

From:Lucki, Brenda
Sent:Mon, 21 Feb 2022 19:30:48 +0000
To:Whelan, Alison
Subject:FW: V2 criteria for EA

----- Original message -----

From: "Brennan, Brian" <brian.brennan@rcmp-grc.gc.ca>
Date: 2022-02-21 14:30 (GMT-05:00)
To: "Lucki, Brenda" <brenda.lucki@rcmp-grc.gc.ca>
Subject: RE: V2 criteria for EA

Commissioner,

I have read all the messages and peoples views and opinions are wide and varied.

Rob Stewart talks about "assessing the threat in terms of serious violence" vs "truckers hanging around" not sure this is the best point of view given there was no serious violence in Ottawa (the main reason for the EA) but there was such a threat in Coutts but was handled with already existing authorities even though we could have used the EA in Coutts to support the operation. Plus "truckers hanging around" is how bridges and points of entry become blockades.

So after reading all the points of views the basic questions to be answered are:

1) Have the benefit authorities in the EA been effective in dealing with blockades/unlawful protests ? Our response is probably "yes" but the ICC would need to elaborate.

2) Will the continuation of the EA be of assistance in preventing the serious threat of violence ? Unknown, given every situation is different depending on the individuals/groups be dealt with at the time. However, police do have other authorities to deal with such situations but maybe not in the expedited fashion of the EA. There are opportunities for government to enhance legislation in the future to assist policing in dealing with investigations/operations such as the ones recently experienced.

3) What conditions need to be in place to determine that the emergency no longer exists ? Mike's response is good in this regard "The RCMP will continue to use a scalable approach, there are no specified conditions to be met, law enforcement continually assesses the threat landscape. Our PLT units and intelligence monitoring decides how we establish our necessary posture across the country."

4) What is an appropriate time line for the EA to end ? From a policing perspective this is a somewhat difficult question to answer given the work continues even though the streets in Ottawa are cleared. Based on the trends and history of the past 4 weeks, the actions of protestors/supporters and the police ability to operationally respond, getting through this upcoming weekend with the EA in place would be reasonable. If nothing ramps up significantly then the EA is really no longer required from a operational police perspective.

Hopefully this helps.

Brian

-----Original Message-----

From: Lucki, Brenda <brenda.lucki@rcmp-grc.gc.ca>
Sent: February 21, 2022 1:26 PM
To: Brennan, Brian <brian.brennan@rcmp-grc.gc.ca>; Daley, Dennis <dennis.daley@rcmp-grc.gc.ca>; Duheme, Michael <Michael.Duheme@rcmp-grc.gc.ca>
Subject: FW: V2 criteria for EA

Thoughts...this is moving very fast and I can't keep up, so your help and expertise is always greatly appreciated.

-----Original Message-----

From: Thomas, Jody <Jody.Thomas@pco-bcp.gc.ca>
Sent: February 21, 2022 1:22 PM
To: Lucki, Brenda <brenda.lucki@rcmp-grc.gc.ca>
Cc: Hutchinson, Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca>; Stewart, Rob <Rob.Stewart@ps-sp.gc.ca>; Bogden, Jacqueline <Jacqueline.Bogden@pco-bcp.gc.ca>; rob.stewart@canada.ca; s.37
s.s.37 Ossowski, John (Ext) <john.ossowski@cbsa-asfc.gc.ca>; Keenan, Michael (Ext) <michael.keenan@tc.gc.ca>; Daigle, Francois (Ext) <francois.daigle@justice.gc.ca>; Paul.Thompson@tpsgc-pwgscc.gc.ca; bill.matthews@forces.gc.ca; MacDonald, Mike <Mike.MacDonald@pco-bcp.gc.ca>; Di Giacomo, Daniela <Daniela.DiGiacomo@pco-bcp.gc.ca>
Subject: Re: V2 criteria for EA

Brenda put another way - what conditions need to be in place to determine that the emergency no longer exists, while acknowledging enforcement and intelligence action must still continue.

