was also able to find an apartment on Kijiji by herself.

Before presenting her claim at CIC, she needed to make an emergency visit to the hospital. The ambulance workers took her temperature and blood pressure, which were very high. However, at the hospital, because she had no health coverage yet, “on m’a dit que cela me couterait environ mille dollars si je voulais passer à voir le médecin.” She was feeling very ill, but nonetheless felt that she could not pay the $1000. So, despite feeling ill, she asked if she could leave the hospital. They asked her to sign a sheet and she decided to leave. “Ça m’a renversé tout dans la tête, et je me suis dit ‘pourquoi je suis venue ici?’ Je n’ai rien dormi ce soir-là.”

With respect to housing, Espoir found that PRAIDA social workers were overly strict in enforcing their housing guidelines. Espoir had no money, nor had she received her social assistance cheque when she returned to PRAIDA after being released from detention. She asked to receive shelter at the YMCA Residence, but was denied because she had a “friend” in Montreal.

However, it was becoming difficult for her host to accommodate her at her apartment. There was really nowhere for Espoir to sleep. Nonetheless, the social worker refused to approve her for housing at the YMCA Residence. This was a frustrating experience, as she had to continue living uncomfortably in her host’s apartment until after her refugee hearing.

In detention, she appreciated the company of an ARM volunteer who met with her on multiple occasions. She felt like the volunteer had become a member of her family.

With respect to suggestions for service improvement, Espoir explained that she did not notice many volunteers of African origin coming to help at the detention centre. Increasing the diversity of people who come to help at the detention centre would be helpful. From her perspective, there are no major differences among human beings; it is just that Africans may be able to express things to other Africans in a manner of speaking that others do not possess.

Joyce

Joyce explained that the services offered by YMCA and PRAIDA have been excellent. To date, she has not used services in Montreal other than those provided by YMCA, PRAIDA and ARM. Joyce benefited from free housing at the YMCA for about one month.
At the PRAIDA-YMCA Day Centre, she attended a workshop on housing, where staff and volunteers were helpful. She found that she had enough time to find housing after receiving her first social assistance cheque, as she had been encouraged to start looking for an apartment early.

Joyce also benefited from activities designed specifically for women’s stress reduction at the Day Centre. These activities have helped her lower stress levels after detention. Moreover, Joyce intends to take group English classes at YMCA in the future.

With respect to healthcare, Joyce does not at all understand why the medical exam cannot be done immediately after being detained. “Si c’est obligatoire à passé les examens médicaux, pourquoi attendre? Pourquoi ne pas faire l’examen immédiatement?”

From her perspective, the doctor at the detention centre was good but unable to do detailed check-ups. If there is someone with an illness, she worries that they could contaminate others at the detention centre by waiting until after release and the reinstatement of IFH coverage to get the full medical exam. Joyce noted that after being released from detention, she had to apply for IFH reinstatement, which then delayed her medical exam and work permit application.

**Marc**

Marc benefited from a number of activities and workshops at the PRAIDA-YMCA Day Centre. He attended workshops on claimants’ rights in Canada, Canadian healthcare, and tips on behaviour during the refugee hearing. He also attended a group picnic.

When he asked if he could volunteer at the Day Centre, he was told that there were currently no available spots, but that he could be put on a relatively long waiting list. Instead, he asked for community volunteer opportunity suggestions from a staff member at the Day Centre, and has since been volunteering regularly in Montreal. Unfortunately, because his social assistance cheque provides only minimal funds, he is unable to purchase a monthly metro pass and volunteer as frequently as he desires.

On the other hand, Marc felt that PRAIDA’s social workers were too strict when it came to enforcing financial prerequisites to accessing free shelter at the YMCA Residence. When he was released from detention, it was a Friday evening; he thus went to the YMCA directly instead of to PRAIDA. He stayed for two nights before going to PRAIDA on the following Monday afternoon.

