

# Policing during a state of emergency



Most regions in Canada and a number of municipalities have declared a state of emergency due to the COVID-19 pandemic.

Federal, provincial and municipal governments also have legislation they can draw on to impose and enforce restrictions on Canadian residents and businesses during a pandemic or emergency situation. When they do, what does it mean and what is expected of the police?

## **A State of Emergency**

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A state of emergency is a declaration made by the federal minister of Public Safety, a provincial government or a municipal council to take extraordinary measures to address a problem affecting public safety and well-being. It allows the enacting level of government to impose rules and restrictions on businesses and the general public in the best interests of community safety. It can apply to an entire city, province or territory, or only to specific areas that are impacted.

## **The Emergencies Act**

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The government of Canada is currently contemplating invoking the [Emergencies Act](#). This Act is essentially the federal government's way to declare a state of emergency at the national level. This Act authorizes taking special temporary measures to ensure safety and security during national emergencies. This Act specifies that any temporary measures would be subject to the *Canadian Charter of Rights and Freedoms* and must have regard to the *International Covenant on Civil and Political Rights*. This 1988 legislation would supersede any other provincial and/or municipal Act in the country and would allow the federal government to assume jurisdiction from the provinces. This law could restrict not only the movements and activities of people entering our country (i.e. the focus of the *Quarantine Act*) but on all Canadian residents and businesses.

## **The Quarantine Act**

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On March 26, the federal government invoked the [Quarantine Act](#). This 2005 legislation was enacted to protect public health by taking comprehensive measures to prevent the introduction and spread of communicable diseases. It is primarily used to enforce emergency orders prohibiting entry into Canada. Travellers permitted to enter the country are mandated to go directly home and self-quarantine for two weeks. The Act contains a list of offences and consequences for breaking the law and potentially placing the public at risk of being infected by a disease such as COVID-19. The consequences include fines up to \$1 million and/or up to three years in jail.

Representatives of the Canada Border Services Agency and/or quarantine officers are now issuing “[red quarantine notices](#)” or “[green quarantine notices](#)” to travellers entering Canada following the completion of the mandatory screening process being conducted at Canadian ports of entry. Please familiarize yourself with these as your officers may encounter persons subject to the [Quarantine Order](#).

## **What does it mean for the police?**

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The role of the police during a pandemic or emergency situation continues to be focused on ensuring public safety and enforcing the law in a thoughtful manner. What changes for the police is that municipal, provincial, or federal governments may invoke legislation that, in some cases, provides the police with new powers of authority for a defined period of time, usually until the problem being addressed is resolved.

When it comes to the COVID-19 pandemic, there is a potential that the police may be called upon to enforce new authorities that have been invoked by various levels of government. There are numerous discussions taking place across the country to determine the best approach to this evolving situation.

While the approach may vary across Canada, the application of the enforcement provisions is generally left to the police service of jurisdiction in consultation with various government and public health authorities.

At this time, police efforts are primarily focused on public information and education; the ability to enforce is viewed as a secondary consideration in most cases.

Complaints received by the police about groups or establishments breaching various orders could involve, but are not necessarily limited to, the following actions:

- Receive and assess the complaint to determine if there is a violation of any legislation and/or regulations and if police, public health officials or other entities (such as bylaw officers) are required.
- If a violation of the legislation and/or regulations has been assessed, charges may be laid. However, emphasis is being placed on education to ensure compliance. Enforcement is generally considered as a last resort and is likely to be focused on repeat offenders.
- If a party is found to be guilty of an offence, they could be subject to fines and/or jail time depending on the legislation.

## **Letter from the federal Director General of the Centre for Biosecurity**

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On March 27, a meeting of the Deputy Ministers of Policing took place. One of the outcomes is a [letter from the Director General, Centre for Biosecurity, at the Public Health Agency of Canada](#) providing advanced notice that they may request the assistance of peace officers with inland enforcement of the new [Quarantine Order](#) for mandatory isolation of returning travellers. As a result, police services may be asked to help conduct physical verifications that specified individuals subject to the Order are in compliance with isolation requirements. Operational processes are currently being finalized and police services are encouraged to communicate with their provincial/territorial government authority for clear guidance, authorities and protocols that will pertain to enforcement in their respective area of jurisdiction.