



CCR comments on proposed regulations re. GBV and detention, 14 September 2026

The following are the comments of the Canadian Council for Refugees on proposed regulations amending the Immigration and Refugee Protection Regulations, published in the [Canada Gazette, Part I, Volume 160, Number 33](#), August 15, 2026.

The Canadian Council for Refugees (CCR) is a leading voice for the rights, protection, sponsorship, settlement, and well-being of refugees and migrants in Canada and globally. The CCR is driven by over 200 member organizations working with, from, and for these communities from coast to coast to coast.

A. Important and welcome proposed change

The CCR welcomes the proposed change to the Regulations. As noted in the Regulatory Impact Analysis Statement (RIAS), this is a change that the CCR has recommended to the government. **Individuals who have experienced Gender-Based Violence (GBV) should not be in immigration detention.**

We support the government's goal of amending the regulations to ensure that "CBSA officers and members of the IRB explicitly consider victims, survivors or individuals at risk of GBV when making detention and release decisions."

B. Key CCR concerns

Trauma-informed approaches are necessary

In finalizing and implementing the amendments, the CCR underlines the importance of trauma-informed approaches for interviewing and interacting with individuals, as called for in the [CBSA Gender-based violence guiding principles and commitments](#).

GBV may not be immediately obvious

It is important to recognize that it will often not be obvious whether a person has experienced gender-based violence. Survivors will only rarely be able to produce much evidence of their experiences and risks of abuse. Comprehensive risk assessment and screening for GBV vulnerabilities are therefore essential, and trauma informed approaches should be used with all individuals, since anyone might be a GBV survivor.

We welcome the proposed provisions that give weight to survivors' testimony and self-identification, rather than insisting on other types of evidence.

We note however that it is important for officers and IRB members to be aware that traumatized persons frequently use a range of strategies to manage their trauma, including suppression, legitimization of the abuse and mental blocking. These realities need to be taken into account in assessing the words of potential survivors of violence.

Liberty as a priority for survivors

Experiences of GBV are inevitably accompanied by deprivation of liberty, often in a physical sense but also psychologically. The proposed regulations must be interpreted within an overall lens of restoring a survivor's liberty.

Detention should never be considered as a protective measure. It would be absurd to accept that a detained person is a survivor of GBV but detain them as a protective measure because the abuser might re-assert their control if they are not in detention.

"Immediate safety needs" should never be considered as an argument in favour of detention.

The immigration enforcement regime must not be used to perpetuate abuse.

Many victims of GBV have experienced violence in Canada, with the immigration legal framework having been used to exploit and abuse them. For example, the abuser may tell the person they have no recourse because they have no legal status in Canada.

C. Comments on specific proposed regulatory amendments

1. Self-identification

We welcome the proposal at 249.1 (1) (a) to take into account the person's self-identification:

whether they identify as a victim or survivor of gender-based violence or at risk of experiencing such violence

We agree that it is important to give priority to the person's own words and reports of what they have experienced. Where a person identifies as a victim or survivor or at risk of experiencing such violence, this should be given significant weight and only discounted if there is compelling counter evidence.

On the other hand, as noted above, many survivors do not readily identify as victims of GBV, in some cases because not naming it is a way of managing the trauma.

On this point, we refer to **IRB Guideline 9**, which cautions against myths, stereotypes and assumptions about Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC). For example:

An individual's self-awareness and self-acceptance of their SOGIESC may present as a gradual or non-linear process. There is no standard set of criteria that can be relied upon to establish an individual's identification as a SOGIESC individual.

Some of the same cautions urged in Guideline 9 would apply also to survivors of GBV, such as hesitation in disclosing information, a fear of authority and a variety of ways of naming and understanding their experiences.

We are therefore concerned to prevent proposed paragraph 249.1 (1) (a) being used to disqualify a person for consideration as a survivor of GBV because they do not identify themselves in this way or use specific terminology to self-identify.

In order to minimize this risk and make it clear that self-identification is not a requirement, we suggest that self-identification be instead included under 'any evidence' considered in 249.1(1)(b). The provision could read:

the availability of any evidence, including self-identification, their testimony or that of their witnesses, demonstrating that they may be a victim or survivor of gender-based violence or at risk of experiencing such violence.

2. Evidence of GBV

CCR welcomes the emphasis given in the proposed regulations on the survivor's testimony and the fact that the testimony by itself may be sufficient. This is important as other types of evidence may not be readily available, given that abusers will usually make efforts to suppress evidence of their abuse. Those fleeing an abusive situation, or arrested in the context of a raid, cannot be expected to have documentary evidence of their abuse.

At the same time, we are concerned that the weight given to testimony not result in victims being traumatized through demands for details of the abuse suffered or aggressive cross-examinations before the Immigration Division, intending to undermine their credibility.

Also, consideration needs to be given to the fact that many detention hearings are public proceedings, which can adversely impact a survivor's ability to safely disclose evidence relevant to their case.

3. Impact of separation from child

We urge that a factor be added to 249.1 (1) speaking to separation from family with respect to its impact on the survivor.

We appreciate that IRPR 248.1(1) already addresses the maintenance of family relationships and the impact of detention on minors, reflecting the commitment to respect the best interests of the child.

However, this is distinct from the impact of family separation on a traumatized survivor of GBV. We are aware of situations where women in detention have children who are themselves safe (for example, with extended family and not the abuser) but the mothers who have survived GBV are especially traumatized by the separation from their child.

4. Compliance /cooperation

We recommend that the proposed factors under 249.2 be amended to include the impact that GBV may have on compliance/cooperation.

As pointed out in our previous comments, in cases of GBV, officers should give less or no weight to non-compliance since it may be a consequence of an abusive relationship.

Similarly, conditions imposed on release should take into consideration the circumstances of a victim or survivor of gender-based violence.

Conditions of release remain a liberty restriction in the community. Survivors of GBV deserve to have their liberty fully restored to them.

Conditions of release should be flexible enough to allow a survivor of GBV to make decisions about their safety, rather than having to choose between their safety and breaching their conditions.

5. Impact of IRPR s. 245

We remain concerned about the application of IRPR section 245 provisions.

The proposed new considerations for GBV survivors may be undermined by the existing 245 provisions which could use the circumstances experienced by a GBV survivor to promote detention. In particular, IRPR 245(f) promotes the detention of a victim of trafficking. In addition, 245 (c) and (d) refer to compliance – survivors who have been under the control of an abuser may have been unable to comply.

We recommend that IRPR 245(f) be deleted.