

**IN THE MATTER OF THE PUBLIC ORDER  
EMERGENCY COMMISSION PUBLIC INQUIRY  
INTO THE 2022 PUBLIC ORDER EMERGENCY**

**CLOSING SUBMISSIONS OF CHIEF PETER SLOLY**

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## CLOSING SUBMISSIONS OF CHIEF PETER SLOLY

### PART I - OVERVIEW

#### The Convoy Protests

1. The Convoys that converged on the City of Ottawa in January 2022 represented a paradigm shift in the way that public protest is organized, conducted, and funded in Canada. While protests against Federal public health mandates imposed on the trucking industry on January 15, 2022 took place across the country, Parliament Hill in the City of Ottawa was ground zero.

2. Protestors targeted Ottawa first, arrived there in much larger numbers, and brought many more heavy vehicles than in all other protest sites combined.<sup>1</sup> The nature and scale of the ensuing demonstrations, occupation, and unlawful actions in Ottawa, along with events across the country, was a national security crisis and was unprecedented in Canadian history. It was not predicted to be this way by anyone, including the main convoy organizers.

#### The OPS and Chief Sloly

3. The protestors who arrived in Ottawa arrived in a city operating under pressure from the COVID-19 pandemic, with an Ottawa Police Service (the “OPS”) that was underfunded, understaffed, and adapting to the loss of experienced personnel to retirement.<sup>2</sup> Like all Canadian police services, the OPS was also dealing with pressures resulting from the murder of George Floyd in Minneapolis, and the resulting “Black Lives Matter” and “Defund Police” movements

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<sup>1</sup> The OPS Institutional Report provides that “thousands of vehicles descended on Ottawa for the first three days – the data in the chart is imprecise in light of the fluidity of the circumstances, however the unprecedented scope is indisputable.” OPS.IR.00000001 at pp. 13-14. Ottawa’s protest numbers were significantly higher than the numbers reported in both Coutts and Windsor, ALB.IR.00000001 at p. 2; WIN.IR.00000002 at pp. 2-4.

<sup>2</sup> Testimony of Peter Sloly, TRN00000012 at p. 10.

which had reduced public trust in police services internationally.<sup>3</sup> The reduction in major public events during the COVID-19 pandemic also meant that the OPS could not conduct in-person joint training exercises with its policing partners and had less recent experience with large public order events.<sup>4</sup>

4. Chief Peter Sloly joined the OPS five months before the start of the pandemic, with a reputation as a national calibre police leader. He had enjoyed a successful 27-year career at the Toronto Police Service,<sup>5</sup> and time as a partner at Deloitte. Chief Sloly was recruited by the Ottawa Police Services Board (the “Board”) to bring about change in the way policing was done in Ottawa.<sup>6</sup>

5. Change was required by the Board to address a loss of confidence in the OPS among racialized and marginalized communities, a need to restore a community policing model, and to address issues of racial and gender discrimination within the OPS itself. Unfortunately, however, the Board’s change mandate, its choice of an outsider to lead the OPS, and the fact that Chief Sloly was the first Black chief in OPS’s history, led to additional challenges.<sup>7</sup> The resulting challenges faced by Chief Sloly in leading the OPS during the occupation were demonstrated in the record and the evidence before the Commission.

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<sup>3</sup> Testimony of Peter Sloly, TRN00000012 at pp. 14 – 15

<sup>4</sup> Testimony of Peter Sloly, TRN00000012 at pp. 134 – 135; testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 89

<sup>5</sup> *Curriculum vitae* of Chief Sloly, COM00000759 at p. 3; testimony of Chief Sloly, TRN00000012 at p. 8.

<sup>6</sup> Testimony of Peter Sloly, TRN00000012 at p. 9.

<sup>7</sup> Testimony of Diane Deans, TRN00000005 at pp. 95–96

Initial OPS Response

6. In advance of the Convoys' arrival, the OPS, under Deputy Chief Bell's leadership, gathered and processed the available intelligence and consulted with its policing partners and City staff. An incident command structure, headed by Acting Deputy Chief Ferguson as Major Incident Commander, was established and planning commenced.

7. The OPS initiated efforts of significant partnership and integration to manage the convoy events. These efforts commenced during the pre-arrival phase and continued to the successful, safe end to the occupation in Ottawa. The pre-arrival intelligence threat risk assessment and the operational planning was done with the direct involvement of INTERSECT partners and the support of a Joint Intelligence Group.<sup>8</sup>

8. The OPS relied on national agencies like the Canadian Security Intelligence Service ("CSIS") and the Royal Canadian Mounted Police (the "RCMP"), as well as the Ontario Provincial Police (the "OPP"), all of which had been tracking the Convoys as they travelled across Canada.

9. None of the national security agencies or police services that were tracking the Convoys predicted the nature and scale of the protests – and then occupation – or the unsafe and unlawful actions that would descend on Ottawa. None of them took steps to prevent the Convoys from arriving in the nation's capital on the basis that the protest posed a threat to national security or to the City's residents.

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<sup>8</sup> Testimony of Interim Chief Bell, TRN00000008 at pp. 30, 44.

10. Before the Convoys' arrival, the OPS began coordinating with their INTERSECT partners (which included the RCMP, OPP, Sûreté du Québec, Service de police de la Ville de Gatineau, the Parliamentary Protective Service and the City of Ottawa) to ensure heightened integration.<sup>9</sup> The OPS shared their operational plan with their INTERSECT partners at a call beginning at 9:30 am on January 27,<sup>10</sup> which included staging some trucks on Wellington Street and arranging for other protestors to congregate in other locations outside the downtown core.<sup>11</sup>

11. The view now expressed with hindsight – that the OPS should have prevented all convoy trucks and vehicles from entering the downtown core of the City – was not realistic in light of the available intelligence, the protestors' *Charter* rights and the logistics involved in barricading a city. There was no intelligence available to the OPS that predicted the demonstrations, occupations, fortifications, and unlawful actions on the scope and scale that occurred during and after the first weekend.

12. Further, blocking access to the City would have required approximately the same number of police personnel that ultimately cleared the occupation.<sup>12</sup> Failing to provide protestors with meaningful protest sites would inevitably have resulted in similar or greater public safety risks in the downtown core – risks such as vehicles blocking Provincial highways and bridges, or hospitals and healthcare facilities; or a dispersal of trucks throughout the City's neighbourhoods.

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<sup>9</sup> Testimony of Craig Abrams, TRN00000006 at pp. 212 – 213; testimony of Peter Sloly, TRN00000012 at pp. 59, 219; institutional report of the RCMP, DOJ.IR.00000011 at p. 35, para. 143.

<sup>10</sup> Present at the meeting were RCMP Chief Superintendent Mitch Monette and OPS Superintendent Mark Patterson (OPS00003139, OPS00003140). Craig Abrams's testimony confirms he was also present: TRN00000006 at p. 217. The OPS's plan, as presented at the meeting, was described by members of the OPP as "robust" and representatives of the RCMP briefed the Government of Canada on it. See e.g.: OPP00004348; SSM.CAN.NSC.00002591\_REL.0001.

<sup>11</sup> Email from and to INTERSECT, January 27 at 4:04 pm, OPS00004326.

<sup>12</sup> Testimony of Interim Chief Steve Bell, TRN00000008 at pp. 147 – 148.

13. The OPS plan recognized, from the available intelligence, that some protestors would stay beyond the weekend and addressed that contingency.<sup>13</sup> While most protestors did in fact leave after the first weekend, the events of the first weekend in Ottawa strengthened the resolve of many to stay and attracted new joiners with different grievances. The result was the unforeseen and unprecedented occupation of Ottawa and the creation of a dangerous and volatile tinderbox.

#### Plans and Resources

14. After the first weekend, the process of amending the operational plan to continue to manage the occupation – and then clear it – was underway. Planning by the OPS continued daily as circumstances evolved and was ultimately supported by expert planners from other police services.

15. It is important to emphasize that the OPS was always operating under a plan. The original OPS operational plan of January 28 evolved into plans and subplans, including those dated February 3, February 5, February 9, and February 13. These plans, like all police operational plans, continued to evolve as circumstances, intelligence inputs, and levels of police resources changed. Ultimately, the OPS's plan, with a unified command structure and major contributions from its policing partners, was used and supported by an additional 2,223 police officers to safely and successfully end the unlawful convoy events in Ottawa.

16. The OPS's plan to dismantle the occupation was complex, high-risk, and resource intensive. It was the most complicated and largest public order operation in Canadian history and took time to prepare. It required an unprecedented level of planning, integration and logistics at a time when members of the OPS were trying to keep their heads above water just managing the

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<sup>13</sup> "Freedom Convoy – Canada Unity" plan dated January 28, OPP00004262 at pp. 12, 18 – 19.



ongoing demonstrations and the occupation –while also trying to deliver police services to the one million residents in Canada’s geographically largest municipality. The planning was done under chaotic, unprecedented circumstances and the process was necessarily imperfect.

17. Everyone agrees that the OPS did not have the resources to do more than manage and contain the protest. Even for that, the OPS required assistance from other police services to provide relief for its members who worked for multiple days and, in some cases, multiple weeks, as the OPS had to cancel days off and vacation, extend working hours and redeploy all available members to frontline duties over the course of the convoy events. Enforcement was being done when safe to do so, but with the ever-present risk that enforcement actions would escalate the situation – not only in Ottawa, but across the country.<sup>14</sup>

18. Unfortunate statements were made by public officials to the media, and in internal government communications, to the effect that the OPS “should just do their job” or had the tools to end the protest. In fact, the evidence before the Commission was clear that the OPS did not have the resources or tools to safely end the occupation. A lack of resources meant the OPS could not have acted more quickly to clear the occupation, without putting the public, police, and protestors at risk. Over 2,000 additional personnel were eventually required to dismantle the occupation, and they did not arrive in sufficient numbers until the day before the public order operation began on February 18.<sup>15</sup>

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<sup>14</sup> See, e.g., testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp.201 – 202; testimony of Interim Chief Bell, TRN00000008 at p. 128; testimony of Marcel Beaudin, TRN00000009 at p. 181.

<sup>15</sup> OPS Institutional Report, OPS.IR.00000001, at Schedule B, p. 2 (PDF p. 31).

19. Chief Sloly recognized the massive resource deficit that his service was facing and made urgent requests for additional resources early and often – including the February 7 request, with the assistance of the Board and the Mayor of Ottawa, for 1,790 additional police resources. Chief Sloly also recognized that protests of the size and scale seen across Canada required more than just “a policing solution” and made a statement to that effect. The statement was made to encourage all levels of government to work together to help find solutions to the worsening situation, including exploring such options as an interlocutor, and to get the OPS the resources it needed. It was crucial that these events were not mistaken as a municipal policing issue. Eventually, all three levels of government declared emergencies to provide additional resources, tools and help to the OPS and relief for the community.

20. Despite Chief Sloly’s efforts, the necessary resources did not arrive quickly. A lack of co-ordination and a disagreement about which level of government should be the first port of call caused resources to be delayed. The unfortunate statements by public officials, and their inaccurate understanding of what resources the OPS had available and what could be accomplished with those resources, also caused delays. The national scope of the demonstrations also meant that police services partners and government agencies were stretched thin. This situation was compounded when the Ambassador Bridge in Windsor was blockaded on February 7,<sup>16</sup> and was immediately identified as the priority for the Provincial and Federal governments, the RCMP, and the OPP. As OPP Commissioner Carrique testified, it was simply not possible, with the police resources available, to end the unlawful events in Ottawa and Windsor at the same time.<sup>17</sup>

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<sup>16</sup> See institutional report of the Windsor Police Service, WPS.IR.00000001 at para. 1, p. 3; para 18, p. 8.

<sup>17</sup> Testimony of Thomas Carrique, TRN00000011 at pp.94–95 (Commissioner Carrique notes: “So it’s absolutely true that law enforcement could not clear both [blockades] at the same time.”) and at p. 275.

21. The mobilization of police personnel to Ottawa did not turn on the existence of comprehensive, approved OPS operational plan for the dismantling of the occupation. The requirement for such a final plan in Ottawa demonstrated the unfair treatment and double standard imposed on Ottawa as compared to Windsor. Police were mobilized to Windsor before a plan was begun, let alone finalized. The same appears to be true in Coutts, Alberta.<sup>18</sup>

22. The allocation of police resources to meet competing demands always requires choices to be made and a ranking of priorities. That is the real and unprecedented issue that faced the country and the province in February 2022. It would be unfair to the OPS and Chief Sloly to suggest that there was a delay in dispatching the needed resources because of the time it took to develop a comprehensive approved plan to end the occupation.

#### Chief Sloly's Resignation

23. Even though the OPS was overwhelmed, overworked, and lacked the resources needed to end the demonstration, the Service continued, with its policing partners, to provide adequate and effective policing to the residents of Ottawa under Chief Sloly's leadership.<sup>19</sup> Although the sustained presence of thousands of protesters, a full-scale occupation, and thousands of trucks in Ottawa's downtown core was highly disruptive, the OPS enforced laws and by-laws where safe to do so and avoided any serious damage to property, rioting, serious injury, or loss of life.

24. Despite these efforts, public frustration with the ongoing unlawful activities taking place in the City and a desire for the police to move quickly to end the situation, as well as unhelpful

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<sup>18</sup> See testimony of Mayor Willett, TRN00000020 at pp. 37, 64 – 65 (RCMP was “building the airplane” while “flying it” in Coutts); testimony of Deputy Commissioner Curtis Zablocki, TRN00000023 at pp. 309 – 310.

<sup>19</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 149, 241, 373 – 374.

and inaccurate statements by public officials, impacted public trust in the Service. A lack of trust was also evident by all three levels of government.

25. Chief Sloly was concerned that this lack of trust was in part responsible for slowing down the arrival of the requested resources and was therefore increasing public safety risks. Chief Sloly made the decision to resign on February 15.

26. Chief Sloly did not quit on the OPS or abandon Ottawa – his resignation was an act of self-sacrifice that was primarily intended to protect the public by trying to accelerate the arrival of resources that the OPS and the City so desperately needed.

27. The occupation was ended by the OPS with the assistance of resources and planning personnel from the OPP, the RCMP and various municipal policing partners who arrived in Ottawa in the days following the clearing of the Ambassador Bridge – with the majority of officers arriving during the week of February 14.<sup>20</sup>

28. Chief Sloly acknowledges that during the nineteen days that he led the OPS through this unprecedented national security crisis, he had moments of leadership for which he is very proud, and other moments where he did not perform at his best. These events brought out the best and the worst of everyone involved.<sup>21</sup> Chief Sloly took responsibility for his own actions and expressed regret for some of the language he used as well as for the quality of some of the interactions he had during this national security crisis. Everyone was doing their best to manage an unprecedented crisis in the City and across the country.

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<sup>20</sup> Testimony of Deputy Solicitor General Mario Di Tommaso, TRN0000021 at p. 296.

<sup>21</sup> Testimony of Peter Sloly, TRN00000013 at p. 257.

The Commission's Mandate

29. The mandate of the Commission is to examine and assess the basis for the Federal Government's decision to declare a public order emergency, the circumstances that led to the declaration, and the appropriateness and effectiveness of the measures selected by the Federal Government. The Commission was also asked to conduct a policy review of the legislative and regulatory framework involved, including whether any amendments to the *Emergencies Act* may be necessary.

30. In that context, the Order-in-Council also directs the Commission to "examine issues, to the extent relevant to the declaration and measures taken," with respect to five matters, the last of which is the efforts of police and other responders before and after the declaration.

31. This is not a public inquiry into the regulation of policing services in Ontario, or the response of the City of Ottawa, the Board, OPS or its Chief. Nor could it be, as an inquiry held under the authority of an Order-in-Council of the Governor General in Council. Although the response of the OPS to the Convoys provides important factual context for this Inquiry into the Federal Government's actions, the Commissioner cannot make findings or conclusions of misconduct that are aimed at the Provincial or Municipal actors.

32. The Commissioner is also urged to exercise restraint in judging the individuals and organizations before him for another reason. The events of the Freedom Convoys placed those individuals and organizations in a crucible of unprecedented pressure. They were operating under extremely challenging circumstances. The politicians and political staff, public servants, and the police services described the pressure and chaos they experienced as they dealt with these volatile

and dangerous events. It would be unfair to label as misconduct the acts of persons acting in good faith in the performance of their duties under those conditions.

33. Nor does the purpose of the Inquiry require it. As held by the Supreme Court of Canada in *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)*, a Commissioner's findings of misconduct must be limited to those that are "necessary" to fulfill the purpose of the Inquiry.<sup>22</sup> No findings are necessary here where the focus should be on the core inquiry into the declaration of an emergency and any lessons learned.

34. Another important contextual factor supports a policy of restraint. The time frame for the Commission to complete its work under the *Emergencies Act* is very compressed. Only by the extraordinary effort of the Commissioner, Commission Counsel and the parties was it possible to hear from so many witnesses, to complete institutional and overview reports, and to collect and file tens of thousands of documents. To accomplish its work, the Commission adopted strict time limits and other procedural rules that limited the ability of parties with standing to elicit evidence and to challenge evidence introduced by Commission Counsel – evidence that continued to be produced and disclosed throughout the hearing.

35. It is unlikely that the drafters of the *Emergencies Act* contemplated an inquiry of the expanded nature of this Commission when they set the statutory timelines for the delivery of a Commission report. The procedures required to complete the Commission's mandate only work if they also protect the parties against adverse findings. Put differently, it would be procedurally unfair for a party to be the subject of a finding of misconduct where their ability to defend against

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<sup>22</sup> *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)*, [1997] 3 SCR 440 at para. 57(c).

allegations made against them has been limited by the need for expediency – limits which included being granted cross-examination times as brief as 5 minutes.

36. Chief Sloly and the OPS have faced criticisms over the police response to the occupation. Indeed, Chief Sloly and the OPS were subjected to significantly more scrutiny than any other parties before the Commission. The City of Ottawa, OPS and Chief Sloly occupied a prominent position in these proceedings. The witness summaries and statements obtained by Commission Counsel show the pursuit of the criticisms made against Chief Sloly, without equal attention paid to other aspects of the record. The evidence led from the witnesses in the hearing was similarly focused on those criticisms, which were largely based on hearsay and rumours, and not the facts that balanced them.

37. More members of the OPS testified than any other police service, even though in the case of the OPP and RCMP, those services were involved in policing events at other locations where active demonstrations and blockades were formed that were relied upon for the invocation of the Emergencies Act. More time was spent in the aggregate on the role played by the OPS than any other police service. By comparison to Chief Sloly's evidence over two days, the Commissioner of the OPP testified for a day and the Commissioner of the RCMP testified for half a day as a member of a panel.

38. This intense scrutiny of Chief Sloly's role establishes that he performed his duties in good faith to the best of his abilities. The criticisms directed at Chief Sloly have been shown to be unfair and undeserved, and seek to apply a standard of perfection to an unprecedented situation in which no one could have changed the outcome. As Deputy Chief Bell said at the time, when asked by

Chair Deans, there is nothing he would have done differently than Chief Sloly.<sup>23</sup> The criticisms have also been mainly about matters that do not concern the invocation of the Emergencies Act, the core mandate of the Commission.

39. Chief Sloly was a passionate defender of the safety of residents of Ottawa, his police service, and those protestors who sought to legally exercise their right to protest. The Commissioner should find that he worked in good faith to perform his duties successfully and to the best of his ability under unprecedented circumstances,<sup>24</sup> and with the weight of the nation's expectations on his shoulders.

## **PART II - CHIEF SLOLY**

40. Chief Sloly was appointed Chief of the OPS in October of 2019 following a lengthy career at the Toronto Police Service, three years as a partner with Deloitte leading their National Security & Justice practice, and an earlier career as a professional athlete.<sup>25</sup> Chief Sloly also served as a command staff officer in the Civilian Police Force of the United Nation's Peacekeeping Mission

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<sup>23</sup> Testimony of Deputy Chief Bell, TRN00000012 at p. 233.

<sup>24</sup> Testimony of Kevin McHale and Nathalie Carrier, TRN00000002 at p. 121; testimony of Serge Arpin, TRN00000003 at p. 335; testimony of Mayor Watson, TRN00000004 at p. 142; testimony of Patrick Morris, TRN00000005 at pp. 249 – 250; testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 89; testimony of Carson Pardy, TRN00000007 at p. 187; testimony of Interim Chief Bell, TRN00000008 at p. 23; testimony of Acting Superintendent Beaudin, TRN00000009 at p. 169; testimony of Superintendent Robert Bernier, TRN00000010 at p. 60; testimony of Commissioner Carrique, TRN00000011 at p. 229; testimony of Chief Sloly, TRN00000012 at p. 60; testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 207; testimony of Commissioner Lucki, TRN00000023 at pp. 51 – 52; testimony of Minister Blair, TRN00000027 at p. 268; testimony of Minister Mendicino, TRN00000028 at p. 30; testimony of Minister Lametti, TRN00000029 at p. 81; testimony of Katherine Telford, TRN00000030 at p. 293.

<sup>25</sup> Witness Statement of Chief Peter Sloly, WTS.00000040 at p. 2; testimony of Chief Sloly, TRN00000013 at p. 256.



in Kosovo.<sup>26</sup> He is the recipient of United Nations and Canadian Peacekeeping Medals and is an Officer of the Order of Merit (Police Forces).<sup>27</sup>

41. Chief Sloly joined the Toronto Police Service in 1988 and went on to serve in many different roles and at every rank up to Deputy Chief. He is a highly trained and experienced Incident Commander who, during his policing career, oversaw or participated in public order unit operations including the 2009 protests against the Sri Lankan Civil war.<sup>28</sup> In 2007, Chief Sloly was assigned to take over special operations at the Toronto Police Service, including special events and public order. He was given the responsibility of overhauling the Toronto Police Service's incident command system, which led the service's adoption of the Incident Command System (ICS) model. Chief Sloly was trained at the British Columbia Institute of Justice as part of a program he implemented to create and train a new incident command cadre of senior police officers at the Toronto Police Service. Between 2007 and 2008, Chief Sloly completed ICS Levels 100 through 400 and completed other ICS related training and certification through the federal government.<sup>29</sup>

42. In 2009, Chief Sloly was promoted to Deputy Chief of the Toronto Police Service. He served as Deputy Chief for over six years and his assignments included leading the Divisional Policing Command where he was responsible for the deployment of 4000 officers.<sup>30</sup> He earned the respect of his former Chief, now Minister Bill Blair, over the many years they worked

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<sup>26</sup> *Curriculum vitae* of Peter Sloly, COM00000759 at p. 4.