Sent from my iPhone

> On Feb 21, 2022, at 1:12 PM, Lucki, Brenda <brenda.lucki@rcmp-grc.gc.ca> wrote:
>
> Sorry if I am behind the 8 ball on this...lots on the go so here is my input:
>
> Points 1,2 & 3 would be very difficult to provide an assessment on the criterion noted without extensive efforts which would take away from the ongoing criminal investigation and the assessment report could/would change almost daily.
>
> Point #4 is the most critical given that without significant funding most of the large and sustained blockades and convoys could not be maintained by the core protest groups/individuals.
>
> Point #5 not a real issue according to CBSA
>
> Point #6 does not have a reliable criterion for a couple reasons 1) the police liaison teams usually only become engaged once the protest is known to be starting/planned or during, which means the police have deployed already to the incident and 2) monitoring of social media, while used by police, can often be used by protestors to post false or counter information to attempt to deflect policing operations, send false narratives, etc and should not be relied on to determine the use of the EA.
>
> Point #7 is accurate that there are other tools police can use outside the EA however as we have seen the EA has allowed police, FINTRAC, banks, etc to undertake certain action in a much more timely and affective manner in dealing with the finances of protests, blockades, convoys, etc.
>
> Point 8 is not accurate and Solicitor-Client Priv.

> -----Original Message-----

> From: Thomas, Jody <Jody.Thomas@pco-bcp.gc.ca>
> Sent: February 21, 2022 11:40 AM
> To: Hutchinson, Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca>
> Cc: Stewart, Rob <Rob.Stewart@ps-sp.gc.ca>; Bogden, Jacqueline <Jacqueline.Bogden@pco-bcp.gc.ca>; rob.stewart@canada.ca; s.37 Ossowski, John (Ext)

<john.ossowski@cbsa-asfc.gc.ca>; Lucki, Brenda <brenda.lucki@rcmp-grc.gc.ca>; Keenan, Michael (Ext) <michael.keenan@tc.gc.ca>; Daigle, Francois (Ext) <francois.daigle@justice.gc.ca>; Paul.Thompson@tpsgc-pwgsc.gc.ca; bill.matthews@forces.gc.ca; MacDonald, Mike <Mike.MacDonald@pco-bcp.gc.ca>; Di Giacomo, Daniela <Daniela.DiGiacomo@pco-bcp.gc.ca>

> Subject: Re: V2 criteria for EA

>

> Yes it is. How is that judged and by whom is the question ?

>

> Sent from my iPhone

>

> On Feb 21, 2022, at 11:38 AM, Hutchinson, Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca> wrote:

>

>

> Roger that. Have been trying to work on some language to cast the truckers as “capability” – a tool to express intent. So long as malevolent intent exists and has capability, there is threat. So the “utility” argument, I think, is best understood as the ability to disrupt capability.

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> So the argument becomes:

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> - Do you have evidence or an assessment of illegal intent on a scale that meets the act?

>

> - If yes, has the capability been disrupted to the point that it is no longer NECESSARY (not useful) to use EA orders to prevent the implementation of that intent, again, on a scale anticipated by the act.

>

> Is this making sense?

>

> From: Thomas, Jody <Jody.Thomas@pco-bcp.gc.ca>

> Sent: Monday, February 21, 2022 11:17 AM

> To: Stewart, Rob <Rob.Stewart@ps-sp.gc.ca>

> Cc: Bogden, Jacqueline <Jacqueline.Bogden@pco-bcp.gc.ca>; rob.stewart@canada.ca; s.37

s.38

Ossowski, John (Ext) <john.ossowski@cbsa-asfc.gc.ca>; Brenda Lucki

(brenda.lucki@rcmp-grc.gc.ca) <brenda.lucki@rcmp-grc.gc.ca>; Keenan, Michael (Ext)

<michael.keenan@tc.gc.ca>; Daigle, Francois (Ext) <francois.daigle@justice.gc.ca>; Paul.Thompson@tpsgc-

pwgsc.gc.ca; bill.matthews@forces.gc.ca; MacDonald, Mike <Mike.MacDonald@pco-bcp.gc.ca>; Hutchinson,

Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca>; Di Giacomo, Daniela <Daniela.DiGiacomo@pco-bcp.gc.ca>

> Subject: Re: V2 criteria for EA

>

> Thanks yes. Very good point

> Sent from my iPhone

>

>

> On Feb 21, 2022, at 11:01 AM, Stewart, Rob <Rob.Stewart@ps-sp.gc.ca<mailto:Rob.Stewart@ps-sp.gc.ca>> wrote:

>

> My quick comment is that, while these are ll worthy considerations, they focuses too much on the utility of the Act and not its proportionality. In other words, we need to assess the threat in terms of serious violence, not in terms of whether truckers are hanging around.