At PRAIDA, he was told that he did not qualify for free emergency housing at the YMCA Residence or for a metro card because he had arrived with about five hundred Euros. Although Marc explained that he had borrowed the money for emergency use and that it was not his, he was told that he would have to use the money first in order to qualify for free shelter at the YMCA.
When he explained that he had no contacts in Montreal and did not know how to find an apartment, the social worker called a community organisation which provides temporary accommodation for refugees. They had space for him there. However, given that it was already the afternoon and all of Marc’s belongings were at the YMCA Residence, Marc asked if he could have one free night at the YMCA before shifting his belongings the following morning. He wanted time to mentally prepare for another move and a new environment. The social worker refused. Marc explained, “Cela m’a beaucoup dérangé. Je ne suis pas retourné à PRAIDA. Cela ne m’a pas encouragé.” Marc did not want to return to the PRAIDA office after this encounter. He returned to the YMCA Residence and paid $43 to stay an extra night.

Staff members at the community organisation with which he was staying helped him fill out applications for social assistance and for the reinstatement of his IFH coverage. The cancellation of his IFH coverage was highly problematic. After his release from detention, but before his health coverage was reinstated, Marc experienced sharp stomach pains that he wanted examined.

Marc walked to two doctor’s offices in his neighbourhood to seek treatment. Both turned him away because he had no IFH coverage. He eventually made his way to the emergency room at a Montreal hospital. He explained to the nurse at the front desk that he had no IFH, but that he wished to see a doctor. The nurse called a superior and Marc was taken to see her.

The superior was friendly and listened to Marc explain his situation. She asked him to sign a contract saying that meeting the doctor would cost about $800. However, once his IFH coverage was reinstated he could return to the hospital and show them proof of the reinstatement. If he were not to return to the hospital and present proof of reinstatement, he would be billed the $800 personally. Marc signed the contract and went to receive treatment.

After Marc returned to the emergency room, the nurse who began treating him was not friendly. Marc explained that she said, “Le gouvernement a assez de gens comme vous. Venez avec assez d’argent pour payer. Si je vais à ton pays, je ne reçois pas de soins médicaux gratuits.” Marc noted that, “Elle voulait s’occuper de moi en me lançant des insultes.”

Marc was highly discouraged and asked her to remove the blood pressure cuff from his arm. He returned the contract to the superior and explained what happened, then left the hospital without seeing the doctor. Luckily, his stomach pains eventually went away.

Finally, Marc found that the services rendered by ARM in detention were particularly helpful: “un travail impeccable.” Marc did not know anyone in Montreal and had little money. With the calling cards that ARM provided, he was able to call contacts in his country of origin to facilitate the sending of documents and to seek out moral support.

---

14 Unfortunately, the shelter where he stayed has since closed its doors, further reducing housing options for refugee claimants in Montreal.
Saleem

When Saleem was released after his detention review hearing at the IRB, his lawyer told him to go to PRAIDA. At PRAIDA, a social worker approved him for emergency housing at the YMCA Residence and for a metro card. He found PRAIDA's services to be really helpful. He received detailed instructions about services available in Montreal, and obtained social assistance and work permit applications from their office. He was also referred to a doctor for the immigration medical exam.

He returned to PRAIDA multiple times whenever he had “questions in mind”. He was able to fill out the applications for social assistance and a work permit himself.

Saleem also benefited from many workshops at the PRAIDA-YMCA Day Centre. He attended workshops on claimants’ legal rights and obligations in Canada, social assistance, healthcare, housing, and familiarising claimants with the IRB. He also participated in a group discussion activity.

With respect to housing, Saleem notes that he has experienced significant difficulty finding accommodation. When he received his first social assistance cheque, he was told at the YMCA Residence that he had only two days to find an apartment. He was given an extension of one week during which he had to pay $10/night, but was told that he would have to pay $43 a night after that point.

From his perspective, the PRAIDA-YMCA Day Centre housing workshop had been useful, but did not inform people sufficiently about short-term sublets. He felt that the workshop was focused more on long-term leases. Since he had no furniture and no time or money to buy any, he needed an apartment that was furnished.

When he had agreed to take his first apartment, he only realised after the fact that it was not furnished and had to back out of the deal. He later found a short-term sublet on Kijiji which was suitable. However, after the sublet agreement finished, Saleem had difficulty finding a new apartment. He was living in a shelter at the time of the interview, but planned to move into a new apartment shortly.

Saleem also noted that it was difficult to live on the $630/month that social assistance provides. He did not wish to be on social assistance, but given the long delays in processing his work permit (he applied two months prior to the interview and had still not received a response), he has had no other choice.