<sup>27</sup> *Curriculum vitae* of Peter Sloly, COM00000759 at p. 4.

<sup>28</sup> Testimony of Chief Sloly, TRN00000012 at p. 9; *curriculum vitae* of Peter Sloly, COM00000759 at p. 3; interview summary of Chief Sloly, WTS.00000040 at pp. 1 – 2.

<sup>29</sup> Testimony of Chief Sloly, TRN00000012 at pp 3-4.

<sup>30</sup> Testimony of Minister Blair, TRN00000027 at p. 266.

together.<sup>31</sup> During his time with the Toronto Police Service, Chief Sloly established himself as a national calibre police leader and expert in community policing initiatives.<sup>32</sup>

43. It was the with the weight of that extensive experience and expertise that Chief Sloly was recruited by the Board to lead the OPS commencing on October 29, 2019.

44. The Board tasked Chief Sloly with a significant change mandate aimed at addressing issues related to systemic racism, systemic misogyny and a lack of trust in the OPS within racialized and marginalized communities in Ottawa.<sup>33</sup> Prior to the commencement of Chief Sloly's tenure at the OPS, the Service was also facing an internal morale crisis – especially amongst its racialized and female members.<sup>34</sup>

45. As the OPS's first Black police Chief, Chief Sloly viewed the resolution of these systemic issues as a priority requiring a reckoning with “the heart” of policing culture.<sup>35</sup> Such a reckoning, however, never comes without resistance. Early in his mandate, Chief Sloly drew the ire of the police association who characterized an opinion piece he wrote on racial profiling as “failing the leadership test.”<sup>36</sup> As former Chair Deans testified, Chief Sloly faced racism and discrimination from within the OPS which included both systemic issues and specific instances of racism which “made it very difficult for [Chief Sloly] early on in his tenure.”<sup>37</sup>

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<sup>31</sup> Testimony of Minister Blair, TRN00000027 at p. 259.

<sup>32</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN.0000021 at p. 301.

<sup>33</sup> Testimony of Chair Diane Deans, TRN00000005 at p. 101.

<sup>34</sup> Testimony of Chair Diane Deans, TRN00000005 at p. 101; 2019 Ottawa Police Service Diversity Audit Report, PSL00000001; Testimony of Serge Arpin, TRN00000003 at p. 299.

<sup>35</sup> Testimony of Chief Sloly, TRN00000012 at p. 14.

<sup>36</sup> Testimony of Chair Diane Deans, TRN00000005 at p. 102.

<sup>37</sup> Testimony of Chair Deans, TRN00000005 at p. 152; See also *In Camera* minutes from Ottawa City Council Meeting of February 16, 2022, OTT00029762.00001 at p. 3 which records the following comment from the former Chair: “She noted that [Chief Sloly] immediately started feeling the impacts of racism as the first

46. Because of this, Chair Deans explained that “there was always some tension in the ranks with Chief Sloly, right from the beginning ... I don’t think he ever felt supported by his senior command, or by the rank and file inside police.”<sup>38</sup> Chief Sloly attempted to overcome these difficulties by building relationships and establishing trust through communication with the rank and file, in particular through the extensive use of small group focus meetings with Service members.<sup>39</sup> Unfortunately, Chief Sloly’s ability to build relationships across the OPS was significantly impeded by the onset of the COVID-19 pandemic that restricted in-person contact five months into his tenure.

47. The Covid-19 pandemic, political movements seeking to defund the police and scandals affecting the Service also led to a lack of stability within the OPS and to turnover at the Service’s highest levels. In March of 2020, one of the OPS’s two deputy chiefs was suspended indefinitely, and the Board never authorized a permanent replacement.<sup>40</sup> As a result, for the bulk of his tenure, Chief Sloly’s command team was chronically understaffed and had to be supported by rotating Superintendents who, every three months, acted as Acting Deputy Chief.<sup>41</sup> Turnover in the command team was further exacerbated by the sudden departure of the OPS’s Chief Administrative Officer (“CAO”) in April of 2021. This required Chief Sloly to reassign Deputy Chief Bell from his operational role to the role of CAO, a role he held until December 2021 when the new CAO, Blair Dunker, was hired.<sup>42</sup>

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Black Chief of Police in Ottawa. She shared that he had expressed feeling like an outsider and unwelcome and that factions within the Police Service made things difficult for the former Chief, who was hired by the OPSB to make progressive changes in the service.”

<sup>38</sup> Testimony of Chair Deans, TRN00000005 at p. 85.

<sup>39</sup> Testimony of Chief Sloly, TRN00000012 at p. 18.

<sup>40</sup> Witness Statement of Acting Deputy Chief Patricia Ferguson, WTS.00000023 at p. 2.

<sup>41</sup> Witness Statement of Deputy Chief Bell, WTS.00000029 at p. 2

<sup>42</sup> *Id.*; See also: Testimony of Deputy Chief Bell, TRN00000008 at p. 11.

48. Discussions regarding the OPS's budget took place throughout 2021 and culminated with a smaller than requested increase being approved by the Board following sustained advocacy from certain community groups and Council members seeking to “defund” the police.<sup>43</sup> The year 2021 also saw the retirement and departure of many experienced officers who had developed expertise in planning and managing large-scale protests and events – these officers could not be replaced because of a Board-imposed hiring freeze throughout 2021.<sup>44</sup>

49. At this time, the OPS's intelligence directorate was also undergoing significant but important leadership changes. In January of 2022, just two weeks before information became available to the OPS about possible convoys coming to Ottawa, three new senior officers were assigned to take over the most senior positions in the Intelligence directorate.<sup>45</sup>

50. The turnover at the executive level, the OPS's loss of expertise through the retirement of experienced officers, and the decrease in the number of public order events during the pandemic made it such that the Service, by January 2022, did not have optimal cohesion, operational capacity or institutional expertise.<sup>46</sup>

51. It is in these circumstances that the OPS began to prepare for what would, unbeknownst to anyone at the time, turn into an unprecedented occupation of Ottawa's downtown core.

### **PART III - THE PRE-ARRIVAL PERIOD (JANUARY 13 – 27)**

52. A particular focus of the evidence before the Commission has been the *ex post facto* interpretation of intelligence reports, particularly the OPP's “Project Hendon” reports (the

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<sup>43</sup> Testimony of Mayor Jim Watson, TRN00000004 at p. 179.

<sup>44</sup> Testimony of Deputy Chief Bell, TRN00000008 at p. 138.

<sup>45</sup> Witness Statement of Deputy Chief Bell, WTS.00000029 at p. 2.

<sup>46</sup> *Id.*; testimony of Interim Chief Bell, TRN00000008 at p. 138.

“Hendon Reports”), to ascertain what the OPS knew or ought to have known about the size, nature and scale of the protests expected in Ottawa before the arrival of the Convoys.

53. The Hendon Reports were a valuable source of knowledge for the OPS and represented an important contribution from the OPP to filling a serious intelligence gap at the national level. They were not, however, a crystal ball.<sup>47</sup> The Commission must guard against magnifying the significance of individual statements contained in the Hendon Reports with the benefit of hindsight and without looking at the overall context.

54. On balance, the intelligence available to the OPS suggested that the bulk of the protest events would take place over the weekend of January 28<sup>th</sup> to 30<sup>th</sup> with certain demonstrators remaining into the week. The intelligence did not predict the volatility of the demonstrations, an occupation, the degree of lawlessness and hate-related events, and the unlawful and anti-social behavior that would occur. The January 27 Project Hendon report, for instance, noted that “Project Hendon has not identified any concrete, specific, or credible threat with regard to the protest.”<sup>48</sup>

#### Chief Sloly’s Role in Intelligence and Planning

55. The Freedom Convoys first came to the OPS’s attention on January 13, 2022 when the OPS received a Hendon Report indicating the possibility of a “work-stoppage, highway slow-down and convoy to Ottawa” organized by truckers.<sup>49</sup> While details on the event remained scant,

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<sup>47</sup> See testimony of Commissioner Carrique, TRN00000011 at p. 192; testimony of Chief Sloly, TRN00000012 at p. 38; testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 305 (agreeing that it is necessary to assess all available intelligence into an overall assessment).

<sup>48</sup> Hendon Report of January 27<sup>th</sup>, OPP00000813.

<sup>49</sup> Hendon Report of January 13<sup>th</sup>, OPP00001176.

the possibility that convoys would converge on Ottawa by the end of January was discussed by the OPS's executive shortly after the receipt of this Hendon Report.<sup>50</sup>

56. The OPS used its experience in managing major events, including previous truck convoys, to begin a formal intelligence-led threat risk assessment to inform an operational plan.<sup>51</sup>

57. Chief Sloly assigned Deputy Chief Bell to oversee the intelligence threat risk assessment relating to the Convoys.<sup>52</sup> Deputy Chief Bell in turn tasked Superintendent Patterson, the head of the OPS Intelligence Directorate, with gathering “the best, most relevant and appropriate intelligence” about how the Convoys might affect Ottawa.<sup>53</sup> From the outset, members of the Intelligence Directorate including Superintendent Patterson were receiving and considering the Hendon Reports along with other intelligence inputs such as ITAC reports and social media.<sup>54</sup>

58. Chief Sloly assigned Acting Deputy Chief Ferguson to oversee the operational plan.<sup>55</sup> In the weeks leading up to the arrival of the Freedom Convoys into Ottawa, the OPS planning team developed an operational plan that included ensuring that protesters could safely exercise their right to peaceful protest while balancing the need for safety in and around the protests (traffic safety, community safety, etc.).<sup>56</sup> Consistent with the incident command system, Acting Deputy

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<sup>50</sup> See Witness Summary of Deputy Chief Bell, WTS.00000029 at p. 3.

<sup>51</sup> Testimony of Interim Chief Bell, TRN00000008 at pp. 16, 19, 26 – 27, 29; testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 19

<sup>52</sup> Testimony of Chief Sloly, TRN.00000012 at p. 22.

<sup>53</sup> Witness Summary of Deputy Chief Bell, WTS.00000029 at p. 3.

<sup>54</sup> *Id.* at p. 29; See also: Witness Statement of Acting Superintendent Bryden, WTS.00000028 at p. 2; Witness Statement of Acting Superintendent Drummond, WTS.00000050 at p. 1.

<sup>55</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 4.

<sup>56</sup> The OPS's plan was embodied in a document titled “Freedom Convoy – Canada Unity”, dated January 28, OPP00004262.

Chief Ferguson created an ICS team that included her as the Major Incident Commander, Superintendent Rheume as Event Commander, and Inspector Lucas as Incident Commander.<sup>57</sup>

59. Chief Sloly was not directly involved in reviewing all available sources of intelligence, developing the threat risk assessment, or drafting the operational plan for the Convoys. It is not the role of the Chief to review all information and intelligence, conduct or approve threat risk assessments, or write and approve operational plans themselves,<sup>58</sup> and Chief Sloly never assumed these responsibilities.<sup>59</sup> As Superintendent Rob Bernier testified, “the right people from the right sections were engaged.”<sup>60</sup>

60. However, understanding that a significant event was en route to Ottawa, Chief Sloly ensured that an appropriate team was in place and he ensured that he was regularly briefed on the intelligence and planning.<sup>61</sup> Chief Sloly continued to receive and review the Hendon Reports (reading them more closely in the days leading up to the Convoys’ arrival),<sup>62</sup> and to question the intelligence team at briefings and where additional information came to his attention to ensure the best assessment possible.<sup>63</sup> On the morning of January 28, Chief Sloly received and reviewed the OPS operational plan. Later that day, Chief Sloly sent an email to Acting Deputy Chief Ferguson

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<sup>57</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 15; Freedom Convoy – Canada Unity” plan dated January 28, OPP00004262 at p. 2.

<sup>58</sup> See eg: Testimony of Commissioner Carrique, TRN00000011 at p. 191.

<sup>59</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 13, 15, 130; testimony of Interim Chief Bell, TRN00000008 at p. 16; testimony of Inspector Lucas, TRN00000009 at p. 49.

<sup>60</sup> Testimony of Superintendent Bernier, TRN00000010 at p. 85.

<sup>61</sup> Testimony of Chief Sloly, TRN00000012 at p. 26.

<sup>62</sup> Testimony of Chief Sloly, TRN00000012 at p. 29.

<sup>63</sup> Notes from OPS command team call, January 27, OPS00014559 at p. 1 (noting Chief Sloly’s request for a risk assessment to inform planning); email from Chief Sloly to Acting Deputy Chief Ferguson and Deputy Chief Bell, January 26 at 6:40 am, OPS00003073 at p. 3 (requesting that Ferguson and Bell “ensure we have the most accurate threat assessment and the most appropriate operations plan for the event”).

providing high-level feedback on the operational plan.<sup>64</sup> The Plan was approved by Inspector Lucas and Superintendent Rheume.

61. Chief Sloly also considered resource needs as raised by the Incident Command team, engaging with policing partners to secure additional resources even before the Convoys' arrival.<sup>65</sup> By the afternoon of January 27, Chief Sloly had contacted Commissioner Carrique of the OPP and the Chiefs of the York Region, Durham Region, and London police services for public order unit ("POU") support. He then called Chief Jim Ramer of the Toronto Police Service to request POU support.<sup>66</sup>

62. Before the Convoy's arrival, therefore, Chief Sloly understood from the briefings that a significant protest would be arriving in Ottawa over the weekend of January 28-30, and that the bulk of the demonstrators would leave after the weekend, with a small group remaining in the core past the weekend. Chief Sloly was briefed that the OPS had contingencies for the remaining demonstrators including the possibility of small encampments, which was not uncommon after large demonstrations.<sup>67</sup>

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<sup>64</sup> Email from Chief Sloly to Acting Deputy Chief Ferguson, January 28 at 6:21 pm, OPS00003748. See also email from Acting Deputy Chief Ferguson to Chief Sloly, January 28 at 6:21 am (11:21 am UTC), OPS00003815; testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 130; testimony of Inspector Lucas, TRN00000009 at p. 49.

<sup>65</sup> Chief Sloly supported his command team, responding to their requests for resources. In an email chain on January 27, Acting Deputy Chief Ferguson asks Staff Sergeant Stoll if additional resources from the Toronto Police Service are required. When Staff Sergeant Stoll responded that they were, Chief Sloly immediately contacted the Toronto Police Service: emails between Chief Peter Sloly, Staff Sergeant Stoll and Acting Deputy Chief Patricia K. Ferguson, January 27 at 4:37 pm and 4:48 pm, OPS00003337 at pp. 1-3; email from Chief Sloly to Acting Deputy Chief Ferguson and Staff Sergeant Stoll, January 27 at 4:52 pm, OPS00003342 at p. 1..

<sup>66</sup> Emails from Chief Peter Sloly to Michael D. Stoll and Acting Deputy Chief Patricia K. Ferguson, January 27 at 4:37 pm and 4:48 pm, OPS00003337 at pp. 1-3

<sup>67</sup> Testimony of Chief Sloly, TRN00000012 at pp. 28 - 29.



Project Hendon and the Available Intelligence

63. The Hendon Reports provided an important source of intelligence related to the Convoys. However, by virtue of the fluid and unpredictable nature of the Convoys themselves, the intelligence about the size, nature, scale and duration of the protests was always unclear and at times contradictory. The Hendon Reports consistently identified participant numbers and plans for departing Ottawa as clear intelligence gaps.<sup>68</sup>

64. The OPP now points to certain portions of the various individual Hendon Reports to suggest that they predicted a prolonged protest. The OPP point to, for example, the January 28 Hendon Report which stated: “Information indicates that the protestors plan to remain in Ottawa at least until February 4, 2022. We continue to identify indicators to support at least some protestors remaining beyond the weekend of Jan 29/30.”<sup>69</sup> In fact, such statements were more consistent with the OPS’s overall intelligence threat risk assessment that most protestors would leave after the first weekend. Given the OPS’s extensive experience managing protests – including those where groups of protestors remain after the main protests ends – nothing in this statement should reasonable have caused the OPS to anticipate a weeks-long, highly volatile occupation of the City that would lead to a national security crisis.

65. The early Hendon Reports also did not provide an indication that the protests would be as disruptive and as anti-social as they were. On the way to Ottawa, convoy leadership expressed an

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<sup>68</sup> January 24 Hendon Report, OPP00000835; January 25 Hendon Report, OPP00000805; January 28 Hendon Report, OPP00000815; January 29 Hendon Report, OPP00001213

<sup>69</sup> January 28 Hendon Report, OPP00001489 at p. 7. This view accords with that expressed more informally at the highest levels of government. See text from Brian Clow to Steve MacKinnon, January 27 at 2:27 pm, reporting Minister Mendicino’s view that “best case scenario tomorrow is that almost all protestors are gone but there are still some trucks parked on Wellington and some lingering hardliners”: SSM.NSC.CAN.00002938\_REL.0001 at p. 2.

intention to protest peacefully and crossing the country, protestors had been peaceful and respectful of traffic and other laws.<sup>70</sup>

66. The OPS' assessment that most protestors would leave after the first weekend proved accurate. According to Inspector Russell Lucas, between 60 and 70 percent of the first protestors left after the first weekend.<sup>71</sup> However, 676 trucks remained.<sup>72</sup> The footprint remained the same because of the size of the trucks.<sup>73</sup> In addition to the sheer physical impact of people and trucks, Convoy supporters created additional public safety risks for the OPS to manage: assault, threats, and the psychological impact of incessant honking, which Interim Chief Bell summed up in his testimony as "community violence".<sup>74</sup> The early Hendon Reports predicted none of these threats.

67. Only after February 7 did the assessment in the Hendon Reports shift in a meaningful way. At that time, the Hendon Reports identified the situation in Ottawa as volatile and "a public safety threat; an officer safety threat; and potentially, a national security threat," and that "available information suggests that the blockade has ample moral, logistical and financial support to remain in place long-term."<sup>75</sup>

68. The OPP acknowledged that the Hendon Reports were not a silver bullet.<sup>76</sup> Although some witnesses testified before the Commission that the Reports predicted what was coming to Ottawa,

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<sup>70</sup> See, e.g. January 25 Hendon Report, OPP00000805 at p. 2 (noting that "convoy organizers have repeatedly stated the intention to conduct a lawful protest", while qualifying that statement with some "suggestions" of "actions that pose a public safety threat"). See also testimony of Interim Chief Bell, TRN00000008 at p. 20; testimony of Commissioner Carrique, TRN00000011 at p. 194.

<sup>71</sup> Testimony of Inspector Russell Lucas, TRN000000009 at pp. 28 – 29.

<sup>72</sup> Institutional Report of the OPS, OPS.IR.00000001 at p. 13, para. 44.

<sup>73</sup> Testimony of Russell Lucas, TRN00000009 at pp. 23-24.

<sup>74</sup> Testimony of Superintendent Abrams, TRN00000007 at p. 97; testimony of Interim Chief Bell, TRN00000008 at pp. 219 – 220.

<sup>75</sup> February 7 Hendon Report, OPP00000831 at p. 5.

<sup>76</sup> TRN00000011 at p. 186

none of these witnesses signaled, at the time, that they felt that the OPS's assessment and planning were in any way insufficient. To the contrary, an OPP situational assessment complimented OPS's plan, stating that it was "robust".<sup>77</sup>

69. Chief Sloly was and remains satisfied that the OPS's intelligence threat risk assessment was done in a reasonable manner based on the information available at the time and the experience of the OPS with large protests in the City.<sup>78</sup>

70. However, Chief Sloly also understands that there were structural deficits in Canada's intelligence threat risk assessment process, and because of these deficits, all police services (including but not limited to the OPS, the Windsor Police Service, the OPP and the RCMP) did not have optimal intelligence threat risk assessments available to them to prevent, manage or resolve this national security event.<sup>79</sup> To account for this gap, Chief Sloly recommends investment in our national security and intelligence-led policing capabilities including, but not limited to, investment in the ability of police and national security organizations to conduct open-source social media and other online information gathering that is *Charter* compliant and has adaptive pre-intelligence and post-investigative online capabilities.<sup>80</sup> Wesley Wark endorsed Chief Sloly's recommendations in this regard in his remarks before a policy roundtable convened by this Commission.<sup>81</sup>

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<sup>77</sup> OPP00004348.

<sup>78</sup> Testimony of Peter Sloly, TRN00000012 at pp.32-33

<sup>79</sup> Testimony of Peter Sloly, TRN00000012 at p.40.

<sup>80</sup> Testimony of Peter Sloly, TRN00000012 at pp.41-42

<sup>81</sup> Statement of Wesley Wark, TRN00000034 at p. 36.

Pre-Arrival Planning

71. Acting Deputy Chief Ferguson had strategic oversight over OPS planning as part of her command over the OPS's Community Policing division,<sup>82</sup> and the Special Events Planning team began developing the OPS's plan for the Convoys under her leadership.<sup>83</sup> Planning was based on the best available information and intelligence (much of which originated from national agencies and the OPP) and the OPS's decades of experience in managing large protests in Canada's capital.<sup>84</sup>

72. Chief Sloly did not have or assume responsibility for planning<sup>85</sup> and did not draft, direct, or approve the January 28 Operational Plan. There was no "sign off" line for the Chief on the Operational Plan. Chief Sloly's involvement was providing strategic level support to support his team's work, including actioning requests for additional police resources to support the plan, based on the available intelligence. As part of this strategic support, Chief Sloly provided feedback on the nearly complete draft plan presented to him at a briefing on the morning of January 28. There is nothing improper in a chief of police reviewing and even approving operational plans for major events. As Minister Bill Blair testified, he would receive and approve operational plans for larger events as Toronto's chief of police.<sup>86</sup>

73. As Acting Deputy Chief Ferguson testified, the OPS planning team was aware of intelligence suggesting the potential for a longer-term event involving some protestors remaining in the Capital.<sup>87</sup> However, the OPS's intelligence threat risk assessment and the resulting

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<sup>82</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 10

<sup>83</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 12

<sup>84</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 14

<sup>85</sup> Testimony of Russell Lucas, TRN00000009 at p. 49

<sup>86</sup> Testimony of Minister Blair, TRN00000027 at pp. 272 – 273.