>

> Rob Stewart

> Deputy Minister / Sous-ministre

> Public Safety / Sécurité publique

> 269 Laurier Ave West

> Ottawa, Ontario, Canada K1A 0P8

> 613-991-2895

> rob.stewart@ps-sp.gc.ca<mailto:rob.stewart@ps-sp.gc.ca>

> Note: this email account is monitored

>
> From: Thomas, Jody <Jody.Thomas@pco-bcp.gc.ca<mailto:Jody.Thomas@pco-bcp.gc.ca>>
> Sent: Monday, February 21, 2022 9:57 AM
> To: Bogden, Jacqueline <Jacqueline.Bogden@pco-bcp.gc.ca<mailto:Jacqueline.Bogden@pco-bcp.gc.ca>>;
rob.stewart@canada.ca<mailto:rob.stewart@canada.ca>; s.37
s.37; Ossowski, John (Ext) <john.ossowski@cbsa-
asfc.gc.ca<mailto:john.ossowski@cbsa-asfc.gc.ca>>; Brenda Lucki (brenda.lucki@rcmp-
grc.gc.ca<mailto:brenda.lucki@rcmp-grc.gc.ca>) <brenda.lucki@rcmp-grc.gc.ca<mailto:brenda.lucki@rcmp-
grc.gc.ca>>; Keenan, Michael (Ext) <michael.keenan@tc.gc.ca<mailto:michael.keenan@tc.gc.ca>>; Daigle,
Francois (Ext) <francois.daigle@justice.gc.ca<mailto:francois.daigle@justice.gc.ca>>; paul.thompson@tpsgc-
pwgsc.gc.ca<mailto:paul.thompson@tpsgc-pwgsc.gc.ca>;
BILL.MATTHEWS@forces.gc.ca<mailto:BILL.MATTHEWS@forces.gc.ca>
> Cc: MacDonald, Mike <Mike.MacDonald@pco-bcp.gc.ca<mailto:Mike.MacDonald@pco-bcp.gc.ca>>;
Hutchinson, Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca<mailto:Jeffery.Hutchinson@pco-bcp.gc.ca>>; Di
Giacomo, Daniela <Daniela.DiGiacomo@pco-bcp.gc.ca<mailto:Daniela.DiGiacomo@pco-bcp.gc.ca>>
> Subject: FW: V2 criteria for EA
>
> Good morning
> Jeff has put pen to paper and laid out a strawman on thresholds to revoke the EA for us to consider.
> Your comments would be appreciated – this is the heavy lift for the day j
>
> From: Hutchinson, Jeffery <Jeffery.Hutchinson@pco-bcp.gc.ca<mailto:Jeffery.Hutchinson@pco-bcp.gc.ca>>
> Sent: Sunday, February 20, 2022 9:13 PM
> To: Bogden, Jacqueline <Jacqueline.Bogden@pco-bcp.gc.ca<mailto:Jacqueline.Bogden@pco-bcp.gc.ca>>;
Thomas, Jody <Jody.Thomas@pco-bcp.gc.ca<mailto:Jody.Thomas@pco-bcp.gc.ca>>; s.38
s.38@pco-bcp.gc.ca<mailto:s.38@pco-bcp.gc.ca>; MacDonald, Mike
<Mike.MacDonald@pco-bcp.gc.ca<mailto:Mike.MacDonald@pco-bcp.gc.ca>>; Oldham, Craig
<Craig.Oldham@pco-bcp.gc.ca<mailto:Craig.Oldham@pco-bcp.gc.ca>>
> Subject: V2 criteria for EA
>
> This version adds two more for consideration.
>
> Jody, Jacquie, Mike, s.38 and Craig,
> I've taken a crack at setting out criteria the government could use to assess when and to what extent to revoke
orders made under the Emergencies Act. Happy to get your feedback or advice.
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> The EA measures brought into force on February 14 were intended from the outset to be proportionate,
geographically specific and time limited. As the protests recently experienced across the country continue to evolve,
it is natural and appropriate to ask whether the EA provisions are not only useful, but necessary to address the
ongoing threats. The ultimate decision should be informed by a range of considerations, including operational
realities. At the same time it must be kept top of mind that while the measures invoked are assessed to be charter-
compliant, they are, nevertheless, restrictions on civil liberties that must be used with great care and with deep
respect for the fundamental freedoms that form the very foundation of our democracy.
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> With the foregoing in mind, we set out criteria that are intended to guide decision making that will lead to the
timely and just revocation of the Emergencies Act order currently in effect:
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> 1. The most deeply entrenched protestors have not indicated their immediate intentions. Protestors from
Ottawa (and possibly from other locations) appear to be re-assembling on private properties at Metcalfe, Embrun
and Antrim. There may be other locations. These protestors remain within a distance of Ottawa that would enable
them to attempt to re-establish blockades in the downtown area or at other critical infrastructure sites (YOW)
relatively quickly. The likelihood of renewed occupations using vehicles also engages the issue of whether the
ability to commandeer tow trucks and wreckers remains pertinent.
> Criterion #1: an assessment that trucks involved in the blockades are returning to their points of origin and not to a

