



April 15, 2013

Via email: vic.toews@parl.gc.ca

The Honourable Vic Toews, Q.C., P.C.,
Minister of Public Safety
Public Safety and Emergency Preparedness
269 Laurier Avenue West
Ottawa, ON K1A 0P8

Dear Minister Toews:

Re: CBSA Involvement with “Border Security” Reality TV Show

On behalf of the National Immigration Law Section of the Canadian Bar Association, I am writing to express concern about the involvement of the Canada Border Services Agency with a reality television show, “Border Security.” The CBA is a national association representing 37,000 jurists including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice.

We understand that the CBSA has entered into an agreement with Force Four Productions, the production company for “Border Security.” The agreement, which has been widely circulated in the press, gives the CBSA broad control over the content of the show and allows the CBSA to prohibit broadcast of any material without giving reasons. As we explain below, we question whether those foreign nationals participating in the filming can be considered to have provided free and informed consent. Further, CBSA's participation in “reality television” of this nature does not properly account for the impact of filming on a highly vulnerable population. While it appears that the government perceives the television series as enhancing the work of CBSA,¹ there is little to connect it to the CBSA's mandate of “providing integrated border services that support national security and public safety priorities and facilitate the free flow of persons and goods.”²

Lack of Free and Informed Consent

It appears that persons interacting with the CBSA, including foreign nationals, Canadian citizens and permanent residents are filmed for “Border Security” without their prior consent. Later, while detained by or otherwise under the control of armed officers in situations frequently involving

¹ “TV cameras filming CBSA immigration raids for reality show is okay: Public Safety Minister Vic Toews” *National Post* (19 March 2013).

² *Canada Border Services Agency Act*, S.C. 2005, c. 38, s. 5(1).

intense stress, fear and humiliation, they are asked to sign waivers permitting broadcast of the filmed scenes. Many detained people may not believe they have a genuine choice about signing, and may believe that failing to do so will negatively impact their cases or lead to worse treatment by the CBSA.

Many of those detained may have made or be intending to make refugee claims or other requests for protection in Canada. In many cases, they may have had traumatic interactions with law enforcement in other countries and may fear further abuse or mistreatment. While we understand that the waivers are translated into a number of languages, some individuals may still face language barriers to comprehending the background explanation provided by officers at the time of arrest and at the time of signing the waiver, particularly in situations of intense stress. In these circumstances, it is difficult to imagine that many of those arrested and filmed are giving free and informed consent to be filmed and broadcast on national television.

Widely televising images of people who might have made or be intending to make claims for protection may place them and their families at risk, both in their home countries and in Canada where they may be at risk from criminal gangs including human smugglers. Broadcasting images of those in need of protection re-victimizes those who have already fled persecution or other danger in their home countries. Individuals with unsuccessful refugee claims still may have legitimate fears of harm in their home countries.

Violation of Dignity

In addition to our concerns about the voluntariness of the consents, we strongly oppose using footage of arrests and other enforcement action for entertainment purposes. Foreign nationals in Canada, regardless of their status, are a particularly vulnerable population and are at risk of abuse by employers and others. They are also deserving of respectful treatment by government officials. Having others profit from their public humiliation on national television is undignified and does not reflect the high standards of professionalism to which Canadians hold the CBSA. It also distracts from the important and necessary work with which the CBSA is tasked.

In light of these concerns, we strongly urge you to instruct the CBSA to rescind its agreement with Force Four and ensure that no further broadcasts include foreign nationals or other people in the control of the CBSA. If the CBSA decides to continue to participate in the productions, we ask that any future broadcasts employ measures to ensure the privacy of those filmed, including the use of anonymizing technology.

Yours truly,

(original signed by Kerri Froc for Kevin Zemp)

Kevin Zemp
Chair, CBA National Immigration Law Section