<sup>87</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 16

operational plan did not conclude that a major long-term occupation was going to occur.<sup>88</sup> The team's assessment and the resulting plan were communicated to Chief Sloly through the briefings he received prior to the arrival of the Convoys.<sup>89</sup>

74. The OPS's operational plan dated January 28 ("January 28 Operational Plan") was drafted by Staff Sergeant Kevin Kennedy then approved by Inspector Russell Lucas<sup>90</sup> and Superintendent Chris Rheume.<sup>91</sup> It was a robust and practical plan designed to facilitate demonstrators' *Charter* rights while limiting the protest's impact on Ottawa residents.

75. The plan included staging areas for trucks, including on Wellington Street. The locations were based on information received from PLT officers regarding the protestors' preferred locations and the OPS's assessment of which locations would minimize impact to City residents.<sup>92</sup> A passage of the January 28 Operational Plan reads:

This plan will have three overlapping stages that will be drawn out over a lengthy period. These stages will be generally described with the next section providing more details on police support within specific zones.

Stage 1 (Ingress) Traffic Section and other support teams will assist in the orderly movement of vehicles into pre-identified staging areas. Depending on the number of vehicles to position and the time at which their arrivals begin, this operation may extend and overlap into the second stage.

Stage 2 (Demonstrations) The purpose of this event is for participant [sic] to express their lawful opinions as protected under the Charter of Rights and Freedoms. During the planning stages, three areas of interest to the participants have been identified. The first is Parliament Hill, the second is 24 Sussex and the third is Confederation Park.

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<sup>88</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at pp. 17–18

<sup>89</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at pp. 130–131

<sup>90</sup> Testimony of Acting Deputy Chief Patricia Ferguson, TRN00000006 at p. 15

<sup>91</sup> "Freedom Convoy – Canada Unity" plan dated January 28, OPP00004262 at p. 2. There was also a traffic plan: see "Freedom Convoy – Operational Plan", OPP00004261. This was an appendix to the January 28 Operational Plan: interview summary of Acting Deputy Chief Patricia K. Ferguson, WTS.00000023 at 8.

<sup>92</sup> Witness Summary of Acting Deputy Chief Ferguson, WTS.00000023 at p. 8; testimony of Inspector Lucas, TRN00000009 at pp. 72 – 73.

Stage 3 (Egress) It is expected that participants will leave the city at different times depending on their [sic] personal intents. The egress period could continue for an extended period and this stage will continually be assessed and re-assessed to determine the appropriate supports that are required to manage.<sup>93</sup>

76. Inspector Lucas gave evidence about the reasoning behind the plan to allow trucks to park on Wellington Street – a plan which, as set out in more detail below – INTERSECT partners, including the OPP and RCMP, were briefed on in advance. As he noted, staging trucks on Wellington would:

- i. concentrate trucks outside of residential areas;
- ii. allow demonstrators to get their message across without unduly burdening city residents;
- iii. make it easier to maintain emergency lanes, by trying to concentrate the trucks in a relatively compact area; and
- iv. recognize that OPS simply did not have enough resources to “restrict Freedom Convoy access to the entire City”.<sup>94</sup>

77. By January 27 at the latest, the OPP was aware that the OPS planned to allow some trucks to be staged downtown; as he testified OPP Superintendent Abrams “didn’t have concerns” about the OPS’s ability to manage “heavy commercial vehicles in downtown Ottawa”.<sup>95</sup> The OPP, in a

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<sup>93</sup> “Freedom Convoy – Canada Unity” plan dated January 28, OPP00004262 at p. 12

<sup>94</sup> Interview summary of Inspector Russell Lucas, WTS.00000024 at p. 5

<sup>95</sup> Testimony of Superintendent Craig Abrams, TRN00000006 at p. 219.

situational report on January 27 at 11:30 hours, described the OPS's plan as "a robust plan that would allow for capacity to accommodate up to 3000 commercial vehicles".<sup>96</sup>

78. The RCMP was also aware of the plan and raised no concerns about trucks entering the downtown core. As Deputy Commissioner Michael Duheme testified, the RCMP was "comfortable" with "how this would unfold in Downtown Ottawa".<sup>97</sup> Rob Stewart, the Deputy Minister of Public Safety, likewise had no concerns as of January 27 about the OPS's plan to have trucks stage on Wellington Street.<sup>98</sup> Neither the OPP nor RCMP made any operational efforts to intercept or block the Convoys before "handing them off" to the OPS at the Ottawa city limits.

79. Pre-arrival, the intelligence pointed to a peaceful protest. It is only with hindsight that the OPS's plan to allow trucks onto Wellington is being criticized. The choice to stage trucks on Wellington Street, based on the threat risk assessment at the time, reflected the reality that freedom of expression does not happen in a vacuum. Context matters. As Professor Michael C. Williams observed in the policy hearing on "Policing of Public Protests":

It is not the same, to use the Ottawa context, having a protest on Parliament Hill, and having a protest in the empty parking lot of a baseball stadium.

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<sup>96</sup> OPP00004348.

<sup>97</sup> Testimony of Assistant Commissioner Michael Duheme, TRN00000023 at p. 30. Assistant Commissioner Duheme testified he was not personally aware that convoys would stage downtown, including on Wellington, but agreed that RCMP members would have been aware that staging would occur downtown (TRN00000023 at p. 172). See also email from Desmond Challenger to numerous recipients including Commissioner Lucki, RCMP Assistant Commissioner Mark Flynn, and National Security and Intelligence Advisor Jody Thomas at 5:32 pm on January 27, PB.NSC.CAN.00001097\_REL.0001 at pp. 3-4 (noting that "convoys are aiming to arrive in downtown Ottawa by noon on 29 Jan[uary]" and that convoys will "enter the downtown core"); "Truckers Convoy and Protective Services – Themes – January 27, 2022 10:28PM", PB.NSC.CAN.00001094\_REL.0001 at pp. 2, 4 (noting that trucks will be inspected before they enter the "downtown core" and describing the main Convoy demonstration in the "downtown core")

<sup>98</sup> Testimony of Deputy Minister Rob Stewart, TRN00000022 at p. 140, discussing email to and from intersect@ottawapolice.ca sent on January 27 at 4:04 pm, PB.CAN.00001234\_REL.0001.

Right? It simply doesn't do the same thing, if you're a protestor, even for the protest and for the public message you're trying to put forward.<sup>99</sup>

80. In other words, a protest about a federal mandate needs to happen where the federal government *is*. The OPS understood from its long experience policing protests that, as Acting Deputy Chief Ferguson testified, “Wellington [...] it’s obviously the place where they want to be. That’s the whole point of their protesting the federal government.”<sup>100</sup> “[P]roactive relationship building” with protest groups, as contemplated in the *National Framework for Police Preparedness for Demonstrations and Assemblies*,<sup>101</sup> is only effective where police can offer protesters reasonable options. The OPS’s planning teams and incident command team determined that staging trucks and allowing protestors on Wellington for the purpose of their protest was a reasonable option.

81. The January 28 Operational Plan also properly accounted for the *Charter* rights of protestors. Chief Sloly received legal advice that the OPS could not deny demonstrators access to the City based only on potential violations of Ontario’s *Highway Traffic Act* or city bylaws.<sup>102</sup> And by January 28, just before the Convoy arrived in Ottawa, Project Hendon could not “identif[y] any concrete, specific, or credible threat” from the Convoy.<sup>103</sup>

82. Without a credible threat to public safety, there was no basis to deny protestors access to the City. Such a drastic action would have been, based on the information available to the OPS at

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<sup>99</sup> Testimony of Professor Michael C. Williams, TRN00000034 at p. 150

<sup>100</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 23

<sup>101</sup> Canadian Association of Chiefs of Police, *National Framework for Police Preparedness for Demonstrations and Assemblies*, COM00000666 at p. 12

<sup>102</sup> Testimony of Chief Peter Sloly, TRN00000012 at pp. 48–49, quoting interview summary of Chief Peter Sloly, WTS.00000040 at p. 15; *Highway Traffic Act*, RSO 1990, c H.8

<sup>103</sup> Hendon Report dated January 28, OPP00000815 at p. 8



the time, legally unfounded and practically impossible. Deputy Chief Bell testified that blocking off the City would have required as many resources as it ultimately took to clear the occupation – a clearly impossible undertaking.<sup>104</sup>

83. The legal advice that Chief Sloly received was consistent with the *Charter*'s broad protection for freedom of expression. Section 2(b) of the *Charter* guarantees “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication”.<sup>105</sup> It has a sweeping reach, protecting any “activity [that] conveys or attempts to convey a meaning”.<sup>106</sup> The broad scope of the *Charter* guarantee was repeatedly confirmed during this Commission's Policy Phase.<sup>107</sup> And it has long roots. In the foundational case of *Irwin Toy Ltd v Quebec (Attorney General)*,<sup>108</sup> the Supreme Court of Canada explained that this wide definition captures a case in which “an unmarried person might, as part of a public protest, park in a zone reserved for spouses of government employees in order to express dissatisfaction or outrage at the chosen method of allocating a limited resource”.<sup>109</sup>

84. In other words, illegally parking a vehicle can constitute expressive activity linked to the message being expressed. Likewise, parking or slow-rolling a truck to protest government policies implicating truckers was understood to be expressive activity. Although the OPS's legal

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<sup>104</sup> Testimony of Interim Chief Steve Bell, TRN00000008 at pp. 147 – 148. Chief Sloly continued to emphasize this basic fact throughout the occupation. For example, at a press conference on February 4, in response to a question by Joanne Chianello of CBC News, Chief Sloly stated: “we cannot block off the entire city”. Video of OPS press conference on February 4, OPS00014571 at timestamp 15:15

<sup>105</sup> *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 2(b)

<sup>106</sup> *Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927, cited in Professor Richard Moon, “Freedom of Expression” [commissioned paper] at p. 6

<sup>107</sup> See, e.g., statement of Professor Jamie Cameron, TRN000000032 at p. 31; statement of Professor Richard Moon, TRN000000032, at p. 59; statement of Dr. Emily Laidlaw, TRN000000033 at p. 31.

<sup>108</sup> *Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927

<sup>109</sup> *Irwin Toy Ltd v Quebec (Attorney General)*, [1989] 1 SCR 927, cited in Richard Moon, “Freedom of Expression” [commissioned paper] at p. 6

department opined that some road blockages might not fall within the protected scope of s. 2(b) of the *Charter*, it provided no definite view on this question.<sup>110</sup> Given its best assessment of the available intelligence and the utmost respect for *Charter* rights that the police must “safeguard[]”,<sup>111</sup> the OPS concluded that managing the protest through the January 28 Operational Plan was the right approach both legally and logistically.

85. It should also be noted that the OPS had allowed protests involving trucks staged on Wellington in the past – including the 2006 farmer protest, where protesters formed a convoy, staged on Wellington, and left without incident in around a day;<sup>112</sup> and in the “United We Roll” event, which lasted for several days beginning on February 20, 2019.<sup>113</sup> Protestors often indicate that they will not leave until some action is taken, only to return to their normal lives after a day or two.<sup>114</sup>

86. The January 28 Operational Plan, emphasizing as it did the “orderly movement” of trucks into the core into “pre-identified staging areas”,<sup>115</sup> was a reasonable and proportionate response to the Convoy as it was understood before January 28. Although it later morphed into an occupation with multiple goals, initially the Convoy was a protest against COVID-19–related restrictions including the federal government’s requirement that cross-border truckers, among

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<sup>110</sup> Memorandum re: “Truck Convoy Demonstration” from Legal Services, Ottawa Police Service, to Deputy Chief Steve Bell, January 28, OPS00003692 at p. 4 (noting that road blockages that do not go on for “extended periods” or involve “unlawful conduct” are likely *Charter*-protected, and failing to define “extended”)

<sup>111</sup> *Police Services Act*, RSO 1990, c P.15, s 1(2)

<sup>112</sup> Testimony of Steve Kanellakos, TRN000000003 at p. 24; testimony of Kevin McHale, TRN000000002 at p. 77; testimony of Acting Deputy Chief Ferguson, TRN000000006 at p. 161; testimony of Interim Chief Bell, TRN000000008 at p. 262; interview summary of Inspector Lucas, WTS.000000024 at p. 3.

<sup>113</sup> Testimony of Pat King, TRN000000015 at pp. 224–225; Taylor Blewett, “United We Roll protest: Truck convoy ends Hill rally, gears up for Day 2” *Ottawa Citizen* (February 21, 2019), COM00000446 at p. 4; Dave Dormer, “United We Roll convoy ‘100%’ successful, says organizer, despite concerns over funds raised” *CBC News* (February 23, 2019), COM00000448.

<sup>114</sup> See, e.g., testimony of Acting Deputy Chief Ferguson, TRN000000006 at p. 17.

<sup>115</sup> “Freedom Convoy – Canada Unity” plan dated January 28, OPP00004262 at p. 12.

many others, be fully vaccinated.<sup>116</sup> Such a protest demanded a response from the OPS that facilitated participants' *Charter* right to express themselves on COVID-19 mandates, a matter of vital public interest, while maintaining public order and safety.

87. Hindsight bias naturally operates to distort the views of the witnesses, as Minister Blair acknowledged.<sup>117</sup> While some witnesses gave evidence before the Commission that they (or, in the case of the OPP, their organization) believed that the protest would be more long-standing and disruptive than anticipated by the OPS, it is important not to assess OPS's plan with the benefit of hindsight, and to assess such evidence against the behaviour of these witnesses at the time. For the OPP in particular, the fact that their own contemporaneous assessment of the OPS's plan was that it was a "robust plan" should be determinative.

88. A comparison with Windsor's experience during the Ambassador Bridge blockade is also helpful. Despite the example of Ottawa, the smaller geographical scale of the Ambassador Bridge blockade, and a higher ratio of police officers to civilians than in Ottawa,<sup>118</sup> the Windsor Police Service ("WPS") did not restrict access to the Ambassador Bridge before or after the blockade in that city.

89. The reason is because establishing a hard perimeter, even around a single bridge, requires immense resources – resources that must be taken out of ordinary policing operations – and comes at a tremendous personal and economic cost. The OPS and the City of Ottawa learned this in the

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<sup>116</sup> See, e.g., testimony of Chris Barber, TRN00000014 at pp. 14, 28–29; testimony of Tom Marazzo, TRN00000015 at p. 147; testimony of Tamara Lich, TRN00000016 at p. 284; Hendon Report dated January 20 at 10:00, OPP00001026 at p. 1.

<sup>117</sup> Witness Summary of Minister Blair, WTS.00000048 at p. 3.

<sup>118</sup> In 2019, Windsor had 205 police officers per 1,000 population versus 121 in Ottawa. See appendix A to the institutional report of the Ottawa Police Service, OPS.IR.00000001 at pp. 23, 25.

Spring of 2021 when the Ontario government prohibited interprovincial travel during the COVID-19 pandemic. In response, both the OPS and OPP blocked the City's interprovincial bridges.<sup>119</sup> This operation required substantial resources and caused major economic and health care related hardships in the City.<sup>120</sup> As the City of Windsor stated in its institutional report, "WPS did not have sufficient personnel and hard assets (such as jersey barriers) to respond to the protest."<sup>121</sup> And, as Mayor Drew Dilkens testified, it would be "practically impossible" to do so while maintaining anything close to normal transport patterns—and the economic impact would be immense.<sup>122</sup>

90. As Interim Chief Steve Bell testified, it would have taken roughly the same "scale of operation" to divert or block Convoy participants from coming into Ottawa that it took to clear the occupation in late February 2022.<sup>123</sup> The OPS ultimately received 2,223 additional personnel to clear the occupation.<sup>124</sup> This massive influx of additional resources only became possible after the occupation revealed itself for what it was: an unprecedented event requiring an unprecedented police response.

#### **PART IV - FIRST WEEKEND: ARRIVAL OF PROTESTERS AND OCCUPATION**

91. The first weekend flooded Ottawa with vehicles and protesters. The City was inundated, from all directions, with thousands of trucks from across the country. Word quickly spread among protesters that the convoy was securing the majority of spots on Wellington Street, leading to a rush of other convoy trucks downtown to try to secure remaining spots on Wellington. The OPS

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<sup>119</sup> Testimony of Chief Sloy, TRN00000013 at pp. 172 – 173; testimony of Craig Abrams, TRN00000006 at p. 250.

<sup>120</sup> Testimony of Chief Sloy, TRN00000013 at pp. 172 – 173.

<sup>121</sup> Institutional report of the City of Windsor, WIN.IR.00000001 at para. 9 (p. 4)

<sup>122</sup> Testimony of Mayor Drew Dilkens, TRN00000007 at p. 32

<sup>123</sup> Testimony of Interim Chief Steve Bell, TRN00000008 at pp. 147–148

<sup>124</sup> Institutional report of the Ottawa Police Service, OPS.IR.00000001 at para. 55, p. 18

tried to maintain its traffic plan, which had been developed following negotiations with protestors, but it collapsed under the pressure of thousands of trucks streaming into the core.<sup>125</sup>

92. Inspector Lucas described in his testimony how the Convoys flowed into Ottawa and filled the City during the first weekend:

The analogy I use is I have one load of sandbags and we're building a wall, but you see the waters are rising faster and you know you're going to get overwhelmed with the water that's coming. So you use your sandbags to divert them to minimize and mitigate the damages and the impacts to the area that it going to be the recipient of those floodwaters.<sup>126</sup>

93. Around noon on Saturday, January 29, a convoy of around 1,000 vehicles was coming north up Highway 417; three convoys were coming south down Highway 50, totalling around 2,000 vehicles; and people were marching on foot across the Alexandria and Portage bridges.<sup>127</sup> By around 2:00 pm on January 29, convoys from the west and east had arrived and were backed up 20 and 30 kilometres, respectively, on Highway 417.<sup>128</sup> Trucks continued to flood the downtown core by around 4:00 pm on January 30.<sup>129</sup> Traffic remained congested in the downtown core by around 8:00 pm that evening.<sup>130</sup>

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<sup>125</sup> Testimony of Inspector Russel Lucas, TRN00000009 at p. 43. See OPS 'Freedom Convoy Operational Plan' for traffic plan on Wellington, OPS00004143 at p. 5; According to an email from Acting Deputy Chief Ferguson, as of January 26, 2022, OPS PLT members were "in contact with the organizers of the Freedom Rally demonstration, [and] communication [had been] productive and cooperative," OPS00003105.

<sup>126</sup> Testimony of Inspector Russell Lucas, TRN00000009 at p. 43

<sup>127</sup> Email from and to intersect@ottawapolice.ca, January 29 at 11:56 am, PB.NSC.CAN.00001312\_REL.0001 at p. 4

<sup>128</sup> Email from and to intersect@ottawapolice.ca, January 29 at 2:29 pm, PB.NSC.CAN.00001312\_REL.0001 at p. 3

<sup>129</sup> OPS Level 3 Briefing Note, update 12, sent January 30 at 4:22 pm, OPS00004732

<sup>130</sup> Emails from and to intersect@ottawapolice.ca, January 30 at 11:43 am, 2:22 pm, and 8:13 pm (1:13 am on January 31 in UTC), PB.NSC.CAN.00001438\_REL.0001 at pp. 1-3

94. Thousands of trucks were present in the downtown core on January 29, 30, and 31.<sup>131</sup> While the unprecedented scope of the event is indisputable, the OPS managed it as effectively as it could. The OPS frontline ranks, which had been depleted for years before the Convoys and were further depleted due to COVID restrictions, worked throughout the weekend in minus 35 degree temperatures and were “exhausted” by January 30.<sup>132</sup>

95. Despite these challenges, the OPS’s management of the protests ensured that there were no riots, no serious injuries, and no serious violence.<sup>133</sup> At a meeting beginning at 8:00 am on Monday, January 31, OPS senior leadership debriefed from the weekend. It was noted that the event was “[p]ivoting from [a] protest to occupation”. Nevertheless, as Chief Sloly commended his leadership team in that meeting, “no one [was] hurt” and the city remained “safe”.<sup>134</sup>

96. In a briefing with Chief Sloly on January 31, Commissioners Carrique and Lucki described OPS’s work during the first weekend as “excellent” and “tremendous”.<sup>135</sup>

## **PART V - EARLY ATTEMPTS TO SECURE RESOURCES AND AMEND THE PLAN**

97. By the end of the first weekend it was clear to OPS leadership, including Chief Sloly, that the protest had become a major occupation. Acting Deputy Chief Ferguson and Deputy Chief Steve

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<sup>131</sup> Institutional report of the OPS, OPS.IR.00000001 at para. 44 (p. 13). See also OPS Level 3 Briefing Note, update 15, sent January 31 at 9:15 am (2:14 pm UTC), OPS00004889.

<sup>132</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 29-30; Testimony of Chief Peter Sloly, TRN00000012 at p. 55.

<sup>133</sup> Testimony of Inspector Russell Lucas, TRN00000009 at p. 97; OPS Level 3 Briefing Note, update 6, sent January 29 at 1:38 pm (6:38 pm UTC), OPS00004258; OPS Level 3 Briefing note, update 8, sent January 29 at 6:40 pm (11:40 pm UTC), OPS00004286; OPS Level 3 Briefing Note, update 10, sent January 30 at 8:31 am (1:31 pm UTC), OPS00004763; OPS Level 3 Briefing Note, update 11, sent January 30 at 12:09 pm (5:09 pm UTC), OPS00004744; OPS Level 3 Briefing Note, update 17, sent January 31 at 11:15 am (4:15 pm UTC), OPS00004894 at p. 1; OPS Level 3 Briefing Note sent January 31 at 12:20 pm (5:20 pm UTC), OPS00004951.

<sup>134</sup> Email from Robin Millbank to numerous recipients, January 31 at 11:31 am, OPS00004976.

<sup>135</sup> Notes from briefing by Chief Sloly to Commissioners Brenda Lucki and Thomas Carrique, among others, on January 31 at 1:00 pm, OPS00004927 at pp. 1–2.