Finally, Saleem noted that he benefited greatly from the services of ARM staff while in detention. In particular, he noted that ARM’s supply of phone cards enabled him to communicate with contacts in his country of origin, who were then able to send his identity documents to the detention centre.
E. Summary of Specific Challenges

This section summarises a number of challenges experienced by detained and formerly detained refugee claimants, as highlighted by the participants in this study. While the participants in this study expressed concerns beyond those summarised here, this section aims to focus on those challenges related to or flowing directly from being detained.

1. The mental health effects of detention have been well-documented by Cleveland and Rousseau (2013). Even brief periods in detention exert statistically significant effects on detained refugee claimants’ mental health relative to their non-detained counterparts. While our study is not of a rigorous scientific nature, many of the participants expressed feeling as though they were “going crazy” in detention.

They described the lasting, humiliating effects of being handcuffed during transportation. Some claimants reported that their stress from detention was triggered by certain sights and sounds. One participant felt that he did not take full advantage of PRAIDA-YMCA Day Centre resources because his “mind wasn’t working” well enough to ask for support. Another participant described her appreciation of a PRAIDA-YMCA Day Centre activity aimed at reducing stress for female claimants.

Given the shortened timelines of the new system, detained claimants may more frequently be dealing with mental health challenges as they prepare the most crucial elements of their claim after release.

2. All the participants in this study were interviewed by a CBSA officer on at least one occasion. Those who spent one month or more in detention were interviewed on multiple occasions. In at least five of the cases where detention extended beyond one month, CBSA intervention packages were submitted in an effort to undermine the claimant’s credibility.

Despite the potential importance of CBSA intervention packages at the refugee hearing, none of the participants received any advice from counsel with respect to them. Participants were unsure of their rights during CBSA interviews, and were unaware that their responses to the investigating officer could be used against them in the refugee hearing. With the exception of two participants who described positive experiences, the CBSA interviews were generally perceived as difficult and demeaning. With shortened timelines and little time for claimants to find supportive evidence for their refugee claim, CBSA interventions may be an increasingly relied-upon source of information at the RPD.

---

15 Janet Cleveland and Cécile Rousseau, “‘Psychiatric symptoms associated with brief detention of adult asylum seekers in Canada’” (2013) 58 Canadian Journal of Psychiatry 409. For freely accessible information, see: (1) Janet Cleveland, supra note 3; and (2) Janet Cleveland, Cécile Rousseau and Rachel Kronick, “Bill C-4: The impact of detention and temporary status on asylum seekers’ mental health” (2012) Brief for submission to the House of Commons Committee on Bill C-4, the Preventing Human Smugglers from Abusing Canada’s Immigration System Act, online: www.globaldetentionproject.org/fileadmin/Canada_cleveland.pdf (accessed June 10, 2014).
3. While detained, claimants experience particular challenges preparing for their refugee hearings. These challenges include communicating with contacts and obtaining identity documents from their countries of origin, completing the BOC, gathering evidence, and communicating with lawyers. Detained claimants, given their relative isolation in Laval, are also less exposed to information and community resources relative to their non-detained counterparts, who may make use of the PRAIDA-YMCA Day Centre resources (for example) immediately after arrival.

4. Two participants, both of whom had been detained on identity grounds, were questioned thoroughly on their identity by the RPD Board Member. It appeared as though the Board Member had not read or received information from CBSA pertaining to the officer’s satisfaction with the claimants’ identities. The claimants were surprised that identity had been raised as a concern, given the CBSA officer’s previous satisfaction with it. The hearings were more stressful as a result. Participants felt that if CBSA was satisfied with their identity, this information should be communicated to the RPD as it could be a positive factor in their refugee claim.

5. Several participants noted that the BOCs they completed in detention required subsequent modifications or the addition of supplementary explanatory notes, as it had been difficult to concentrate on writing their narrative while in detention. One participant explained that he was not aware of the possibility of supplementing the BOC after it was submitted, but believed that he would have benefited from doing so because his BOC was not detailed enough.

The addition of explanatory notes or modifications to the BOC may have particular relevance to detainees who have made inland claims without legal assistance. Indeed, once a person has presented themselves at an inland CIC office and asked to make a refugee claim, they are normally granted an eligibility interview several days later at which they must present their completed BOC.