new protest site.

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> 2. It is believed that an unknown number of protestors are currently housed in hotels within the downtown core, which would give them easy and quick access to the secure zone and former protest sites. The creation of the security zone relied, at least in part, on the provisions of the EA order that permit the “securing” and “protection” of certain sites. While the risk of a retrenchment of the protest remains, the security zone is a key tool for the security of Parliament and Ottawa’s core.

> Criterion #2: an assessment that protestors currently lodging in Ottawa are actively making efforts to return to their homes and not to new protest sites.

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> 3. There continues to be the potential for “pop-up convoys” or “copy cat convoys” of protestors, on a national basis, who would attempt to establish a blockade or occupation at critical infrastructure (most notably border crossings). Social media is being monitored for indications of such convoys. This threat is ambiguous. Border crossings that were targeted over the weekend of February 18 – 20 are now clear of protestors but this is a situation that could change very quickly.

> Criterion #3: that border crossings (and other critical infrastructure) be free and clear of protest efforts for a defined period of time (e.g. 24 hours, 48 hours, one week) as an indicator that protests no longer target critical infrastructure

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> 4. The protest “movement” has demonstrated a remarkable ability to raise funds to support the illegal protests and blockades. EA measures focused on seizing funds raised for illegal protests are assessed to have been effective in restricting funding. Continued efforts at fund raising may be indicative, although not conclusive, of an intention to continue efforts at staging illegal protests. Even assuming that fundraising subsidies, it must be kept in mind that at the revocation of the order, the frozen funds will be released.

> Criterion #4: that efforts at funding raising specifically related to the “freedom convoy” abate

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> 5. Over the last 4 weeks, the likelihood of Americans arriving in Canada to support the protest movement appeared possible, or even probable. There were rumours of convoys and there was evidence of American sources of funding. In reality, the number of potential protestors attempting to cross the border was not significant and the number of would-be protestors turned back under the EA were few. That said, foreign influence remains a source of potential instigation to re-invigorate attempts at protests and blockades.

> Criterion #5: that the number of persons attempting to enter Canada to support the “freedom convoy” movement remain low or very low

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> 6. As protestors withdraw from key areas such as the Ottawa core, the Ambassador Bridge, Emerson and Coutts, there has been little by way of a clear indication of what comes next. Criteria 1 – 5 allow for an assessment of intentions based on the observed actions of protestors and potential protestors. The stated intentions of the protestors will also be a key indicator of whether future protests, blockades and occupations are likely to occur, keeping in mind that there may not be a single voice that speaks on behalf of the protestors.

> Criterion #6: What are the stated intentions of the protestors, either obtained directly (e.g. through police liaison officers) or through social media monitoring

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>

> 7. The EA has expanded certain powers, particularly with respect to enforcement powers and the management of bank accounts. As the threat picture changes, the need for these tools will evolve. Most important for consideration could be reduced capacity to maintain a secure zone around Parliament or critical infrastructure, the loss of the ability to compel tow trucks, and the prohibition on assembly for the purpose of unlawful protest.

> Criterion #7: Are the enforcement powers that exist outside of the EA sufficient to meet an assessment of reduced threat

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>

- > 8. Once the EA orders are revoked, investigations that have started but have not yet resulted in arrest or charges would be terminated.
- > Criterion #8: Are there outstanding enforcement actions that are deemed sufficiently important to prolong the application of the EA orders
- >