Bell testified that by Sunday evening, when people were still refusing to leave, the OPS began to identify an “entrenched group” of those who intended to remain.<sup>136</sup>

98. It is significant to note that in fact the majority of protestors did leave after the first weekend, as predicted. As set out in the OPS’s Institutional Report, the numbers of protesters and vehicles at key sites in the occupation ebbed and flowed from thousands on the first weekend to hundreds during the first week.<sup>137</sup> Due to the unprecedented scope and scale of the protest, however, the “smaller” group that remained was far larger and more difficult to manage than anyone anticipated.<sup>138</sup> That core group was also joined by waves of additional protestors and participants with a wide variety of motivations on subsequent weekends.<sup>139</sup>

99. As Deputy Solicitor General Mario di Tommaso testified, there is a difference between stabilizing a protest and ending it.<sup>140</sup> The OPS could do the former but not the latter. Despite its success in maintaining public safety during the first weekend, the OPS had no capacity to clear an occupation. Without additional resources, it could only hold the line, and even then with great difficulty and the continuous risk of an escalation of violence.<sup>141</sup> This conclusion follows from Inspector Lucas’s statement to the Commission that, as Incident Commander, his focus “shifted to ensuring public safety and attempting to stabilize the situation.”<sup>142</sup> Elements in the crowds openly

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<sup>136</sup> Testimony of Chief Peter Sloly, TRN00000012 at pp. 61-62; Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 198; Testimony of Interim Chief Steve Bell, TRN00000008 at pp. 65-66.

<sup>137</sup> Institutional Report of the OPS, OPS.IR.00000001 at para. 44 (p. 13).

<sup>138</sup> Testimony of Interim Chief Steve Bell, TRN00000008 at p. 72.

<sup>139</sup> Again, see Institutional Report of the OPS, OPS.IR.00000001 at para. 44 (p. 13). See also testimony of Councillor Catherine McKenney, TRN00000002 at p. 168; testimony of Diane Deans, TRN00000005 at pp. 22-23.

<sup>140</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 300-301.

<sup>141</sup> As Acting Deputy Chief Ferguson testified, there was always a risk that an “agitator” or “antagonizer” would incite unlawful behaviour: TRN00000006 at pp. 30-31.

<sup>142</sup> Interview summary of Inspector Lucas, WTS.00000024 at p. 8.

challenged and resisted police attempts to enforce the law, causing an ever-present risk of escalation.<sup>143</sup>

100. It was clear that the OPS required more resources. Even without mobilizing a public order operation, the OPS's resources were stretched to their limits maintaining safety in the core and providing basic police services to the rest of the million residents across Canada's geographically largest municipality.<sup>144</sup>

101. On January 31, Chief Sloly held a meeting with his command team and Commissioners Lucki and Carrique to seek advice and support moving forward. They examined a range of options including the possibility of the City obtaining an injunction, but agreed that absent the resources needed to enforce an injunction, an injunction would cause more problems than it solved.<sup>145</sup> Chief Sloly was clear that the OPS was understaffed – notes from this meeting record that he told the Commissioners, “can't safely remove them unless we have hundreds of officers to maintain risk.”

<sup>146</sup> Chief Sloly was asking for “lots of help.”<sup>147</sup>

102. The OPS planners and incident command team also began working to amend and evolve the operational plan to both manage, and ultimately clear, what was now an occupation. Chief Sloly convened a meeting at the Brookstreet Hotel in Kanata for February 1 with Inspector Michel Marin, Staff Sergeant Michael Stoll, Acting Deputy Chief Ferguson, and a group of POU

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<sup>143</sup> See, for instance, the constant threat of officers being “swarmed” by protestors when they attempted enforcement action: testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 201 – 202.

<sup>144</sup> See for example, Email from Inspector Debbie Palmer dated February 1 estimating resources needed to maintain the demonstration, OPS00005435.

<sup>145</sup> Notes of Christiane Huneault, OPS00014454 at pp. 2 – 3. Testimony of Chief Sloly, TRN00000013 at p. 94. See also typed notes OPS00004927.

<sup>146</sup> Notes of Christiane Huneault, OPS00014454 at p. 1.

<sup>147</sup> Testimony of Chief Sloly, TRN00000012 at p. 144.



commanders from external police services who were in Ottawa for the first weekend.<sup>148</sup> As Acting Deputy Chief Ferguson testified:

I got the sense from the group that they were [...] it was mind boggling, I think, would be a good term. They just couldn't -- you know, this was -- would have been the largest public order movement in Canada, and that's actually what it turned out to be. And they said when we initially spoke with them, "How do you think we could execute this?"

And they said we would need every public order unit or section in the country to be able to clear the streets the way they are now.

And that was on the 1st of February.<sup>149</sup>

103. Consistent with his role as a strategic leader at the apex of the incident command structure, Chief Sloly directed the participants at that meeting to develop ways to lawfully and safely address the occupation.<sup>150</sup> The meeting included the Major Incident Commander (Acting Deputy Chief Ferguson), all of the POU commanders, the two PLT supervisors and a scribe.<sup>151</sup> As Chief Sloly stated at the meeting, "[e]very single option [was] to be explored."<sup>152</sup> The next morning, debriefing with his leadership team, Chief Sloly noted that, coming out the meeting, senior personnel were to be "working on intel, investigations, legal, communications, PLT supports." And, given, Inspector Lucas's role as the Incident Commander, Chief Sloly noted that all these operations should "remain under Russ Lucas."<sup>153</sup>

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<sup>148</sup> Email from Serena S. Docherty to Chief Peter Sloly, February 9 at 12:22 pm (7:22 pm UTC), OPS00009293, attaching "Public Order – Truck Convoy De-Escalation – Planning Meeting" (notes from meeting), OPS00009294; testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 197–198; testimony of Interim Chief Steve Bell, TRN00000008 at p. 72

<sup>149</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 197–198

<sup>150</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 133

<sup>151</sup> Testimony of Chief Peter Sloly, TRN00000013 at pp. 43–44 and pp. 73–74

<sup>152</sup> "Public Order – Truck Convoy De-Escalation – Planning Meeting" (notes from meeting), OPS00009294 at p. 1

<sup>153</sup> Email from Robin Millbank to numerous recipients on the OPS command team, February 2 at 4:38 pm (9:38 pm UTC), OPS00005633 at p. 2

104. On February 2, Chief Sloly formalized his requests for resources in emails to the Commissioners of the OPP and the RCMP. In his email to Commissioner Carrique, Chief Sloly wrote, in relevant part:

With the ongoing situation with the trucker demonstration, I am seeking your assistance in providing resources to assist the Ottawa Police with our operational plan.

- We are aware that the OPP are able to provide between 50-60 uniform officers to deliver the [f]rontline requirements;
- We also require their PLT and POU supports as well as Incident Command Supports;
- We would further request a tactical dispatcher who would be able to sit in the NCRCC.

I am hopeful that the OPP can assist us with this request. We would be willing to engage into a Memorandum of Understanding (MOU) with the OPP if you require.<sup>154</sup>

105. In his email to Commissioner Lucki, Chief Sloly wrote, again in relevant part:

With the ongoing situation with the trucker demonstration, I am seeking your assistance in providing resources to assist the Ottawa Police with our operational plan.

- We would require 50 uniform members who would be able to frontline/traffic requirements;
- We would require a level of leadership for the RCMP members (such as a Corporal or Sgt.) who would be able to provide support for their teams;
- We would also require 3 Public Order Units.

I am hopeful that the RCMP can assist us with this request. We would be willing to engage into a Memorandum of Understanding (MOU) with the RCMP if you require.<sup>155</sup>

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<sup>154</sup> Email from Chief Sloly to Commissioner Carrique, February 2 at 10:09 am, OPP00001576 [formatting modified]

<sup>155</sup> Email from Chief Sloly to Commissioner Lucki, February 2 at 10:06 am, OPS00006093 at pp. 4 – 5 [formatting modified]

106. The OPS was looking for everything it could get. But, as throughout the occupation, it carefully considered the resource requests it was making. The emails, while they follow the same general form, set out distinct requests tailored to the OPS's needs and the resources available in the OPP and RCMP, respectively.

107. Commissioner Lucki replied that same day:

At present, all of our Public Order Units are actively deployed and I am not in a position to be able to redirect any teams to Ottawa. While the RCMP is experiencing significant resource challenges at this time, I have asked my management team to continue to explore the possibility of providing some or all of the other resources you requested. I hope to be able to get back to you shortly in that regard.<sup>156</sup>

Over the next few days, the RCMP provided a trickle of resources to the OPS. Despite public statements by Minister Marco Mendicino on February 3 that the RCMP had provided all resources that the OPS had requested, and on February 7 that 250 RCMP officers had been dispatched under OPS command,<sup>157</sup> until mid-February the OPS was only ever in a position to deploy a maximum of 50–60 RCMP officers per day.<sup>158</sup> Deputy Commissioner Duheme testified that the number 250 was a “mix-up” and did not reflect the true number of officers “dedicated to OPS”.<sup>159</sup>

108. The OPP, for its part, immediately provided some frontline officers and POU support. While the OPP POU deployment numbers for the first two weeks of the protest have not been

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<sup>156</sup> Email thread between Chief Sloly and Commissioner Lucki, dated February 2, 2022, OPS00006029.

<sup>157</sup> On February 3<sup>rd</sup>, Minister Mendicino released a statement indicating that the RCMP had approved all of the OPS's requests for assistance and on February 7<sup>th</sup>, he indicated that the OPS had 250 RCMP officers under its command. See: OPS00008365 at p. 5 and SSM.CAN.00003603.

<sup>158</sup> Testimony of Commissioner Lucki, TRN00000023 at pp. 207 – 208; OPB00001014.

<sup>159</sup> Testimony of Deputy Commissioner Duheme, TRN00000023 at p. 34

clearly set out in the record, the numbers, while invaluable in assisting the OPS in maintaining safety in the City, were far from sufficient to allow the OPS to dismantle the occupation.<sup>160</sup>

109. The lack of resources available to the OPS is illustrated by the basic numbers. The OPS had approximately 1,200 active-duty officers and it did not have access to heavy towing services.<sup>161</sup> The operation which cleared the occupation of Ottawa required the influx of over 2,200 additional officers.<sup>162</sup>

110. There were simply too many protesters, too many trucks and too motivated and experienced (including through police and military training) a core of protesters for the solution to the occupation to be within the ability of the OPS alone.<sup>163</sup>

## **PART VI - THERE MAY NOT BE A POLICING SOLUTION**

111. Chief Sloy knew that Ottawa was facing an unprecedented national security crisis that would require a national response, including by other police services and all levels of government and other parts of civil society. At a joint meeting of City Council and the Board on February 2, Chief Sloy stated that the matter was a national issue and that the longer the protests went on, the more he felt that “there may not be a policing solution.”<sup>164</sup>

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<sup>160</sup> OPP Institutional Report, OPP.IR.000000001 at p. 36; OPP00001551; Testimony of Commissioner Carrique, TRN00000011 at p. 27. Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 185 & 368.

<sup>161</sup> Institutional Report of the OPS, OPS.IR.00000001 at p. 23. The Federal Deputy Minister of Transport testified that accessing those services was “impossible”, TRN000000024 at p. 254.

<sup>162</sup> *Id* at p. 19.

<sup>163</sup> The difficulties of arriving at a negotiated solution with this group of protesters is explained in further detail below under the heading “Challenges to Success of the PLT and Negotiations”.

<sup>164</sup> SSM.CAN.00006523\_REL.0001 at p. 3.

112. Chief Sloly made this statement after his meeting in Kanata where it was made clear to all participants that the necessary resources far exceeded what OPS had available,<sup>165</sup> and at the end of a very lengthy briefing in which he explained the many steps the OPS was taking and would continue to take to enforce and maintain safety in the City.<sup>166</sup> In its context, the statement was clearly not an abdication of responsibility but a public attempt to get more help for his Service and his City. As Chief Sloly noted in an email to Chair Deans the following day:

As we have discussed in our one-on-one meeting, our Board meetings, our meetings with the Mayor and the Council briefing meetings, I encourage you as Board Chair / Councillor and other city officials to use your influence to secure additional resources / supports for a safe lawful end to the demonstration. I once again accept your full support to secure more resources. This aligns with my statement that there may not be a police solution to this demonstration despite the fact that we are doing everything reasonable to resolve this situation safely and lawfully.<sup>167</sup>

113. In the public portion of a February 5 Board meeting, Chief Sloly provided further clarification of his statement. He confirmed that the OPS alone could not resolve the situation in Ottawa without considerable assistance from policing partners and different levels of government,<sup>168</sup> and that “there may not be a policing solution to the demonstration”<sup>169</sup> which had “reached beyond being a strictly Ottawa-based policing problem, having garnered international attention and now requiring the involvement of all levels of governments.”<sup>170</sup> As he had done at the February 2 meeting, Chief Sloly noted that the OPS was doing its best to deploy officers to the

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<sup>165</sup> See testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 197–198 (clearing the occupation would require “every public order unit or section in the country”).

<sup>166</sup> Testimony of Chief Sloly, TRN000000012 at p. 81.

<sup>167</sup> OPB000000424.

<sup>168</sup> OPSB Minutes of February 5<sup>th</sup> Board Meeting, OPB00001264 at p. 3.

<sup>169</sup> In her testimony, the Prime Minister’s Chief of Staff, Katie Telford, expressed agreement with this statement, TRN000000030 at p. 299.

<sup>170</sup> Notes of February 5<sup>th</sup> OPSB meeting from Ministry of the Solicitor General, ONT00001115 at p. 2; Notes of OPSB February 5<sup>th</sup> OPSB meeting minutes, OPB00001264 at p. 3.

areas around the red zone to enforce laws and by-laws, that the Service was considering all legal options available to it and that it was developing its operational plans on an hourly basis.

114. Chief Sloly also stated that the Convoy represented a deep and fundamental change in Canadian democracy. As recounted in his interview summary, and corroborated by contemporaneous notes,<sup>171</sup> Chief Sloly said:

[S]omething has changed in our democratic fabric, and we do not have the legislation or the resources to manage such situations. We do not have the justice system framework or the needed coordination between all levels of government to predictably manage these demonstrations going forward. We will have to assess the fundamental principles of the [*Police Services Act*] and the way it is integrated with other acts to determine how we can deal with such situations in the future.<sup>172</sup>

115. Katie Telford, the Prime Minister's Chief of Staff, agreed with this statement when it was put to her during her evidence.<sup>173</sup>

116. The notion that police services of jurisdiction alone could not resolve the ongoing national crisis was shared by other leaders at the time. A February 2 OPP Hendon Report stated that the protests in Coutts had energized the protesters in Ottawa, demonstrating "the limitations of some of the tools available to law enforcement in this situation."<sup>174</sup> The same day, Commissioner Lucki received an email from her RCMP colleague Chief Superintendent John Brewer, stating that "these types of protests leave very limited capacity for police to solve this situation, without some

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<sup>171</sup> See notes of February 5<sup>th</sup> OPSB meeting from Ministry of the Solicitor General, ONT00001115 at p. 2

<sup>172</sup> Interview summary of Chief Sloly, WTS.00000040 at p. 60.

<sup>173</sup> Testimony of Katherine Telford, TRN00000030 at p. 299.

<sup>174</sup> Hendon Report of February 2<sup>nd</sup>, OPP00000823 at p. 5.

movement by government to allow protesters to have a ‘win’ of sorts.”<sup>175</sup> Commissioner Lucki’s speaking notes from the February 3<sup>rd</sup> Deputy Minister’s Committee meeting echo this point:

I’ll be honest. This may not be something that can be negotiated out of or resolved only with enforcement. There may need to be some other solutions, maybe the engagement of an interlocutor.<sup>176</sup>

117. The Federal Government clearly received the message that Chief Sloy and others were sending. At a February 3 meeting of the Cabinet Committee on Safety, Security and Emergencies, the Deputy Minister of Public Safety stated that “the view of the Ottawa Police is that they will not be able to bring the protest to a conclusion without the assistance of the federal government due to concerns for public safety.”<sup>177</sup> The Minister of Public Safety understood Chief Sloy’s statement that there may not be a policing solution as “a cry for assistance and a foreshadowing of the invocation of the [*Emergencies Act*].”<sup>178</sup>

118. As acknowledged by Deputy Solicitor General Mario Di Tommaso before the Commission, the occupation was not just a problem for the OPS. Rather, both the Provincial and Federal Governments had a role to play:

Do [police services of jurisdiction] need support? Absolutely. Is there a role for the Federal and the Provincial Government to play with perhaps identifying interlocutors, with providing opportunities for mediation, for sitting down with protestors to negotiate? Absolutely.<sup>179</sup>

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<sup>175</sup> OPP00000601

<sup>176</sup> Speaking Notes of Commissioner Lucki, PB.CAN.00000750\_REL.0001 at p. 2; See also Testimony of Deputy Minister Stewart who believes that such a statement was made, TRN00000022 at p. 154.

<sup>177</sup> Minutes of SSE Cabinet meeting, SSM.NSC.CAN.00000292\_REL.0001 at p. 5.

<sup>178</sup> Interview summary of Minister Mendicino, WTS00000054 at p. 9.

<sup>179</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 214.

119. Chief Sloly acknowledged that, with hindsight, his statement “needed to be more clear”, especially about the fact that the Ottawa Police Service “[would] continue to do everything we possibly [could] do” to resolve the occupation.<sup>180</sup> However, there was no evidence led before the Commission that suggested that the statement fostered a perception among the public or the protestors that the OPS was vulnerable or unable to police the occupation, or that the statement contributed to a loss of trust in the OPS.<sup>181</sup>

120. In any event, Chief Sloly’s statement was correct. It took the unprecedented invocation of Provincial and Federal emergency legislation, plus an unprecedented public order operation involving over 2,200 additional police personnel from across the province and country, to end the occupation.

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<sup>180</sup> Testimony of Chief Sloly, TRN00000012 at p. 81.

<sup>181</sup> When his comments were put to him by Commission Counsel, Chief Sloly testified that most major social problems could not be solved by police alone and noted that many non-policing efforts contributed to ending the Convoy: TRN00000012 at pp. 82 – 85. He further explained, in testimony, that he had clarified these comments shortly after they were made: TRN00000013 at pp. 276 – 278. None of the witnesses who testified regarding Chief Sloly’s comment (regardless of whether they said they agreed with it or not) said it indicated that the OPS was vulnerable or unable to police the occupation, or that the statement contributed to a loss of trust in the OPS. See testimony of Steve Kanellakos, TRN00000003 at p. 127 (City Manager Kanellakos did not know what the statement meant); testimony of Mayor Watson, TRN00000004 at p. 155 (Mayor Watson came to understand that it indicated a lack of resources); testimony of Diane Deans, TRN00000005 at pp. 28 – 29, 41 – 42, 118 (Ms. Deans testified that the statement it meant the OPS did not have sufficient resources and needed “help”); testimony of Superintendent Craig Abrams, TRN00000006 at p. 242 (Superintendent Abrams did not agree with the statement but raised no concerns regarding vulnerability or public trust); testimony of Chief Superintendent Pardy, TRN00000007 at pp. 186, 191 (same, later noting that OPS did not have the resources to effect a policing solution on its own); testimony of Interim Chief Bell, TRN00000008 at p. 163; testimony of Acting Superintendent Beaudin, TRN00000009 at pp. 146 – 147 (no clear answer to question regarding “policing solution” put to him by Commission Counsel); (any policing solution would require more resources than the OPS had); testimony of Superintendent Bernier, TRN00000010 at pp. 85 – 87 (policing solution possible with more resources, but conceding that government negotiations would not be a policing solution); testimony of Benjamin Dichter, TRN00000016 at p. 154 (to Mr. Dichter, Chief Sloly’s remarks meant a political solution would be required); testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 146 (Deputy Solicitor General Di Tommaso disagreed with the statement, but raised no concerns regarding vulnerability or loss of public trust); testimony of Brian Clow, TRN00000030 at p. 185 (Mr. Clow found the statement “concerning” as it indicated the occupation would not “end anytime soon”).



121. As Diane Deans, the former Chair of the Board, testified: Chief Sloly was “right” in saying that there was no policing solution.<sup>182</sup>

## **PART VII - GOVERNMENTS’ RESPONSE**

### *Disputes between the Federal and Provincial Governments*

122. The Provincial and Federal Governments were slow to assist, engaging instead in a dispute over who should be the first port of call to assist the OPS. This dispute played out in the public sphere as well as behind closed doors and served to undermine the OPS and Chief Sloly.

123. The federal Minister of Transport, in response to a question about the involvement of his provincial counterpart in developing a transportation strategy, described the dynamic at play in the following terms:

It was clear that we had a different opinion on how to deal with it. She thought that this was a federal jurisdiction and I was saying that the roads, the blockaders and the occupiers were on[,] were under[,] municipal or federal jurisdiction and that we hope that the province would take the lead and utilize their existing laws and enforcement to apply the law. And so we had a difference of opinion on who should take the lead on this.<sup>183</sup>

124. The provincial Solicitor General, Sylvia Jones, refused to attend tripartite meetings set up by the City of Ottawa to discuss the ongoing occupation.<sup>184</sup> In a meeting on February 6 with numerous representatives of the City, Provincial, and Federal governments, when confronted with the Province’s lack of engagement by National Security and Intelligence Advisor (“NSIA”) Jody Thomas, Deputy Solicitor General Di Tommaso stated that protesters had come to the seat of the

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<sup>182</sup> Testimony of Diane Deans, TRN00000005 at p. 119.

<sup>183</sup> Testimony of Minister Alghabra, TRN00000029 at p. 246.

<sup>184</sup> Testimony of Minister Mendicino, TRN00000028 at pp. 27 – 28 (discussing February 7 tripartite meeting); 32 (discussing February 8 tripartite meeting); 41 – 42 (discussing February 10 tripartite meeting).

*federal* government to protest *federal* mandates.<sup>185</sup> Such disagreements between the Federal and Provincial governments as to who should assist the OPS eventually led to a blunt exchange between the federal Minister of Public Safety and the provincial Solicitor General on February 11, in which Solicitor General Jones made the point that she did not take direction from Ottawa.<sup>186</sup>

125. Through the Ministry of the Solicitor General, the Provincial government's support was limited to a formal request for assistance by Solicitor General Jones to Ministers Blair and Mendicino on January 28, before the Convoy had arrived, written at the request of the OPS, to secure parking for trucks over the first weekend at the Cartier Drill Hall.<sup>187</sup> According to Assistant Deputy Minister Freeman's understanding, the Provincial Ministry of Transport also sourced 10 heavy tow trucks for Ottawa.<sup>188</sup>

126. The Province's lack of engagement was perceived at the time by the Mayor of Ottawa and the Prime Minister of Canada as Ontario "hiding from its responsibilities for political reasons."<sup>189</sup> Whatever the basis, the result was a lack of co-ordination resulting in delays in the provision of resources to the OPS. Before the Commission, Deputy Solicitor General Di Tommaso continued

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<sup>185</sup> At a February 6<sup>th</sup> Meeting between representatives of the Federal Government, the Provincial Government and the City of Ottawa, Deputy Solicitor General Di Tommaso responded to a question about whether the Province's would be stronger if demonstrations were taking place in another city as follows: "This is a protest and encampment movement against the federal mandate on trucks. They came to Ottawa from across the country for that purpose," ONT00000159 at p. 9. See also Witness Statement of Deputy Solicitor General Di Tommaso, WTS00000041 at p. 3.