The two inland claimants in this study were referred to PRAIDA shortly after their arrival by chance circumstances, and from there were referred to lawyers with whom they consulted and completed the BOC before making their claims at CIC. Having consulted thoroughly with counsel, they did not express a need to modify or make additions to their BOCs. ARM has assisted other detained inland claimants, however, who did not consult a lawyer prior to making their claim at CIC. These individuals thus completed the BOC themselves over only two to three days. There may frequently be a need for subsequent modifications or explanatory notes in these cases.

6. Although overall participants had positive comments about the services provided to them by PRAIDA, many expressed frustration with the policy on short-term housing. Many of the participants in this study felt they had been forced to leave the YMCA Residence before they were ready, in particular when their refugee hearing date was imminent.
Non-detained claimants have also complained about the strictness of PRAIDA’s housing policy; however, there are important disproportionate effects of such strictness on former detainees. When formerly detained claimants receive their first social assistance cheque and are told that their housing at the YMCA Residence will expire shortly, their refugee hearing dates will be much closer than those of non-detained claimants. This is because claimants who are not detained may apply for social assistance immediately after they arrive in Canada and their claims are found eligible. Detained claimants may only apply for social assistance after they are released.

One participant was told that his housing was going to expire in the same week in which his refugee hearing was to take place. Claimants who are not detained will also be able to search for a suitable apartment without the pressure of having to make final preparations for an immediately approaching refugee hearing.

7. Unlike claimants who are not detained, detained claimants face an interruption in their IFH coverage. When they are released from detention, the IFH coverage they had while detained is cancelled and they must apply to reinstate the coverage they are entitled to as refugee claimants. Many are not aware of this situation, delaying their application for reinstatement.

It can take weeks for CIC to respond and reinstate the coverage. In the interim, claimants have significant barriers to health services. This posed challenges to three participants who sought medical treatment while they were temporarily without coverage.

One of these claimants was able to meet a doctor by explaining his situation to hospital staff. The hospital staff asked him to sign a contract and billed him conditionally for the service, explaining that the bill would be cancelled when he returned to the hospital and presented proof of his IFH reinstatement.

More generally, a temporary absence of IFH coverage delays other processes; claimants are not able apply for a work permit until they have completed the immigration medical exam, but cannot undergo the immigration medical exam until IFH coverage has been reinstated.

---

16 See Focus Group Research, supra note 2 at 22.
**F. Conclusion**

ARM will use the results of this study to inform its services and program development to better provide support for detained refugee claimants. The hope is that other refugee service providers, lawyers, and particularly CBSA, CIC, and the IRB will take note of these findings and incorporate them into their decision-making structures.
## Annex A: Participants’ Biographical Details

<table>
<thead>
<tr>
<th>Pseudonym</th>
<th>Length of Detention</th>
<th>Gender</th>
<th>Inland/POE</th>
<th>Hearing Postponed?</th>
<th>Hearing took place?</th>
<th>Status of Claim</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victor</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Accepted</td>
</tr>
<tr>
<td>Jean</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Accepted</td>
</tr>
<tr>
<td>Damien</td>
<td>+1 month</td>
<td>Male</td>
<td>POE</td>
<td>Yes</td>
<td>Yes</td>
<td>Accepted</td>
</tr>
<tr>
<td>Thomas</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Waiting for decision</td>
</tr>
<tr>
<td>James</td>
<td>+1 month</td>
<td>Male</td>
<td>POE</td>
<td>Yes</td>
<td>Yes</td>
<td>Waiting for decision</td>
</tr>
<tr>
<td>Raul</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Carlo</td>
<td>~1 month</td>
<td>Male</td>
<td>Inland</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
</tr>
<tr>
<td>Ali</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Accepted</td>
</tr>
<tr>
<td>Espoir</td>
<td>~1 month</td>
<td>Female</td>
<td>Inland</td>
<td>No</td>
<td>Yes</td>
<td>Accepted</td>
</tr>
<tr>
<td>Joyce</td>
<td>~1 month</td>
<td>Female</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Waiting for decision</td>
</tr>
<tr>
<td>Marc</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Waiting for decision</td>
</tr>
<tr>
<td>Saleem</td>
<td>~1 month</td>
<td>Male</td>
<td>POE</td>
<td>No</td>
<td>Yes</td>
<td>Refused</td>
</tr>
</tbody>
</table>
Annex B: Overview of Legal Dynamics of Canadian Immigration Detention

Division 6 (ss. 54-61) of IRPA “provides the grounds for detaining foreign nationals, the review of detention, conditions for release, and the detention of minors.”