<sup>186</sup> Text from Mike Jones to Samantha Khalil and Zita Astravas, at or around February 11 at 9:55, SSM.NSC.CAN.00003127\_REL.0001 (reporting that Solicitor General Jones told Minister Mendicino, "I don't take edicts from you [;] you're not my fucking boss"). See also testimony of Minister Mendicino, TRN00000028 at p. 47.

<sup>187</sup> Letter from Solicitor General Jones to Ministers Blair and Mendicino, January 28, SSM.CAN.00004564\_REL.0001; email from Fuad Abdi to Creed Atkinson, January 29, ONT00001013.

<sup>188</sup> Testimony of Assistant Deputy Minister Freeman, TRN00000020 at p. 101, referring to his interview summary, WTS.00000021 at p. 8.

<sup>189</sup> Readout from a February 8<sup>th</sup> Call between Prime Minister Trudeau and Mayor Watson, SSM.CAN.NSC.00002837\_REL.0001 at p. 2.

to maintain that the Federal Government ought to have provided greater policing support because the events occurred in the National Capital Region.

127. Meanwhile, the Federal Government publicly expressed the view that the issues in Ottawa should be dealt with primarily by “the province of Ontario, Solicitor General, who have ultimate responsibility for the policing and maintenance of public safety in the province.”<sup>190</sup> Until the third week of the occupation, the Federal Government did not provide meaningful assistance, either by providing an interlocutor or assisting with the provision of RCMP resources that the OPS had been calling for to end to the occupation.

128. The Federal government’s view at the time was that the influx of the resources so badly needed by the OPS should come first from the OPP and not the RCMP.<sup>191</sup> Both Ministers Mendicino and Blair believed that if the OPS did not have the resources to dismantle the occupation and enforce the law in the redzone then “they could next go to – they then, statutorily, under the Ontario *Police Services Act* (“PSA”),<sup>192</sup> could go to the Ontario Government to ask for the OPP to backstop resources.”<sup>193</sup>

129. Subsection 9(6) of the PSA states, “A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario

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<sup>190</sup> These are comments from Minister Blair at a press conference from February 9<sup>th</sup>, PB.NSC.CAN.00002437 at p. 3.

<sup>191</sup> Minister Mendicino testified that responses to resource requests by the OPS to the RCMP were “not necessarily subject to the Ontario Provincial Police responding at the time”: TRN00000028 at p. 37. But, as noted further below, including by the Prime Minister, the Federal government’s view in practice was that requests first had to go the OPP.

<sup>192</sup> *Police Services Act*, R.S.O. 1990, c. P.15.

<sup>193</sup> Testimony of Minister Mendicino, TRN00000028 at p. 30. See also: Witness Statement of Minister Blair, WTS00000048 at p. 5. This statement reflects the thinking of Minister Mendicino at the time, as evidenced by a text message from his Chief of Staff stating “if the OPS need more from the OPP, they should make that clear” PB.CAN.00001870\_REL.0001.

Provincial Police give assistance.” The statute does not mandate that all requests for additional resources be directed to the OPP Commissioner or Solicitor General nor does it preclude a police chief from making a request from municipal or federal policing partners. Moreover, as a provincial statute, the PSA could not, consistent with the division of powers, govern relationships between municipal police forces and the RCMP, nor purport to establish a priority between the forces in any way.<sup>194</sup>

130. In any event, this formalistic view of the PSA – in which an Ontario chief of police, in an acknowledged emergency, must request all additional resources from the OPP Commissioner before reaching out to any other partners – was not communicated to Chief Sloly or anyone at the OPS at the time.<sup>195</sup> And it was not treated as a rule in Windsor. The RCMP diverted resources away from Ottawa and toward Windsor before a plan was established and without any evidence that the OPP had first exhausted its resources.<sup>196</sup>

131. Nevertheless, on a call with Mayor Watson of February 8, the Prime Minister stated: “One of the challenges for us is that it goes in steps. The first step is to go to the OPP, then the RCMP. It’s difficult for us to say what we need to do directly until we have a better idea of what the province is doing.”<sup>197</sup>

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<sup>194</sup> See, e.g., *Quebec (Attorney General) v. Canada (Attorney General)* (1978), [1979] 1 SCR 218 at 240 (“A provincial statute cannot be effective beyond the constitutional limits of a provincial legislature’s authority”). In any event, the RCMP is governed by a comprehensive federal statute of its own: *Royal Canadian Mounted Police Act*, RSC 1985, c R-10.

<sup>195</sup> Read-out of Tripartite Calls on February 7<sup>th</sup> and 8<sup>th</sup>: PB.NSC.CAN.00002335\_REL.0001; SSM.NSC.CAN.00002052\_REL.0001.

<sup>196</sup> Testimony of Superintendent Earley, TRN00000019 at p. 126; RCMP Institutional Report, DOJ.IR.00000011 at p. 55.

<sup>197</sup> Readout from a February 8<sup>th</sup> Call between Prime Minister Trudeau and Mayor Watson, SSM.CAN.NSC.00002837\_REL.0001 at p. 2.

132. Despite the limited assistance being provided by either level of government, politicians at both levels inaccurately stated that more assistance had been provided to the OPS than had in fact been provided. These public statements had the effect of deflecting blame away from governments and squarely onto the OPS and Chief Sloy. Following the first weekend of protests, and as described further below, members of the provincial and federal cabinets made inaccurate public comments regarding the number of resources they had made available, through the OPP and the RCMP, to support the OPS. Both governments inaccurately stated that they had provided all the assistance requested by OPS, which was clearly incorrect.<sup>198</sup>

133. These statements, and others, by political leaders, public servants and others in the ranks of the OPP and RCMP, contributed to an unfair and dangerous perception that the OPS and Chief Sloy were incompetent because they had the resources and tools to dismantle the protest but were not doing so.

*Response to the Ambassador Bridge: a Contrast*

134. The immediate and unquestioned support provided by both levels of government and the OPP and RCMP to resolve the blockade of the Ambassador Bridge stands in stark contrast to their response to Ottawa. The Windsor blockade threatened the national and provincial economy and became a clear priority.<sup>199</sup> Three levels of governments co-operated and there was no dispute about

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<sup>198</sup> On February 3<sup>rd</sup>, Minister Mendicino released a statement indicating that the RCMP had approved all of the OPS's requests for assistance and on February 7<sup>th</sup>, he indicated that the OPS had 250 RCMP officers under its command. See: OPS00008365 at p. 5 and SSM.CAN.00003603. On February 5<sup>th</sup>, the Solicitor General of Ontario indicated that 1500 OPP officers had been deployed to Ottawa to assist the OPS: ONT00001912 Testimony of Deputy Solicitor General Di Tommaso, TRN.00000021 at p. 185.

<sup>199</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 88; Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 208 & 316. See notes of Superintendent Earley which state: "Deputies advised whatever is needed for plan will be available. Province focus is Windsor," OPP00004534 at pp. 1 – 2.

who ought to be the first port of call. Resources were committed and deployed to Windsor by both the OPP and the RCMP immediately after the blockade was established.

135. On February 9, Premier Ford told Prime Minister Trudeau “They’ve entrenched themselves in Ottawa. The bigger one for us and the country is the Ambassador Bridge.”<sup>200</sup> The OPP likewise considered Windsor the priority no later than the early morning of February 10.<sup>201</sup> The Federal Government convened the Incident Response Group for the first time on February 10<sup>th</sup>, nearly two weeks into the occupation in Ottawa but just days after the blockade of the Ambassador Bridge. At this meeting, the Commissioner of the RCMP stated “Windsor remains the number one priority.”<sup>202</sup>

136. As Premier Ford noted at the First Ministers call of February 14<sup>th</sup>, the “only way we were going to deescalate Windsor was by throwing all our resources at that bridge.”<sup>203</sup> And that is what both orders of government did. A draft letter from Solicitor General Jones to protestors, via Commissioner Carrique, was prepared 1 hour and 4 minutes after Superintendent Earley forwarded a single protestor’s request to her PLT team for a meeting with the government.<sup>204</sup> RCMP resources were redirected from Ottawa to Windsor on February 10, the “same day” that the Windsor Police Service contacted Minister Mendicino.<sup>205</sup>

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<sup>200</sup> Readout from February 9<sup>th</sup> Call between Prime Minister Trudeau and Premier Ford, SSM.CAN.00006068\_REL.0001

<sup>201</sup> Testimony of Superintendent Dana Earley, TRN00000019 at pp. 36 – 37, referring to Superintendent Earley’s witness summary, WTS.00000022 at p. 2. See also testimony of Commissioner Carrique, TRN00000011 at p. 88.

<sup>202</sup> February 10 IRG meeting minutes, SSM.NSC.CAN.000000209\_REL.0001 at p. 6.

<sup>203</sup> First Ministers’ meeting of February 14, SSM.NSC.CAN.00000625 at p. 5.

<sup>204</sup> Testimony of Superintendent Earley, TRN.00000019 at p. 57, referring to Superintendent Earley’s witness summary, WTS.00000022 at p. 12.

<sup>205</sup> Institutional report of the RCMP, DOJ.IR.00000011 at para. 250, p. 55, citing PB.NSC.CAN.00000568\_REL.0001.

137. This commitment to full and immediate resourcing in Windsor accelerated the police's ability to clear the Ambassador Bridge – an integrated police operation involving the Windsor Police Service and the OPP, with significant participation from the RCMP and other municipal police services.<sup>206</sup> When the blockade took hold in Windsor, OPP Superintendent Earley was immediately dispatched to assist the Windsor Police Services and was assured that she would receive all the support required. This support was promised before Superintendent Earley even arrived on site and before she put pen to paper on a mission statement, let alone a comprehensive plan.<sup>207</sup> This promise of resources included officers from the OPP and the RCMP, the latter having committed to sending a team of 150 POU officers immediately, including some who had been assisting in Ottawa.<sup>208</sup>

138. The degree of commitment provided to Superintendent Earley was never provided to Chief Sloy and the OPS. Instead, the OPS was caught in a no-win situation: they were amending their operational plan to, among other things, plan for the largest public order deployment in Canadian history, without knowing when, or even if, sufficient resources would be available, with a constantly evolving situation on the ground. This planning was occurring while behind the scenes, government officials, the OPP and the RCMP, contributed to the confusion about the resources that had been provided and refused to commit to resource levels until the final amended plan was signed off on.<sup>209</sup>

*Unfair Criticisms of OPS and Chief Sloy inside Government*

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<sup>206</sup> Institutional Report of the OPP, OPP.IR.00000001 at p. 29.

<sup>207</sup> Testimony of Superintendent Earley, TRN.00000019 at p. 117.

<sup>208</sup> *Id* at p. 125. See also: RCMP Institutional Report, DOJ.IR.00000011 at p. 55.

<sup>209</sup> Testimony of Deputy Minister Di Tommaso, TRN00000021 at p. 315.

139. Despite both the obvious resource deficit afflicting the OPS and Chief Sloly's consistent calls for help, members of the provincial and federal government exchanged unfair criticisms of the OPS, largely based on the duration of the occupation, and unjustifiably lost confidence in the OPS and its Chief. This loss of confidence further slowed the arrival of resources, which became subject then to verification and oversight from the OPP and RCMP.

140. As early as February 2<sup>nd</sup>, Ministers Lametti and Mendicino exchanged texts expressing frustration at the OPS not "moving", complaining that the "police just need to do their job", and branding Chief Sloly as "incompetent".<sup>210</sup> Minister Blair, for his part, sent a text message to his Chief of Staff indicating that he was "embarrassed" by his profession.<sup>211</sup>

141. While these Ministers testified before the Commission that their comments were intemperate and made without access to all of the information, they nonetheless illustrate the unreasonable expectations imposed on, and the unfair criticisms of, the OPS and Chief Sloly at the time.<sup>212</sup> The unjustified perception that the OPS was failing was made worse by the RCMP "throwing the OPS under the bus" at a caucus meeting on February 3<sup>rd</sup> where representatives of that organization asserted that only the OPS would have allowed the trucks onto Wellington – despite the fact that the RCMP had knowledge of the plan in advance, did not raise any concerns, and had made a threat assessment consistent with that of the OPS.<sup>213</sup>

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<sup>210</sup> SSM.CAN.00007852\_REL.0001; SSM.CAN.00007854\_REL.0001; SSM.CAN.00007851\_REL.0001.

<sup>211</sup> SSM.NSC.CAN.00002999.

<sup>212</sup> Testimony of Minister Blair, TRN00000027 at p. 327; Testimony of Minister Lametti, TRN00000029 at p. 115.

<sup>213</sup> Testimony of Katherine Telford, TRN00000030 at p. 296; Notes of Brian Clow, SSM.NSC.CAN.00002941\_REL.0001 at p. 1 ("RCMP threw OPS under the bus @ caucus"). For the role of the RCMP, See: PB.NSC.CAN.00001097\_REL.0001 at p. 4; PB.NSC.CAN.00001094\_REL.0001 at p. 2. Despite such comments, Rob Stewart, the Deputy Minister of Public Safety, testified that Public Safety Canada's views were in line with the RCMP and the OPS, namely that the "convoy would park and stay for



142. As the Deputy Solicitor General for Ontario, who served with Chief Sloly at the Toronto Police Service, testified, the expectation that the OPS would have a fully developed plan to dismantle the occupation midway through its first week was unrealistic and “unfair”: “I think developing an operational plan to dismantle, one of that magnitude, is incredibly difficult and complex, and one requires time, and one requires subject matter expertise.”<sup>214</sup>

143. Despite these unrealistic expectations, on February 4, Commissioner Lucki sent a text to Commissioner Carrique stating, “between you and I only, GoC losing/lost confidence in OPS ... we gotta get to safe action / enforcement. Cause if they go to the Emergency Measures Act, you or I may be brought in to lead ... not something I want.”<sup>215</sup>

144. On a February 9 call between Premier Ford and Prime Minister Trudeau, Premier Ford criticized the Mayor of Ottawa and Chief Sloly by drawing a comparison between the response to the Convoys in Toronto and those in Ottawa: “I’ll say that the police Chief and Ottawa Mayor completely mismanaged this. The Toronto PD and Mayor did a great job.”<sup>216</sup> This despite the fact that the protest action in Toronto followed the Ottawa experience, involved far fewer protesters, a fraction of the heavy trucks,<sup>217</sup> and was prevented by a police response that Toronto Police Chief Ramer acknowledged “would not have been accepted” without the benefit of the knowledge gained

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the weekend and leave on the Sunday [i.e., January 30]” (TRN00000022 at p. 39). He also testified that Public Safety Canada’s information regarding details such as the numbers of trucks, and the OPS’s plan, came from the RCMP (TRN00000022 at p. 37).

<sup>214</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 310.

<sup>215</sup> OPP00004583 at p. 3.

<sup>216</sup> Readout of February 9 Call between Premier Ford and Prime Minister Trudeau, SSM.CAN.00006068 at p. 1.

<sup>217</sup> In its institutional report, the Toronto Police Service refers to “several large trucks and pickup trucks” at a protest on February 5: TPS.IR.00000001 at p. 10, para. 25. By contrast, the number of trucks in Ottawa’s downtown core reached the thousands on the first weekend and did not drop below 200 until February 18: institutional report of the Ottawa Police Service, OPS.IR.00000001 at pp. 13 – 14, para. 44.

through the events in Ottawa.<sup>218</sup> Such comments added to a chorus of uninformed and unfair critiques of the OPS and Chief Sloly which resonated through the highest levels of government and ultimately to the media, and only impeded resolution of the occupation in Ottawa.

145. As Chief Superintendent Pardy testified, Chief Sloly had the hardest job in the country at the time.<sup>219</sup> He had the weight of the entire City of Ottawa's frustration on his shoulders and he did not have the resources needed to end the occupation. As he loudly and repeatedly called for the federal and provincial government to help the OPS, representatives of these governments failed to provide the resources needed to end the occupation while criticizing him for failing to come to a solution. This was an impossible position for the Chief and the OPS.

### **PART VIII - OPS MANAGEMENT OF THE OCCUPATION**

146. Following the overwhelming events of the first weekend of the demonstration, and while the OPS was engaged in amending its operational plan to end the occupation, the OPS continued to use best efforts to keep people safe and prevent the escalation of a very fluid and volatile situation.<sup>220</sup>

147. In the week that followed the protesters' arrival and beginning with the meeting he arranged in Kanata on February 1, Chief Sloly endeavoured to orient the OPS – at the strategic level – away from a maintenance posture toward a proactive position to regain control of Ottawa's downtown core.

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<sup>218</sup> See Testimony of Acting Deputy Chief Ferguson, TRN0000006 at p. 160; Testimony of Commissioner Carrique TRN00000011 at p. 231. See also unidentified OPP notes, OPP00001132 at p. 9.

<sup>219</sup> Testimony of Chief Superintendent Pardy, TRN00000007 at p. 200

<sup>220</sup> See, e.g., testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 33

148. It was clear that any plan to dismantle the occupation would require a significant influx of resources, and planning without a reasonable, predictable, assurance of the requested resources was challenging. Nevertheless, Chief Sloly and the OPS worked around the clock to maintain safety and restore order in Ottawa, while continuing their efforts to evolve the plan and secure needed resources. The tremendous strain on everyone led, in some instances, to miscommunications and disputes.

Changes of Event Commander

149. The January 28 Operational Plan listed Inspector Lucas as Incident Commander, Superintendent Chris Rheume as Event Commander, and Acting Deputy Chief Ferguson as Major Incident Commander. The Plan contemplated that the Incident Commander would be “responsible for the overall OPS security planning and operations for the event” and for “oversee[ing] the implementation of the operational plan, ensuring compliance with the strategic goals, objectives, and mission for this event.”<sup>221</sup>

150. While the Event Commander sits above the Incident Commander in the chain of command, Chief Sloly understood that Inspector Lucas would be leading the response.<sup>222</sup> Inspector Lucas’s

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<sup>221</sup> OPS Draft operational plan dated January 27, 2022, OPS00003531 at p. 17. See also OPS operational plan, OPP00004262 at p. 19.

<sup>222</sup> The initial plan did not detail the role of the Event Commander. In his interview summary, Inspector Lucas described the Event Commander as having “strategic oversight”: WTS.00000024 at p. 2. Acting Deputy Chief Ferguson described the Event Commander’s role in her witness summary as “lead[ing] the management of the event and provid[ing] operational direction” (WTS.00000023 at p. 3) and, in her testimony, as acting at the operational level as the “quarterback ... making sure that resources are being sent to the right places” (TRN00000006 at p. 27).

evidence confirmed that Superintendent Rheume did not assume operational control in his role as Event Commander, consistent with Chief Sloly's understanding.<sup>223</sup>

151. On February 2<sup>nd</sup>, Chief Sloly still understood that Inspector Lucas was acting as Incident Commander and operational lead. While Inspector Lucas assumed this role as part of his responsibilities in the OPS's Special Events office, and was not directly appointed to the role,<sup>224</sup> Chief Sloly had confidence in Inspector Lucas and expressed his view that he (Inspector Lucas) ought to remain in control of operations. At a command briefing on the evening of February 2<sup>nd</sup>, Chief Sloly is noted as having stated:

Had a productive meeting with POUs yesterday – working on intel, investigations, legal, communications, PLT supports – list what they want; concern that it remain under Russ Lucas.<sup>225</sup>

152. Inspector Lucas testified that as the occupation took hold, however, his role as Incident Commander was eroded and ultimately taken over by the Event Commander, who assumed control of operational decisions and fulfilled the role that was nominally assigned to the Incident Commander in the January 28 Operational Plan.<sup>226</sup> Acting Deputy Chief Ferguson testified that this evolution was consistent with the fact that depending on the severity of an event, operational control will be delegated to either an Incident Commander, a Critical Incident Commander or an Event Commander.<sup>227</sup>

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<sup>223</sup> Witness Summary of Inspector Lucas, WTS.00000024 at p. 10. Superintendent Rheume did not sit for an interview with Commission Counsel. He did not testify at the hearings, his notes are sparse, and very little evidence was adduced to clarify what his role was during the protests aside from signing the January 28 Operational Plan. See notes of Superintendent Rheume, OPS00014537.

<sup>224</sup> Witness Summary of Inspector Lucas, WTS.00000024 at p. 1.

<sup>225</sup> Email from Robin Millbank to numerous recipients, February 2 at 4:38 pm (21:38 UTC), OPS00005633 at p. 2.

<sup>226</sup> *Id.*

<sup>227</sup> Testimony of Acting Deputy Chief Ferguson, TRN.00000006 at p. 27. The terminology of "Event Commander" is employed by the OPS but is non-standard: see testimony of Craig Abrams, TRN00000006 at p. 238.

153. Around February 2, Chief Sloly recalls being notified by Acting Deputy Chief Ferguson that Inspector Lucas would be taking time off to rest, and that Superintendent Jamie Dunlop would temporarily assume operational control. This appears to have been a miscommunication to Chief Sloly – it appears that it was Superintendent Rheume who took time off.<sup>228</sup> In any event, Chief Sloly was never notified that Superintendent Dunlop had been assigned as the permanent Event Commander with responsibility for operations, except on an interim basis to provide relief.<sup>229</sup>

154. On February 5<sup>th</sup>, Chief Sloly learned that Superintendent Dunlop had been assigned by Acting Deputy Chief Ferguson to assume control of operations as Event Commander.<sup>230</sup> Acting Deputy Chief Ferguson’s testimony corroborates Chief Sloly’s account that he was not involved in the removal of Superintendent Rheume or in the appointment of Superintendent Dunlop. In response to a question from Commission Counsel about why Superintendent Rheume was removed on February 4, Acting Deputy Chief Ferguson stated:

Well, he [Superintendent Rheume] was the *de facto* event commander because this took place in his specialized policing event, but he did not necessarily have the – he had the skills and capacity to manage the initial event, but then as it got more protracted, first of all, I think needed some time, some rest days, but Superintendent Dunlop was ultimately engaged and working with one of the groups, POU and PLT. He also had some, you know, I felt reasonable experience and skills to come in at this stage in our operation, and so I had approached him to take that role.<sup>231</sup>

155. Deputy Chief Bell also provided evidence of his own involvement in this change:

Around February 3, the initial Event Commander, Superintendent Rheume, agreed with Acting Deputy Chief Ferguson that he needed to take time off ... Interim Chief Bell stated that Acting Deputy Chief

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<sup>228</sup> Testimony of Chief Sloly, TRN.00000012 at pp. 107 – 108.

<sup>229</sup> *Id.*

<sup>230</sup> *Id.* at pp. 110 – 111; Witness Statement of Chief Sloly, WTS.00000040 at p. 25; note to self by Chief Sloly, February 5 at 9:00 am, OPS00014484 at p. 10.

<sup>231</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp.47–48.

Ferguson consulted with him, that he recommended Superintendent Dunlop because he was experienced in planning and delivering police responses to protests. Acting Deputy Chief Ferguson subsequently appointed Superintendent Dunlop to the Event Commander role.<sup>232</sup>

156. While the Commission heard hearsay evidence and speculation<sup>233</sup> tying Chief Sloly to the replacement of Superintendent Rheume, the record is clear: Chief Sloly did not remove Superintendent Rheume and had no role in transferring the operational lead from Inspector Lucas to Superintendent Dunlop. Indeed, Chief Sloly was unaware of it. The decision was made by Acting Deputy Chief Ferguson on the advice of Deputy Chief Bell.

157. Upon learning about this change, Chief Sloly expressed his concerns to Acting Deputy Chief Ferguson and Deputy Chief Bell based on an ongoing review of Superintendent Dunlop's performance managing a public order event following the 2021 Panda Bowl.<sup>234</sup> Chief Sloly was also concerned with the decision to appoint Superintendent Dunlop as operational lead since he did not attend the February 1<sup>st</sup> public order commanders' meeting in Kanata at which the development of a POU plan was discussed in detail and identified as a strategic priority for the OPS.<sup>235</sup>

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<sup>232</sup> Witness Statement of Deputy Chief Bell, WTS.00000029 at p. 13.

<sup>233</sup> For example, Inspector Lucas suggested that Superintendent Rheume was removed because Chief Sloly wanted to take a new strategic direction. In cross-examination, Inspector Lucas admitted that he had no direct knowledge of this and that his understanding of the reasons for the change was mistaken: TRN00000009 at pp. 57 – 58. The notes of Superintendent Rheume state that he was advised on February 10<sup>th</sup> by Acting Deputy Chief Ferguson that Chief Sloly had asked her to remove him: OPS00014537 at p. 6. However, this is directly contradicted by the evidence of Acting Deputy Chief Ferguson and Deputy Chief Bell: testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 47–48; Witness Statement of Deputy Chief Bell, WTS.00000029 at p. 13. This note, therefore, ought not be given any weight.

<sup>234</sup> Note to self by Chief Sloly, February 5 at 9:00 am, OPS00014484 at pp. 10–11; Witness Summary of Chief Sloly, WTS.00000040 at p. 25.

<sup>235</sup> Testimony of Chief Sloly, TRN00000012 at p. 114. See also email from Serena S. Docherty to Chief Peter Sloly, February 9 at 12:22 pm (7:22 pm UTC), OPS00009293 (cover email listing attendees), attaching “Public Order – Truck Convoy De-Escalation – Planning Meeting” (notes from meeting).

158. While he expressed his concern, Chief Sloly did not direct Superintendent Dunlop's removal. That decision was made by Acting Deputy Chief Ferguson.<sup>236</sup> Being accountable for the performance of the OPS, it is well within the purview of the Chief of Police to express his concerns with decisions relating to the staffing of critical operational positions, especially in a time of crisis.<sup>237</sup> Commissioner Carrique confirmed the scope of the chief's authority in his testimony.<sup>238</sup>

159. Acting Deputy Chief Ferguson decided to appoint Superintendent Mark Patterson to replace Superintendent Dunlop as Event Commander as of February 6.<sup>239</sup> Chief Sloly and Acting Deputy Chief Ferguson had a "conciliatory" discussion to chart the path forward, following Superintendent Patterson's appointment.<sup>240</sup>

160. Superintendent Patterson served as Event Commander until February 10, when he was removed from this position following a dispute with Acting Deputy Chief Ferguson. That day, a call was held with numerous OPS members including Chief Sloly, Acting Deputy Chief Ferguson and Superintendent Patterson to discuss issues including the role of the Police Liaison Team ("PLT") and the approach to negotiations. Acting Deputy Chief Ferguson and Superintendent Patterson disagreed about the extent to which the OPS operations should be centered around the work of PLT. Contemporaneous notes of that discussion show that Superintendent Patterson

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<sup>236</sup> OPS00014484 at p. 10; Testimony of Acting Deputy Ferguson, TRN.00000006 at p. 49; Witness Summary of Deputy Chief Bell, WTS.00000029 at p. 13.

<sup>237</sup> Testimony of Inspector Lucas, TRN00000009 at p. 58. Testimony of Commissioner Carrique, TRN00000011 at p. 191.

<sup>238</sup> Testimony of Commissioner Carrique, TRN00000011 at pp. 191–192.

<sup>239</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 49. See also: Witness Statement of Deputy Chief Bell, WTS.00000029 at p. 13.

<sup>240</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 49

accused Acting Deputy Chief Ferguson of being subject to a conflict of interest because her spouse, Staff Sergeant John Ferguson, was responsible for the OPS PLT team.<sup>241</sup>

161. In her testimony, Acting Deputy Chief Ferguson described this comment as an “attack on [her] integrity.”<sup>242</sup> Following this encounter, Chief Sloy visited Acting Deputy Chief Ferguson in her office where Deputy Chief Ferguson told him that, due to her fundamental disagreement with Superintendent Patterson, she could not continue in her role as Major Incident Commander if Superintendent Patterson remained Event Commander.<sup>243</sup> Acting Deputy Chief Ferguson testified that Chief Sloy supported her, understood why this event was upsetting to her and removed Superintendent Patterson at her request.<sup>244</sup> This decision was needed to address a fundamental breakdown in trust between the Major Incident Commander and the Event Commander. It was the right thing to do and could not be interpreted as improper meddling by the Chief.

162. Superintendent Bernier was selected by Acting Deputy Chief Ferguson to replace Superintendent Patterson, following discussions between her and Chief Sloy.<sup>245</sup> Acting Superintendent Bernier who served as Event Commander until the end of the events related to the Freedom Convoy.<sup>246</sup>

163. The Commission has received, through witness statements, hearsay evidence suggesting that Chief Sloy improperly and unilaterally removed Event Commanders.<sup>247</sup> This evidence should

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<sup>241</sup> Notes of Acting Deputy Chief Ferguson, OPS00014479 at p. 75.

<sup>242</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 84.

<sup>243</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 84 – 85.

<sup>244</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 143.

<sup>245</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 80.

<sup>246</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 86; testimony of Acting Superintendent Bernier, TRN00000009 at p. 280.

<sup>247</sup> See e.g.: Witness Summary of Inspector Lucas, WTS.00000024 at p. 10.



be given no weight. The testimony of the individuals with actual knowledge of these events has disproven this speculation. The Event Commander changed three times during the occupation: the first change was made without Chief Sloly's knowledge, the second change was the decision of Acting Deputy Chief Ferguson following a discussion with Chief Sloly in which he expressed his concerns, and the third change was made at the request of Acting Deputy Chief Ferguson following inappropriate behaviour by the Event Commander.

164. Turnover at the Event Commander level may have led to instability and inefficiency, as turnover at a high level often does. That is why Chief Sloly told his command team on February 9<sup>th</sup> that staffing changes at that level should only be made in exigent circumstances.<sup>248</sup> While Chief Sloly would have preferred that operational control remained with Inspector Lucas throughout, the staffing of the command structure was challenging and ultimately remained the responsibility of the Major Incident Commander, Acting Deputy Chief Ferguson.

Chief Sloly's involvement and ongoing OPS planning

165. As noted above, when the protest became an occupation, it became clear that a significant change to the operational plan was needed. This change took time, as the OPS was exhausting its resources trying to manage the Convoy events and while providing police services to the rest of the City.

166. These were exceptional and difficult times for the OPS. Chief Sloly acknowledges that leading his team through this period occasionally required stepping into the operational level to "make sure that strategic intent was really clear to the Operational Commanders."<sup>249</sup> As

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<sup>248</sup> Testimony of Chief Sloly at TRN00000012 at pp. 117 – 118. See also: Christiane Huneault's notes, OPS00014454 at p. 67.

<sup>249</sup> Testimony of Chief Sloly, TRN00000012 at p. 91.

Commissioner Carrique testified, a chief of police is entitled to provide direction down the chain of command where needed because “they are responsible for ensuring that [an appropriate] level of expertise is present and available.”<sup>250</sup> This is also consistent with the fact that, in practice, the division between operations and strategy is not water-tight.<sup>251</sup>

167. For example, when Deputy Chief Bell assumed the role of Chief on an interim basis on February 15, he directed the continued movement of trucks onto Wellington Street, pursuant to the Mayor’s negotiation, despite the fact that it had previously been stopped by the Incident Command team. He did so because he understood that honouring the agreement was assisting in “bringing the temperature down.”<sup>252</sup>

168. It was appropriate for Chief Sloly to provide his direction and support in amending the plan to address the occupation. As noted above, Chief Sloly called a meeting for Kanata on February 1, and requested that his planning team have “something in writing to him within 72 hours”<sup>253</sup> for clearing the occupation. On the evening of February 2, Acting Deputy Chief Ferguson followed up with Staff Sergeant Mike Stoll, the OPS’s ESU (i.e., POU) commander, and Superintendent Jamie Dunlop requesting an update on the progress of their POU plan. Superintendent Dunlop responded:

Deputy, I met with the POU advisors all afternoon and there is a recalibration that we have to do. I am recommending we have a meeting with you, Deputy Bell and the Chief to discuss further. Recommendation

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<sup>250</sup> See Testimony of Commissioner Carrique at TRN00000011 at pp. 191 – 192.

<sup>251</sup> Testimony of Deputy Chief Bell, TRN00000008 at p. 89.

<sup>252</sup> Testimony of Deputy Chief Bell, TRN00000008 at pp. 128 – 129.

<sup>253</sup> Public Order Truck Convoy De-escalation Planning Meeting, OPS00005631.

is we focus on the [neighbourhood] issues to reduce the impacts on the communities.<sup>254</sup>

169. On the morning of February 3, Chief Sloly attended a meeting with Superintendent Dunlop for an update briefing on POU options. At that time, he had not been advised that the team had decided to focus on a plan for enforcement in areas surrounding the red zone.<sup>255</sup> Chief Sloly requested that the meeting be adjourned as he was seeking a briefing on the options available for bringing an end to the occupation through a POU operation.<sup>256</sup> A second meeting that day resulted in the same disconnect between Chief Sloly's request and what was presented by the team,<sup>257</sup> and again Chief Sloly explained that this was not the type of briefing that he was seeking and requested that Staff Sergeant Stoll present him with options for the use of Public Order Units.<sup>258</sup> At that time, Staff Sergeant Stoll explained to Chief Sloly that he was not in a position to set out available POU options because the OPS did not have the resources needed to allow him to make a proper assessment.<sup>259</sup>

170. Despite the frustration caused by different expectations for the February 3 briefings, the neighbourhood enforcement subplan – as a priority going into the weekend – was finalized and approved by Acting Deputy Chief Ferguson and her team on February 4 (the “Neighbourhood Subplan”).<sup>260</sup> As noted above, Chief Sloly was briefed on it later in the day on February 3 by

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<sup>254</sup> Email thread “Re: POU Plan”, OPS00006085.

<sup>255</sup> Notes of Chief Sloly, OPS00014484 at p. 2.

<sup>256</sup> *Id* at p. 2.

<sup>257</sup> *Id* at p. 3.

<sup>258</sup> Testimony of Chief Sloly, TRN00000013 at p. 287.

<sup>259</sup> Testimony of Chief Sloly, TRN00000013 at p. 288; Notes of Chief Sloly, OPS00014484 at p. 4

<sup>260</sup> See metadata associated to Neighbourhood Enforcement Plan, OPS00006419 (indicating a date of February 4); email from redacted sender to Acting Superintendent Bernier attaching draft plan for Superintendent Burnett's approval, February 4 at 1:00 pm (6:00 pm UTC), OPS00006418; email from Acting Deputy Chief to Deputy Chief Bell, February 3 at 5:13 pm (12:13 am on February 4, UTC), OPS00006704.

Superintendent Dunlop.<sup>261</sup> The mission statement included providing “constant and heavy police presence in the area of CentreTown and the Market ... in order to reduce crime and fear of crime and improve the perception of safety as well as the quality of life within the impacted areas.”<sup>262</sup> This subplan involved a reduction in discretion and increased enforcement and was to be staffed through the cancellation of days off.<sup>263</sup>

171. The Neighborhood Subplan was part of the evolving overall operational plan, by the planning and incident command teams. For example, on February 1<sup>st</sup>, an intention to have certain officers move “to outer core to start enforcement” was discussed.<sup>264</sup> On February 2<sup>nd</sup>, the command team discussed the importance of Emergency Services Unit (“ESU”)<sup>265</sup> visibility and committed to “over-service, not over police” the community.<sup>266</sup> This strategy aimed to ensure “high visibility, high customer service [and] problem solving” but it was not intended to be a “long term trajectory,” or a final plan to bring the demonstration to an end.<sup>267</sup> It was a plan to maintain order and improve public safety in the areas adjacent to the red zones while the ICS team worked on updating and evolving the operational plan to bring the occupation to an end.

172. The Neighbourhood Subplan was part of a broader operational plan approved February 5 which included “de-escalation and negotiation as means to achieving a peaceful resolution” to the protest.<sup>268</sup> A traffic subplan which contemplated the direction of trucks off Highway 417 was also

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<sup>261</sup> Notes of Chief Sloly, OPS00014484 at p. 3.

<sup>262</sup> Neighbourhood Enforcement Plan dated February 4, 2022, OPS00006419 at p. 2.

<sup>263</sup> *Id.* at p. 7.

<sup>264</sup> Notes from Command Briefing #9 of February 1, OPS00005249.

<sup>265</sup> An Emergency Services Unit is the “functional equivalent of a POU”. See Witness Summary of Chief Sloly, WTS.00000040 at p. 4.

<sup>266</sup> Notes from Command Briefing #10 of February 2, OPS00005633 at p. 2.

<sup>267</sup> See notes of command briefing #11 of February 3, OPS00005899.

<sup>268</sup> Freedom Convoy – Canada Unity – Phase 2 Operational Plan, OPS00006941 at p. 9.

developed and added to the broader operational plan in light of new intelligence regarding the potential escalation of convoy events and public safety issues going into the second weekend.<sup>269</sup>

173. On February 4<sup>th</sup>, Chief Sloly held a press conference in which he, Acting Deputy Chief Ferguson and Deputy Chief Bell briefed the media on the broad strokes of the OPS's plan for the upcoming weekend. He explained it as a surge, contain and enforce strategy, to ensure that the Wellington red zone did not grow and that officers were deployed in neighbouring areas to enforce the law as much as possible.<sup>270</sup> Chief Sloly had been briefed on this plan throughout the week in discussions of the neighbourhood plan which was being developed and had been told that the OPS had the resources to execute it.<sup>271</sup> At this press conference, Chief Sloly also stated that the strategy includes "considerations around the closing of bridges, highway offramps and other roadways ... again interprovincial bridges, highways offramps and roads will be closed as needed".<sup>272</sup> This is precisely what occurred over the weekend. OPP Superintendent Abrams testified that over the weekend, the OPP "close[d] ramps as needed."<sup>273</sup>

174. In addition to planning for the upcoming weekend, Chief Sloly understood that his planning team was continuing to work on an integrated POU and PLT plan to bring about an end to the occupation. Chief Sloly was briefed on the status of this plan on the afternoon of February 4.<sup>274</sup>

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<sup>269</sup> Traffic Plan, OPS00006851.

<sup>270</sup> See also speaking notes of Acting Deputy Chief Ferguson and Deputy Chief Bell, OPS00006564.

<sup>271</sup> Testimony of Chief Sloly, TRN00000012 at p. 99.

<sup>272</sup> See video of press conference on February 4, multimedia file OPS00014571 at timestamps 2:20 and 2:45.

<sup>273</sup> Testimony of Superintendent Abrams, TRN00000007 at p. 16.

<sup>274</sup> During his evidence, Chief Sloly stated that he believed this occurred on February 5. The notes of his scribe confirm that this meeting in fact took place on February 4. See: OPS00014454 at p. 49, TRN00000012 at p. 140. This meeting is corroborated by the notes of Acting Deputy Chief Ferguson but reference will be made to the scribe notes of Christiane Huneault which are considerably more detailed. See: OPS00014479 at p. 41.

Chief Sloly, Deputy Chief Bell, Acting Deputy Chief Ferguson and representatives of the OPS POU and PLT teams were present at this meeting.

Direction re: Bridges

175. Around 4:00 am on February 5, a situational awareness briefing note was circulated to the OPS reporting on instances of City of Ottawa workers being harassed and facing aggressive protesters, an OPS sergeant being swarmed and intimidated while trying to engage in enforcement, and a delegation of Algonquin elders trying to negotiate the end of the Confederation Park occupation being threatened and having to be escorted to their vehicle by PLT.<sup>275</sup> Chief Sloly described this report as signalling an “escalated level of threat at multiple different sites” which required an urgent meeting that morning to ensure that the plans devised heading into the weekend could still be properly resourced and implemented.<sup>276</sup>

176. Chief Sloly drafted an email convening a full incident command briefing including POU commanders and PLT supervisors<sup>277</sup> for 7:00 a.m. that morning to ensure that everyone was aware and had the resources needed to implement the plan.<sup>278</sup> While this email has been pointed to as inappropriate operational planning by Chief Sloly,<sup>279</sup> it was not. It was a restatement of existing priorities as set by the OPS ICS team (including in the Neighbourhood Subplan), with a further

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<sup>275</sup> OPS00007355 at pp. 2, 4 – 5.

<sup>276</sup> Testimony of Chief Sloly, TRN00000012 at p. 94.

<sup>277</sup> OPS00007355.

<sup>278</sup> Testimony of Chief Sloly, TRN00000012 at pp. 90 – 91.

<sup>279</sup> See e.g. testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 136. Shortly after her statement to this effect in evidence, Acting Deputy Chief Ferguson admitted that the circumstances were “exception[al]” and that Chief Sloly was trying to get the OPS moving on execution of the new plan “without the resources to do so”: TRN00000006 at p. 137.

direction regarding restricting trucks and other protest related vehicles from having direct access to the downtown core.<sup>280</sup> The email stated, “fully implement plan – BUT – close everything.”<sup>281</sup>

177. Chief Sloly testified that he did not mean that all highway ramps and bridges in the City of Ottawa ought to be closed, but rather all that “give direct access to the downtown core.”<sup>282</sup> At the meeting held on February 5th at 7 a.m., Chief Sloly is recorded as having stated “not changing op plan – putting emphasis on doing what we said we would do.”<sup>283</sup> Chief Sloly was providing guidance and direction at a critical juncture of a critical event to support the existing plan and to ensure the team was aligned and had the appropriate resources in place to implement the plan. This direction was appropriate in the circumstances.

178. The closure of highway off ramps and bridge entries into the downtown core was discussed at the 7:00 a.m. meeting, where the following exchange is noted by the scribe:

Chief Sloly: Close early and keep closed. If it’s already in the plan to close then do it and then we can re-open later. On reflection, we waited too long to close things.

Inspector Lucas: Quebec agencies to close and only allow essential workers in.

Deputy Chief Bell: Like the early closing of what we have established. Ramps may be problematic.

Chief: Leave it to you to close as early and as big as possible.<sup>284</sup>

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<sup>280</sup> OPS00007355 at pp. 1 – 2. At this stage, the OPS was already actively meeting with GoFundMe: see notes of a February 2 meeting at OPS00014454 at p. 16. The surge and contain strategy was part of the Neighbourhood Subplan described above. The decision to arrest individuals for providing fuel to demonstrators was being considered as of February 3<sup>rd</sup> by the POU commanders, see: OPS00006647 (extracted text at p. 3)

<sup>281</sup> OPS00007355 at p. 2.

<sup>282</sup> Testimony of Chief Sloly, TRN00000012 at pp. 96 – 97.

<sup>283</sup> OPS00014454 at p. 56.

<sup>284</sup> OPS00014454 at p. 57.

179. The issue of road closures was raised again at a full command meeting which occurred at 10:00 a.m. on February 5. Inspector Lucas provided a briefing on the OPS's plan of action for the day, which led to the following exchange:

Chief Sloly: This strategy is more than last week?

Inspector Lucas: We can ask to close the ramps but bridges are more complicated.

Chief Sloly: I want things shut down – get the staffing.<sup>285</sup>

180. Chief Sloly testified that he was not issuing an order that his team close all ramps in Ottawa – rather, he was asking his team to ensure that bridges and ramps leading directly into the core were closed. Chief Sloly wanted to make sure that the areas around the red zone were less accessible than they had been over the past weekend,<sup>286</sup> but left the implementation of this directive to his command team (“leave it to you to close as early and as big as possible”).

181. Following this discussion, Staff Sergeant Denis Hull of the OPS circulated a request for various road closures, purportedly on behalf of Chief Sloly.<sup>287</sup> Chief Sloly was not involved in the drafting of this email, did not give permission to use his email signature line, and does not recall ever having seen it; the email reflects a misunderstanding of the scope of his directive.<sup>288</sup>

182. Chief Sloly's directive regarding closures did not constitute his assuming control of operations or inappropriately interfering with the incident command structure. He issued a direction in support of the existing operational plan that had been developed by the ICS, at a critical juncture. Commissioner Carrique stated in his interview summary, and confirmed in his

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<sup>285</sup> *Id.* at p. 64 [emphasis in original].

<sup>286</sup> Testimony of Chief Sloly, TRN00000012 at p. 96.

<sup>287</sup> OPS00006957.