With respect to grounds of detention, CBSA officers are authorized to arrest and detain foreign nationals and permanent residents of Canada pursuant to s. 55 IRPA. CIC’s Enforcement Manual on Detention, released in September 2007, supplements IRPA by providing CBSA officers guidance in exercising their powers of detention.

The IRB is divided into four divisions: the Immigration Division, the Refugee Protection Division, the Refugee Appeal Division, and the Immigration Appeal Division. The Immigration Division is responsible for detention review hearings.

Detention review hearings take place before the Immigration Division 48 hours after a foreign national or permanent resident is detained, or as soon as otherwise possible (s. 57(1) IRPA). If the person’s detention is maintained, a second detention review hearing takes place seven days later (s. 57(2) IRPA).

If the person’s detention is maintained at the seven day review hearing, a third detention review hearing is scheduled thirty days later, and will be scheduled every thirty days from that point forward if the person remains detained. However, at any time, if the reasons for detention cease to exist prior to the next scheduled hearing, the detained person may be called for an anticipated review hearing at which his or her release may be granted.

At detention review hearings, Immigration Division Board Members must order release of the detained individual unless one or more of the grounds of detention delineated in s. 58(1) IRPA is satisfied. In ARM’s experience, most of the people at the Immigration Holding Centre are held on the grounds of identity (s. 58(1)(d)) or flight risk (s. 58(1)(b)). For convenience, s. 58(1) is reproduced here in full:

58. (1) The Immigration Division shall order the release of a permanent resident or a foreign national unless it is satisfied, taking into account prescribed factors, that
(a) they are a danger to the public;

---

19 Note that s. 55 provides grounds for initial detention, whereas s. 58(1) provides the grounds for the continuation of detention. Section 58(1)(b) is known as the “flight risk” ground.
(b) they are unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection 44(2);

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

(d) the Minister is of the opinion that the identity of the foreign national — other than a designated foreign national who was 16 years of age or older on the day of the arrival that is the subject of the designation in question — has not been, but may be, established and they have not reasonably cooperated with the Minister by providing relevant information for the purpose of establishing their identity or the Minister is making reasonable efforts to establish their identity;

(e) the Minister is of the opinion that the identity of the foreign national who is a designated foreign national and who was 16 years of age or older on the day of the arrival that is the subject of the designation in question has not been established.

ARM meets individuals at the IHC who are facing removal from Canada, who are most often held on the ground of “flight risk” (s. 58(1)(b)). This population includes refused refugee claimants who have not complied with removal orders against them, as well as permanent residents who have lost that status due to criminality in Canada, among others.

With respect to detained refugee claimants met by ARM – the focus population of this report – the failure to establish one’s identity (58(1)(d)) is the most frequently cited ground of detention. It is important to note that, with respect to s. 58(1)(d), the Immigration Division Board Member has no discretion to rule that he or she is satisfied with the claimant’s identity; only the Minister (as represented by CBSA) may decide that the claimant’s identity has been established. Many of the participants in this report were released at their first thirty-day review hearing, or after about 40 days in detention.

In cases where the Minister is of the opinion that the claimant’s identity has not been established, but may be, the Board Member may only evaluate: (1) whether the Minister’s efforts in attempting to establish the person’s identity were reasonable and (2) whether the claimant has cooperated with the Minister’s efforts in attempting to establish his or her identity.

The Minister’s efforts may include examining the claimant’s identity documents for authenticity, scheduling interviews with the claimant, consulting various immigration databases, and contacting Canadian liaison officers in the country from which the individual alleges to have come, among others. Moreover, if the claimant refuses to cooperate or provides limited cooperation with the investigation of his or her identity, the efforts expected of the Minister in are correspondingly less significant.

Immigration Division Board Members are guided in their assessment of the grounds of detention by Part 14 (ss. 244-250) of the Immigration and Refugee Protection Regulations (SOR/2002-227) (“IRPA Regulations”).