<sup>288</sup> Witness Statement of Chief Sloly, WTS.00000040 at p. 27.



testimony, that Chief Sloly's direction regarding shutting down bridges and ramps was "a lawful directive necessary to prevent the continued permeation of trucks into downtown Ottawa."<sup>289</sup> Such direction was also consistent with Minister Blair's testimony that as Chief of the Toronto Police Service, he issued directions at critical junctures of public order events where they were needed to maintain safety.<sup>290</sup>

183. As noted above, Chief Bell did the same thing when acting as interim Chief on February 15, when he directed that trucks receive "safe passage" for trucks toward Wellington Street, according to the agreement between the occupiers and the City.<sup>291</sup> In Windsor, Superintendent Earley took direction from Deputy Commissioner Harkins and Commissioner Carrique to proceed with a POU operation which she, as operational lead, had already told her team she had decided to delay.<sup>292</sup> The notion that strategic level commanders have a role to play in large-scale public order operations is further corroborated by the OPP's policy that POU can only be deployed with the approval of a deputy commissioner.<sup>293</sup>

184. The planning team felt that the best option for bringing an end to the demonstration was to devise an arrest plan concentrated on Wellington Street and the surrounding areas while ensuring the protestors were given the option to leave before the plan was implemented.<sup>294</sup> Chief Sloly

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<sup>289</sup> Witness Statement of Commissioner Carrique, WTS.00000039 at p. 8; testimony of Commissioner Carrique, TRN00000011 at p. 232.

<sup>290</sup> Testimony of Minister Bill Blair, TRN00000027 at pp. 183 – 184, 272.

<sup>291</sup> Testimony of Interim Chief Bell, TRN00000008 at p. 127, referring to notes of Robert Drummon, OPS00014455 at p. 55.

<sup>292</sup> Witness Summary of Superintendent Earley, WTS.00000022 at p. 13; testimony of Superintendent Earley, TRN00000019 at pp. 134 – 135, 138 – 139. On examination, Superintendent Earley "corrected" her Witness Summary as to this direction, and indicated that she, not Commissioner Carrique and Deputy Commissioner Harkins, decided not to pause the operation. The sequence of events, however, is clear. Superintendent Earley decided to pause the operation, and then after discussions with her direct superiors, she proceeded with the operation.

<sup>293</sup> Witness Summary of Superintendent Earley, WTS.00000022 at p. 6.

<sup>294</sup> Notes of Christiane Huneault, OPS00014454 at p. 49.

stated that this option was “good assuming neg[otiation] strategy gets updated right up to the day of ... and demonstrate neg[otiations] have failed.”<sup>295</sup> In other words, such a plan should only take place once it was clear that a negotiated solution was impossible – he added “want a full neg[otiation] strategy” and “once we reach a point where reasonable neg[otiation] steps have ended to stop unlawful activity we can take temporal bite.”<sup>296</sup> Agreement was reached at this meeting for the operational plan to be updated to incorporate an updated PLT and POU plan to bring the demonstration to an end.<sup>297</sup>

### *The Request for 1,800 Officers*

185. On February 7, Mayor Watson and Chair Deans wrote to the Federal and Provincial governments on behalf of the OPS requesting 1790 additional policing resources. This request was necessary and appropriate. While the form of this request was unusual, so were the circumstances in which the City of Ottawa, the Board and the OPS found themselves. As Deputy Minister Stewart testified, “this is not a situation in which you go by the book.”<sup>298</sup>

186. Throughout the week of January 31<sup>st</sup>, Chief Sloly had been working with policing partners to obtain resource support. This included his written requests of February 2 to Commissioners Carrique and Lucki requesting frontline support and POU assets.<sup>299</sup> Chief Sloly had also written to Chair Deans on February 3, requesting that she “use [her] influence to secure additional

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<sup>295</sup> Notes of Christiane Huneault, OPS00014454 at p. 50.

<sup>296</sup> Emphasis in notes of Christiane Huneault, OPS00014454 at pp. 51–53.

<sup>297</sup> Notes of Acting Deputy Chief Ferguson state: “Full Negotiation Strategy – build PLT in that.” OPS00014479 at p. 41. A similar comment is attributed to Chief Sloly in the notes of Christiane Huneault, OPS00014454 at p. 51.

<sup>298</sup> Testimony of Deputy Minister Stewart, TRN00000022 at p. 135.

<sup>299</sup> Email thread between Chief Sloly and Commissioner Lucki, dated February 2, 2022, OPS00006029; Email from Chief Sloly to Commissioner Carrique, OPP00001576.

resources / supports.”<sup>300</sup> The occupation was entrenched in the downtown core and it was obvious that the OPS did not have the resources needed to bring it to an end.<sup>301</sup>

187. Despite these requests and the OPS’s obvious need for more resources, support was not arriving in sufficient numbers. Between February 1 and 7, the OPS was provided with the resources to deploy only between 20 and 49 frontline RCMP officers. In that same period, the OPS was provided with the resources to deploy 59 to 60 frontline officers and 60 POU officers from the OPP.<sup>302</sup> Commissioner Lucki testified that while there was confusion regarding the numbers of officers the RCMP made available to the OPS, it was “reasonable” to conclude that deployments were at around 50 officers per day.<sup>303</sup>

188. A request for government help in securing resources during a national security crisis, in which intra-policing discussions had failed to secure the necessary resources, cannot possibly be seen to invite inappropriate political influence into intra-police resourcing discussions. As this Commission has addressed in detail, the boundary between “church and state” prevents politicians or civilian government officials from directing police operations.<sup>304</sup> This principle does not, however, apply to prevent *police* from requesting help from *government* when it is clear their resources are inadequate. In any event, it is not clear where else police are supposed to turn.

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<sup>300</sup> OPB00000424.

<sup>301</sup> In his testimony, Commissioner Carrique noted that it was “likely very obvious to a number of people” that the OPS did not have the resources to end the occupation during the second week, TRN00000011 at p. 276. City Manager Kanellakos testified that once the protest was entrenched it was “obvious” that it would be “very difficult” for the OPS to clear it with the resources at its disposal, TRN00000003 at p. 57. Chief Superintendent Carson Pardy agreed in his testimony that it was “obvious” that the OPS “would not have had, on their own, with their own resources, a policing solution” TRN00000007 at p. 191. See also: Testimony of Acting Superintendent Beaudin, TRN00000009 at p. 181.

<sup>302</sup> OPB00001014; ONT00005345.

<sup>303</sup> Testimony of Commissioner Lucki, TRN00000023 at p. 208.

<sup>304</sup> See, e.g., testimony of Acting Superintendent Beaudin, TRN00000009 at pp. 158, 224.

189. Further, as Commissioner Carrique acknowledged, the Solicitor General had already announced publicly an (inaccurate) figure regarding the number of resources the OPP had provided to Ottawa when Mayor Watson and Chair Deans's letter was released.<sup>305</sup> Moreover, two days after Mayor Watson and Chair Deans wrote to request resources on the OPS's behalf, Chief Mizuno of the Windsor Police Service made two identical requests for 100 officers directly to Solicitor General Jones and Minister Blair.<sup>306</sup>

190. Chief Sloly's request for assistance from Chair Deans, combined with growing frustration at the ongoing protests, had led the Board to call a meeting on February 5<sup>th</sup>, its fourth briefing by Chief Sloly about the Convoy.<sup>307</sup> At the meeting, which was public, Chair Deans told Chief Sloly that she wanted to ask him one thing: whether the OPS was capable of providing adequate and effective policing and what resources would be needed to bring about an end to the occupation.<sup>308</sup> Chief Sloly offered to brief the Board on the plan that was in place at the time, namely, the Neighbourhood Subplan. He added that the OPS required an influx of officers in the short term to maintain the surge strategy and that there were not enough resources locally to fully control the protests.<sup>309</sup> Chief Sloly also agreed to provide the Board with a "final list of additional asks" as soon as possible.<sup>310</sup>

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<sup>305</sup> Testimony of Commissioner Carrique, TRN00000011 at pp. 276 – 277.

<sup>306</sup> Letter from Chief Pamela Mizuno to Minister Bill Blair, February 9, WPS000000788; letter from Chief Pamela Mizuno to Solicitor General Sylvia Jones, February 9, WPS000000790.

<sup>307</sup> Chief Sloly briefed the Board on January 26 (OPB00001257 at pp. 2 – 6), February 1 (OPB00001624), February 5 (OPB00001264 at pp. 2 – 6; OPB00001647 at pp. 2 – 4), and February 11 (OPB00001272 at pp. 2 – 4; OPB00001648 at pp. 2 – 4). Chief Sloly also briefed the Board and City Council in a joint meeting on February 2: SSM.CAN.00006523\_REL.0001.

<sup>308</sup> Ministry of the Solicitor General notes from February 5<sup>th</sup> OPSB meeting, ONT00001115; Testimony of Chair Deans, TRN00000005 at p. 41; Ottawa Police Services Board Minutes of February 5<sup>th</sup>, OPB000001264.

<sup>309</sup> *Id.*

<sup>310</sup> *Id.*

191. Following this meeting, the OPS engaged in intense planning over 24 hours to arrive at a total resource request of 1790 police resources (approximately 1700 police officers and 90 civilian members with different skills for different sub-plan roles) to bring the occupation to a safe and successful end. This number was communicated to Mayor Watson and Chair Deans on the afternoon of February 6<sup>th</sup> and was supplemented with a detailed table, on February 7, explaining what kind of resources were required in terms of how they would be used.<sup>311</sup>

192. As evidenced by the detailed table provided, this request for 1,790 resources was consistent with what Chief Sloly and his team believed they needed<sup>312</sup> – and they were right. They had done sufficient planning by this phase to make an informed resource request. As Commissioner Carrique testified, the 1,800 number could not have been a “random doubling” of what the OPS thought it needed because it matched the resources ultimately required to end the occupation.<sup>313</sup> All told, the OPS needed over 2,200 additional personnel.<sup>314</sup>

193. The Commission heard evidence from OPP Superintendent Abrams that on a call at 7:50 pm on February 6, Chief Sloly instructed his team to double the number of resources that they would be asking for.<sup>315</sup> None of the contemporaneous notes from the many participants on the call, including Superintendent Abrams, record Chief Sloly as having made such a request.<sup>316</sup>

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<sup>311</sup> See Notes of Christiane Huneault, OPS00014454 at p. 97; Email from Chief Sloly dated February 7<sup>th</sup> at 8:23 a.m., OTT00005223.0001; testimony of Chief Sloly, TRN00000012 at pp. 156 – 158.

<sup>312</sup> Email from Chief Sloly dated February 7<sup>th</sup> at 8:23 a.m., OTT00005223.0001.

<sup>313</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 208.

<sup>314</sup> Institutional report of the Ottawa Police Service, OPS.IR.00000001 at para. 55, p. 18

<sup>315</sup> Testimony of Superintendent Abrams, TRN00000006 at p. 267.

<sup>316</sup> Notes of Deputy Chief Bell, OPS00014525 at p. 24; Notes of Acting Deputy Chief Ferguson, OPS00014479 at p. 57.

Superintendent Abrams did not mention it in his lengthy initial report on the call, immediately after it took place.<sup>317</sup>

194. Deputy Chief Bell, who was present on this call, has no recollection of Chief Sloly having made this comment. While Deputy Commissioner Duheme made a note that referenced the alleged comment during a call with Deputy Chief Bell and OPP Deputy Commissioner Harkins on February 7<sup>th</sup>, it can only be Deputy Commissioner Harkins who said it, based on the information he received from Superintendent Abrams.<sup>318</sup>

195. Chief Sloly testified that he has no recollection of such a statement, but does recall having encouraged the planning team at one point to abandon incremental thinking in favour of exponential thinking to ensure that another significant resource request would not be necessary.<sup>319</sup>

196. Superintendent Abrams clearly misunderstood a discussion that took place on the call. The meeting at which this comment was allegedly made took place after the Mayor and the Chair had been advised that the resource request would be for 1,800 officers.<sup>320</sup> And, as Commissioner Carrique testified, the number 1,800 was too close to the number of resources which were ultimately deployed and utilized to simply be the result of a “random doubling.”<sup>321</sup>

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<sup>317</sup> Email from Craig Abrams to Karl Thomas, Stephanie Patterson, Daniel Alakas, and Joseph Varga, February 6 at 11:07 pm, OPP00001532.

<sup>318</sup> Testimony of Deputy Chief Bell, TRN0000008 at p. 150. For Deputy Commissioner Duheme’s note, see testimony of Deputy Commissioner Duheme, TRN00000023 at pp. 61 – 62, referring to WTS.00000068 at p. 10.

<sup>319</sup> Testimony of Chief Sloly, TRN00000012 at p. 160.

<sup>320</sup> See emails of Superintendent Abrams dated February 7<sup>th</sup>, OPP00001532 and OPP00001546. See also notes of Superintendent Abrams for February 7<sup>th</sup> at 7:50 p.m., OPP00000774, p. 31. See notes of Christiane Huneault, OPS00014454 at p. 98.

<sup>321</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 208.

197. Nonetheless, Superintendent Abrams' account, set out in an email to Deputy Commissioner Harkins on February 7<sup>th</sup>, started a damaging rumour that made its way to the desks of the Deputy Solicitor General, the Commissioner of the OPP and the Deputy Commissioner of the RCMP.<sup>322</sup> The dissemination of such a rumour could only cause distrust of Chief Sloly's resource requests. On February 8, the Federal National Security Intelligence Advisor Jody Thomas planned to advise Cabinet that "the Chief continues to communicate publicly his view that the OPS lacks resources to effectively manage the situation. This may be somewhat true but also may be a strategic tactic."<sup>323</sup> Before this Commission, Ms. Thomas testified that this information, which she now knows was "incorrect", was obtained from the Commissioner of the RCMP.<sup>324</sup>

198. Distrust in Chief Sloly's resource requests was also caused by inaccurate statements – made both within government and publicly – that the OPS had been provided with all the officers it had requested, and had 250 RCMP officers, and 1,500 OPP officers, available to deploy. For example, on February 3<sup>rd</sup>, the Federal Minister of Public Safety Marco Mendicino issued a public statement in which he said: "I am able to confirm that the RCMP has approved all the additional officers that were requested, and they will be ready to assist the Ottawa Police."<sup>325</sup> He made further public statements entrenching this perception.<sup>326</sup>

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<sup>322</sup> See notes of the Deputy Solicitor General, ONT00003843; Witness Statement of Deputy Commissioner Duheme, WTS00000068 at p. 10. See also email chain from Superintendent Abrams to Deputy Commissioner Harkins dated February 7<sup>th</sup>, OPP00001546.

<sup>323</sup> NSIA speaking notes of February 8, SSM.NSC.CAN.00000246\_REL.0001.

<sup>324</sup> Testimony of NSIA Thomas, TRN00000025 at p. 287.

<sup>325</sup> SSM.CAN.00003603\_REL.0001.

<sup>326</sup> Testimony of Minister Mendicino, TRN00000028 at pp. 118 – 120; Transcript of press conference involving Minister Mendicino dated February 7<sup>th</sup>, OPS00008365 at p. 5.

199. On February 6<sup>th</sup>, the Ontario Solicitor General publicly stated that “more than 1,500 Ontario Provincial Police personnel have been deployed to the City of Ottawa, providing a range of support to the Ottawa Police Service”.<sup>327</sup>

200. These numbers were grossly inaccurate. Nonetheless, they increased public pressure on the OPS and Chief Sloly by suggesting that resources had been deployed *en masse* to the OPS but that it was still unable to manage the occupation. Before the Commission, both the Deputy Solicitor General and Commissioner Carrique testified that the OPP numbers should not have been released publicly and were misleading.<sup>328</sup> RCMP Deputy Commissioner Duheme, for his part, testified that the 250 number was the result of a “mix-up” and that it reflected the number of sworn-in RCMP officers, many of whom were supporting the protective detail rather than available to be deployed by the OPS.<sup>329</sup> The numbers also confused the number of individuals with the number of shifts being counted in a 24-hour cycle.

201. The effect of the widespread confusion over the resources available to the OPS led to a loss of government and public confidence in the Service based on the misconception that it had all the tools needed to end the demonstration and simply was not getting it done.<sup>330</sup>

202. It is in this context that a joint letter from Chair Deans and Mayor Watson requesting 1,800 additional officers was sent and referenced at the City Council meeting on February 7. The decision to make the request public was the result of the Board’s desire to demonstrate that it was actively

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<sup>327</sup> ONT00001912.

<sup>328</sup> Testimony of Commissioner Carrique, TRN00000011 at pp. 207 – 208; Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 185.

<sup>329</sup> Testimony of Deputy Commissioner Duheme, TRN00000023 at p. 34.

<sup>330</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 207. See also Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 292, where he confirms that the meaning of the number was misinterpreted by members of the public.



seeking assistance, and the need to correct the ongoing impression that the OPS had received sufficient resources and was choosing not to deploy them.<sup>331</sup> Any concern about making this request public was attenuated by the fact that it was obvious to those in the protest area that the OPS did not have sufficient resources and, as Mayor Watson put it, the number “could not be suppressed forever.”<sup>332</sup>

203. In any event, it would be difficult to criticize Chief Sloly, the OPS and the City of Ottawa for making their resource request public, in circumstances where both the federal and provincial governments had already made RCMP and OPP deployment numbers – albeit inaccurate ones – public.

204. It is also important to note that the Mayor of Windsor did the same thing in a CTV interview on February 8,<sup>333</sup> and that Chief Pamela Mizuno of the Windsor Police Service wrote substantially identical letters on February 9 to Minister Blair and Solicitor General Jones seeking 100 officers from the Federal and Provincial governments, respectively.<sup>334</sup>

205. Others have suggested that the resource request came too early as the OPS did not yet have a fully developed public order plan in place – the planning work which was, as Deputy Solicitor General Di Tommaso testified, “incredibly difficult and complex” and which “requires time”<sup>335</sup> – was ongoing. While it is true that the OPS did not have a complete public order plan in place on February 7 to clear the occupation, the resource request was based on extensive planning and was

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<sup>331</sup> Testimony of Chief Sloly, TRN00000012 at pp.166 – 168.

<sup>332</sup> Testimony of Mayor Watson, TRN00000004 at p. 64.

<sup>333</sup> Exchange between Mr. Curry and Ms. King, TRN00000019 at p. 116, referring to testimony of Mayor Dilkens, TRN00000018 at p. 149.

<sup>334</sup> Letter from Chief Pamela Mizuno to Minister Bill Blair, February 9, WPS000000788; letter from Chief Pamela Mizuno to Solicitor General Sylvia Jones, February 9, WPS000000790.

<sup>335</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 310.

accompanied with a table identifying the sorts of officers needed and the functions that they would serve once deployed.<sup>336</sup> Further, POU planners had already advised Chief Sloly that the lack of resource security complicated planning because inputs into the plan were missing.<sup>337</sup>

206. Chief Sloly, unlike Superintendent Earley in Windsor, was never promised every resource that he needed. With the resources that the OPS knew they would have available, they had been developing a POU subplan to attempt to gradually take and hold small portions of the red zone piece by piece – a subplan that was later determined to not be sustainable and was therefore revised through the ongoing ICS team planning.<sup>338</sup>

207. There was no evidence before the Commission that this resource request exposed OPS's vulnerability to the protestors.<sup>339</sup> To the contrary, it increased public safety. As Mayor Watson

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<sup>336</sup> Email from Chief Sloly to numerous recipients, February 7 at 1:23 pm (6:23 pm UTC), OTT00005223.0001

<sup>337</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 137. See also: Notes of Chief Sloly, OPS00014484 at p. 3.

<sup>338</sup> See exchange between Commissioner Rouleau and Chief Sloly, TRN00000013 at p. 312 *et seq.*

<sup>339</sup> Chief Sloly testified, *inter alia*, that while someone could conclude that the request for 1,800 would expose vulnerability, it was not different in kind from any of the other statements about the need for resources he had previously made; that he had never before been confronted with a requirement to have a “detailed completed plan” before receiving additional resources; that the statement was not different in kind from previous political announcements about the need for resources; that it was normal and expected, in large police operations, for some officers not to be “optimally deployed”; and that it was reasonable to expect that some additional officers would be used to relieve exhausted OPS personnel: TRN00000012 at pp. 167 – 171. On cross-examination, he further noted that some of the 1,800 might be needed for enforcement: TRN00000013 at pp. 130 – 131. None of the witnesses who addressed this issue in their testimony made any reference to the OPS's possible exposure to vulnerability. See testimony of City Manager Kanellakos, TRN00000003 at pp. 67 – 68 (request led to renewed discussions about resources); testimony of Serge Arpin, TRN00000003 at p. 292 (did not know how request compared to resources ultimately received); testimony of Mayor Watson, TRN00000004 at pp. 40, 43, 64, 67 (request led to renewed efforts to secure resources and was helpful in setting down a clear request to other levels of government; ultimately matched resources needed); testimony of Diane Deans, TRN00000005 at pp. 54 – 56, 180 (Chief Sloly concerned that OPS not receiving resources it needed; role of Board in relation to resource request); testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 149, 151, 167 (took more than 1,800 resources to clear occupation; at the time request made, OPS did not have sufficient resources, nor did it receive them for days); testimony of Superintendent Abrams, TRN00000006 at pp. 269 – 270, TRN00000007 at pp. 67, 69 (contrary to practice in Windsor and evidence of OPS plan as of February 7, believed a further plan was necessary to accommodate 1,800 resources; did not communicate any concerns to Chief Sloly about this request; request ultimately proved correct); testimony of Chief Superintendent Carson Parody,

testified, he and Chair Deans “needed to get something in writing” to clarify, in their discussions with Federal and Provincial counterparts, what the OPS and the City needed.<sup>340</sup> Interim Chief Bell considered the request for 1,800 “reasonable” as a way to notify other Chiefs of the OPS’s massive needs.<sup>341</sup> Further, as Chair Deans testified, the City was being “stonewalled” in its requests up to that point.<sup>342</sup> The OPS needed to get its resource requests moving.

208. Although Mayor Watson suggested that the request might “show [the OPS’s] hand”, he concluded that, at the end of the day, this speculative concern paled in comparison to the clear need to get additional resources.<sup>343</sup> Mayor Watson’s observation thus answers any concern that the request for 1,800 showed the public that the OPS was “overwhelmed” around February 7.<sup>344</sup> It *was* overwhelmed and it needed more resources to fix this problem: Commissioner Carrique conceded on cross-examination that it was “obvious” to the public that OPS did not have the resources as of when the request was sent, and concerns about releasing specific numbers were attenuated by the

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TRN00000007 at p. 147 (suggestion that OPP would have given 1,800 resources, or some of them, if, in its judgment, the OPS had a plan that “encompassed” the number); testimony of Interim Chief Bell, TRN00000008 at pp. 147 – 148, 150 (1,800 or more would be needed to clear occupation; supported Chief Sloyly putting other Chief “on notice” of need for “large number” of resources; request based on good faith calculations); testimony of Commissioner Carrique, TRN00000011 at pp. 64 – 76 (request, of course, “unusual”; ultimately reflected amount required; would require integration and cooperation to satisfy request; OPP would always “facilitate” requests for frontline officers); testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 314 – 314 (aware of request at the time; 1,800 could not have been a “random doubling”); testimony of Commissioner Lucki, TRN00000023 at pp. 38 – 40 (resource request, in Commissioner Lucki’s view, would be allocated among multiple police services; RCMP did not “get into any specifics” before receiving letter; RCMP considered a more detailed plan was required at this stage); testimony of Deputy Commissioner Duheme, TRN00000023 at p. 210 (request accelerated planning discussions); testimony of Minister Mendicino, TRN00000028 at pp. 147 – 148 (request part of a “very clear line of communication” regarding OPS’s need for additional resources); testimony of Prime Minister Trudeau, TRN00000031 at p. 148 (request of a piece with Mayor Watson’s frequent requests for additional officers).

<sup>340</sup> Testimony of Mayor Watson, TRN00000004 at pp. 43 – 44.

<sup>341</sup> Testimony of Interim Chief Bell, TRN00000008 at p. 149.

<sup>342</sup> Testimony of Ms. Deans, TRN00000005 at p. 56.

<sup>343</sup> Testimony of Mayor Watson, TRN00000004 at p. 64.

<sup>344</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 67.

Solicitor General's decision to release statements about numbers released to the OPP.<sup>345</sup> Commissioner Carrique's acknowledgment that the OPS needed vastly more resources is consistent with his personal communications with Chief Sloly at that time. On the morning of February 6, Commissioner Carrique told Chief Sloly that he was "here for [him]" and told him later that day that Chief Sloly gave an "outstanding briefing" and that the OPS "continue[d] to have [the OPP's] unwavering support".<sup>346</sup>

209. Further, Convoy leaders testified that the public request for 1,800 showed them that the OPS was serious about clearing the occupation. Christopher Barber agreed that the request signalled a coming police response.<sup>347</sup> Daniel Bulford testified that it indicated the OPS was "preparing for a mass mobilization".<sup>348</sup>

210. Of course, as Commissioner Carrique testified, the request was "unusual".<sup>349</sup> Chief Sloly agreed: he testified that speaking about the request for 1,800 in public was "not the normal process" and was made in "extraordinary circumstances", in part due to the Board's desire to help the OPS get the necessary resources however it could.<sup>350</sup>

211. The request for 1,800 additional police resources played some part in expediting the much-needed resources to Ottawa and thereby furthered public safety. On the day of the request, Commissioner Carrique contacted Chief Sloly and offered to send experienced subject matter experts who would work with the OPS and the RCMP to further develop the OPS's operational

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<sup>345</sup> Testimony of Commissioner Carrique, TRN00000011 at pp.276 – 277.

<sup>346</sup> Texts from Commissioner Carrique to Chief Sloly, February 6 at 8:15 am (1:14 pm UTC) and 12:08 pm (5:08 pm UTC), OPP00004586 at p. 5.

<sup>347</sup> Testimony of Christopher Barber, TRN00000014 at p. 110

<sup>348</sup> Testimony of Daniel Bulford, TRN00000017 at p. 254

<sup>349</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 64.

<sup>350</sup> Testimony of Chief Sloly, TRN00000012 at p. 166; TRN00000013 at pp. 158 – 159.

plan and coordinate the massive influx of resources needed to bring the occupation to an end.<sup>351</sup> Chief Sloly accepted Commissioner Carrique's offer.<sup>352</sup> They agreed that greater integration between the OPS and its partners would be helpful and that experienced senior personnel, such as Chief Superintendent Carson Pardy, would be needed in Ottawa.<sup>353</sup>

*No Interference with PLT or Inappropriate Favouring of Enforcement*

212. In testimony and interview summaries before the Commission, there have been suggestions – supported only by rumours, insinuations, and hearsay – that Chief Sloly did not properly value the work of the PLT and unduly favoured enforcement over negotiation.<sup>354</sup> This is inaccurate. Moreover, it seemingly co-exists with precisely the opposite suggestion: that Chief Sloly and the OPS did no enforcement and simply allowed disorder in the City.

213. Following the first weekend of the protests in Ottawa, Chief Sloly received internal feedback that “PLT members weren't being optimally used and were feeling out of the loop.”<sup>355</sup> To address this, Chief Sloly ensured that two of the OPS's PLT supervisors were invited to the POU commanders' briefing held in Kanata on February 1.<sup>356</sup> He also met with PLT leaders to ensure that they were getting the support needed and to understand their views regarding the

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<sup>351</sup> See text messages from Commissioner Carrique to Chief Sloly, OPP00004586 at p. 6.

<sup>352</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 71; interview summary of Chief Sloly, WTS.00000040 at p. 33.

<sup>353</sup> Testimony of Chief Sloly, TRN00000012 at pp. 176 – 177.

<sup>354</sup> See, e.g., interview summary of Superintendent Craig Abrams, WTS.00000013 at pp. 3 – 4; interview summary of Inspector Russell Lucas, WTS.00000024 at p. 9.

<sup>355</sup> Testimony of Chief Sloly, TRN00000012 at p. 74.

<sup>356</sup> Testimony of Chief Sloly, TRN00000012 at pp. 73 – 74; Minutes of February 1 POU commanders meeting, OPS00005631.

situation on the ground.<sup>357</sup> PLT leaders were also invited to command briefings to discuss their progress and the information they were obtaining.<sup>358</sup>

214. While efforts were made early and often to integrate the OPS's PLT team, the group was under-staffed and relatively inexperienced. The OPS had just 14 part-time PLT members assigned to the protests<sup>359</sup> and had recently lost experienced commanders with in-depth knowledge of the role of PLT.<sup>360</sup> Many of the OPS's PLT officers had received one week of training in 2021 but had not had the chance to put their training into practice due to the lack of special events during the COVID-19 pandemic.<sup>361</sup>

215. Chief Sloly also spoke about the importance of negotiations before mass-scale enforcement could be justified at the POU planning meeting held on February 4<sup>th</sup>, where he ensured that PLT supervisor Staff Sergeant Ferguson was present. Chief Sloly emphasized that he only endorsed a public order operation, "assuming a negotiation strategy gets updated right up to the day of and [is] communicated by a trained negotiator to the truck people and [it has been] demonstrated that negotiations have failed or haven't resolved the risk." Chief Sloly also requested that his planning team develop a full negotiation strategy following this meeting.<sup>362</sup>

216. While the PLT team experienced certain difficulties in integration with the POU due to their relative inexperience and the fluid nature of the event, Chief Sloly continually encouraged

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<sup>357</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 134; Notes of Command Briefing #9, dated February 1, OPS00005198.

<sup>358</sup> Notes of Command Briefing #7, dated January 31<sup>st</sup>, OPS00004880; Notes of Command Briefing #9, dated February 1<sup>st</sup>, OPS00005194; Notes of Command Briefing #10, dated February 3<sup>rd</sup>, OPS00005613.

<sup>359</sup> Interview summary of John Ferguson, WTS.00000027

<sup>360</sup> WTS.00000027 at p. 1.

<sup>361</sup> Witness Summary of Acting Deputy Chief Ferguson, WTS.00000023 at p. 2. See also Email of Peter McKenna dated February 1, 2022, OPS00005297.

<sup>362</sup> Notes of Christiane Huneault, OPS00014454 at pp. 50 – 51.

them and sought to advance their work. For example, on February 5<sup>th</sup>, Chief Sloly told Staff Sergeant Ferguson that negotiations were important, that PLT was doing a great job and that more PLT officers should be trained and brought into the fold.<sup>363</sup> On February 7<sup>th</sup>, Chief Sloly wrote to Staff Sergeant Carvalho to express appreciation for the PLT's work: "you and the PLT are invaluable. We are still learning how best to work with you/integrate you/leverage you/ support you – please be patient and continue your great work."<sup>364</sup> On February 12<sup>th</sup>, Chief Sloly requested that Inspector Beaudin of the OPP be invited to planning meetings because he was the PLT specialist.<sup>365</sup>

217. Chief Sloly also championed the idea of a negotiated solution at meetings at the political level. This view was shared within the OPS, but also with political partners provincially and municipally. For example, at a meeting with representatives of the City of Ottawa and the Federal Government, Chief Sloly responded to a question about whether negotiations were worthwhile in the following terms:

Yes. As a cop, we have obligations to do everything before using force ... elected officials should consider, assess and implement [a negotiation strategy] if possible before moving to force. Not sure how to negotiate because [there are] 7 groups. We did our best and that is why things haven't worked. Look for an entity to engage the 7 groups ... Who? Bob [Rae] type person.<sup>366</sup>

218. At a February 6<sup>th</sup> meeting with representatives of the federal, provincial and municipal governments, Chief Sloly is recorded as having stated that he is "concerned about utilizing mass arrests given the experience from G20", that the OPS's "primary objective will be to diffuse

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<sup>363</sup> Notes of Staff Sergeant Ferguson, OPS00014568 at p. 15.

<sup>364</sup> Email from Chief Sloly, dated February 7<sup>th</sup>, OPS00007999.

<sup>365</sup> Chief Sloly notes of February 12, OPS00010638 at p. 6.

<sup>366</sup> Meeting notes of Christiane Huneault, OPS00014454 at p. 38.

operationally via negotiations at a tactical level.” He further suggested that high-level negotiators with a national profile be considered.<sup>367</sup> At a tripartite meeting on February 8, Chief Sloly emphasized that negotiations with demonstrators were to be used “first and always”.<sup>368</sup> Chief Sloly’s desire to involve experienced negotiators to assist with the resolution of the occupation was consistent with his statement on February 2<sup>nd</sup> that there may not be a policing solution to these events. Chief Sloly knew that the OPS did not have the resources needed to arrest its way out of this situation, but also understood that this would not be a desirable solution.

219. Chief Sloly has always valued community engagement and de-escalation.<sup>369</sup> That said, police operations involve a balancing of negotiating and enforcement.<sup>370</sup> To the extent that different iterations of the operational plans, such as the Neighbourhood Subplan,<sup>371</sup> emphasized one over the other, these are decisions which are made by the Incident or Event Commanders as the situation on the ground evolves. Discussions during briefings and at command meetings about the balance between negotiation and enforcement are normal and appropriate.

220. Enforcement actions sometimes led to tense confrontations between police and protesters, including the swarming of officers attempting to make arrests.<sup>372</sup> It cannot be said, however, that the OPS’s use of enforcement tactics unduly endangered officers or demonstrators or led to any

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<sup>367</sup> ONT00000159 at pp. 6–9.

<sup>368</sup> SSM.NSC.CAN.00002052\_REL.0001

<sup>369</sup> Testimony of Chief Sloly, TRN00000012 at p. 121.

<sup>370</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 139.

<sup>371</sup> The evidence shows that an outline of this plan was sent from Acting Deputy Chief Ferguson to Deputy Chief Bell on February 4<sup>th</sup> at 12:13 a.m., OPS00006704 and then that the finalized plan was sent to Superintendent Burnett for approval on February 4<sup>th</sup>, OPS00006418, attaching OPS00006419. Chief Sloly is not on any of these email chains.

<sup>372</sup> See eg: Testimony of Superintendent Craig Abrams, TRN00000007 at p. 96. Testimony of Superintendent Rob Drummond, TRN00000010 at p. 279. Kim Ayotte also testified that by-law officers were swarmed when they attempted to issue tickets but that there was no evidence of any physical assault, TRN00000004 at p. 253.



escalation in violence. There were no serious injuries to protesters or police during the occupation, which is testament to the discretion and judgment shown by the OPS in taking enforcement actions. While there were certainly heated moments throughout, these were unavoidable given the volatility of the situation on the ground and these moments arose from attempts at negotiation and enforcement alike.<sup>373</sup> While OPS members were certainly overworked and exhausted during the occupation, this was not as a result of any direction to enforce by Chief Sloly but, rather, from the overwhelming number of trucks and protesters which arrived in Ottawa and the service's lack of resources.

221. As to the suggestion, made by some, that Chief Sloly pushed enforcement over negotiation to the Event Commanders, it is important to note that the Commission heard from only one of the four Event Commanders. That Event Commander, Superintendent Bernier, testified that while he and Chief Sloly had some discussions about the sort of direction he felt that a Chief should give an Event Commander, Chief Sloly always accepted the boundaries he drew.<sup>374</sup> Chief Sloly said in his interview that to the extent that Superintendent Bernier expressed a preference for less enforcement, he (Chief Sloly) respected such a decision.<sup>375</sup> This allowed Superintendent Bernier to implement his vision as Event Commander, which he described as a “fully integrated PLT approach.”<sup>376</sup>

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<sup>373</sup> See for example: An attempted negotiation to move trucks onto Wellington led to the intimidation of certain protesters and the swarming of police, Witness Statement of Staff Sergeant John Ferguson, WTS.00000027 at p. 12; Testimony of Keith Wilson, TRN00000015 at p. 48; HRF00001587. An attempt at engaging Algonquin elders to negotiate with protesters at Confederation Park led to an escalation, OPS00007355 at pp. 2, 4 – 5.

<sup>374</sup> Testimony of Superintendent Bernier, TRN00000010 at pp. 79 – 80.

<sup>375</sup> Witness Summary of Chief Sloly, WTS.00000040 at p. 49.

<sup>376</sup> Email from Acting Deputy Chief Ferguson to Chief Sloly forwarding an email from Superintendent Bernier, OPS00011072.

222. Acting Deputy Chief Ferguson described her “impression” that Chief Sloly and Superintendent Patterson, while he was Event Commander, both favoured enforcement over a PLT-led approach.<sup>377</sup> But Superintendent Patterson did not testify. And Acting Deputy Chief Ferguson’s suggestion is belied by the fact that the single time Chief Sloly was called upon to deconflict an issue between Superintendent Patterson and Acting Deputy Chief Ferguson about the extent to which PLT should figure in day-to-day operations, Chief Sloly supported Acting Deputy Chief Ferguson and encouraged her to increase the use of PLT to her satisfaction.<sup>378</sup>

223. The disorganization and competing goals of the occupiers meant that PLT’s work was challenging at best and impossible at worst. Various protest movements – some affiliated with one another, some fiercely independent – were present in the red zone throughout the occupation in Ottawa. They included the Freedom Convoy group and affiliate groups called “Taking Back our Freedom” and “Police on Guard for Thee”; various unrelated groups including the Farfadaas, Canada Unity and Diagon; and individual social media influencers and provocateurs like Pat King.<sup>379</sup> The presence of various unrelated groups made it impossible for the OPS to identify a single point of contact through which to negotiate.

224. The testimony of the protest organizers made it clear that, even within their own loosely structured groups, leaders did not have any authority over the protestors. Steeve Charland, of the Farfadaa group, testified that while he did negotiate with police on behalf of his group, he could

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<sup>377</sup> Acting Deputy Chief Ferguson described an “impression” that she had that Chief Sloly and Superintendent Patterson favoured enforcement. TRN00000006 at p. 139.

<sup>378</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at pp. 140 – 143; Email from Acting Deputy Chief Ferguson to Inspector Beaudin, dated Feb 11 which states: “I was directed by the Chief to ensure our PLT team is fully integrated to a level of my satisfaction,” OPP00000164.

<sup>379</sup> See RCMP person of interest disclosure, HRF.00000088 at p. 4; Testimony of Jeremy McKenzie, TRN00000017 at pp. 166, 171 – 173, 196 – 197; Testimony of Daniel Bulford, TRN00000017 at p. 297.

not control them, and he was aware that members of the Farfadaa did not respect the outcome of these negotiations.<sup>380</sup>

225. Chris Barber and Daniel Bulford both testified that they had no way of ensuring that members of the Freedom Convoy group would abide by any instructions from leadership.<sup>381</sup> For this reason, when Tamara Lich purported to reach an agreement with the Mayor to relocate trucks, all she could offer were “efforts to get buy-in.”<sup>382</sup> Even then, this agreement was explained to protesters as a method of ensuring that they could remain in Ottawa “for the long-haul.”<sup>383</sup>

226. Disagreements between groups also led to undermining and confusion on some of the occasions where agreements could be reached. For example, when the OPS PLT struck an agreement to move a handful of trucks away from the Rideau and Sussex intersection on February 10<sup>th</sup>, “PLT observed a convoy participant go truck-to-truck and intimidate the drivers that were prepared to move.”<sup>384</sup> OPP Chief Superintendent Pardy testified that there were even threats from some protesters to other protestors who had expressed a desire to leave the red zone.<sup>385</sup>

227. Negotiations with protesters in Ottawa were further complicated by the unrealistic demands and expectations of many of the protesters. Some purported to be seeking to have the democratically elected government replaced;<sup>386</sup> others were seeking to meet with the Governor General and the Prime Minister, while stating that they were willing to offer “nothing” as a sign of good faith in exchange and signalling that there were various competing groups with various

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<sup>380</sup> Testimony of Steeve Charland, TRN00000014 at pp. 229 – 230.

<sup>381</sup> Testimony of Chris Barber, TRN000000014 at p. 106; Testimony of Daniel Bulford, TRN000000017 at p. 302.

<sup>382</sup> Testimony of Tamara Lich, TRN000000017 at p. 35.

<sup>383</sup> *Id* at p. 37; HRF00001285.

<sup>384</sup> Witness Statement of Staff Sergeant John Ferguson, WTS.000000027 at p. 12

<sup>385</sup> Testimony of Chief Superintendent Pardy, TRN000000007 at p. 239.

<sup>386</sup> See MOU of Canada Unity, COM00000866.

agendas whom they could not control;<sup>387</sup> and some stated an intention to remain in Ottawa until all vaccine mandates were lifted.<sup>388</sup> These were not requests that the OPS lawfully facilitate or reasonably negotiate.

228. Even in Windsor, where extraordinary steps were taken by the Provincial Government to offer a meeting with protesters, negotiations were unsuccessful. The Commission heard evidence that a protester named Mr. Neufeld approached PLT officers working at the Ambassador Bridge and advised them that demonstrators would be willing to leave if they received a commitment to meet with government officials.<sup>389</sup> Such a letter was quickly produced by the Solicitor General of Ontario who promised that if protesters denounced the movement and left the scene, she would commit to a meeting with them.<sup>390</sup> This letter had “no effect.”<sup>391</sup> This is because the protesters in Windsor, as in Ottawa, were a loosely knit group of individuals with various interests who organized through social media and were not guided by any stable or unified leadership.<sup>392</sup>

229. In addition to being unable to offer the protesters the outcomes they were seeking, the OPS could not use the threat of enforcement as an incentive to have protesters leave the downtown core or cease their disruptive behaviour. For much of the protests, the OPS simply did not have the resources to prepare an effective public order operation. Significantly, even once the resources were available, and the *Emergencies Act* was invoked, many protesters refused to leave.<sup>393</sup> A

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<sup>387</sup> Email from Staff Sergeant Ferguson to Superintendent Bernier and Superintendent Drummond dated February 12<sup>th</sup>, OPS00010383.

<sup>388</sup> OPS PLT Logs, OPS00012205 at pp. 14, 24 & 28.

<sup>389</sup> Testimony of Superintendent Earley, TRN00000019 at p. 132.

<sup>390</sup> ONT00000858.

<sup>391</sup> Superintendent Earley agreed in cross-examination that the letter had “no effect,” TRN00000019 at p. 91. In examination in chief, she described the letter as having had “very little effect”, TRN00000019 at p. 64.

<sup>392</sup> Testimony of Paul Leschied, TRN00000019 at pp. 150 & 186.

<sup>393</sup> Numbers of trucks in the downtown core increased after February 14. According to the OPS’s institutional report, there were 230 on February 14; 357, “not including Wellington”, on February 15; and 450 on February 16.

similar phenomenon occurred in Windsor where the imminent enforcement action led to a swell in the numbers of protestors.<sup>394</sup>

230. The situation in Ottawa was always going to end with a public order operation. The OPS PLT team recognized this from the outset, communicating in an email dated February 1<sup>st</sup> that: “The small gains that PLT and OPS achieve are not meant to or will necessary [sic] end the protest every time; instead, the purpose is to prepare the organizers for the eventual fact and day that all protests, no matter how prolonged, will eventually end.”<sup>395</sup> Chief Sloly understood this too. Therefore he emphasized the need for a developed POU plan and the resources to carry it out, while also regularly asking his command team to further integrate the PLT to assist with de-escalation and small wins like the one obtained at Confederation Park.

231. The suggestion that Chief Sloly delayed the resolution of the occupation by failing to place sufficient emphasis on PLT engagement is unsupported in the record and evidences a naïve misunderstanding of the reality facing the OPS during the events related to the Freedom Convoys.

*No Improper Intervention at Coventry Road, Rideau & Sussex, and Confederation Park*

232. The narrative that Chief Sloly interfered with the work of the PLT and favoured enforcement was also raised in relation to events at Coventry Road, Rideau & Sussex and Confederation Park. Hearsay evidence was adduced to suggest that Chief Sloly was responsible

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OPS.IR.00000001 at para. 44, p. 14. The report notes, in the entry for February 16, that there was “only [a] drop of 50 since announcement”, which is hard to square with the increases reported on the two previous days.

<sup>394</sup> There were 500 people at the bridge at the time of the POU operation, OPP.IR.00000001 at p. 29; Witness Statement of Deputy Chief Crowley, WTS.00000017 at p. 7.

<sup>395</sup> OPS00005297.

for difficulties experienced in these locations because his approval was necessary for PLT negotiations to be carried out.

233. Chief Sloly did not interfere in PLT operations, or inappropriately direct enforcement actions that undermined the PLT efforts to build trust with protestors in a manner inconsistent with the *National Framework* at any of these sites (or at any other time during the convoy events).<sup>396</sup> Chief Sloly did not direct the PLT and did not approve any tactical level actions involving the PLT. The OPS's challenges negotiating with protestors arose from myriad factors involving the lack of a unified protest leadership, the protestors' unrealistic expectations and the volatility of the situation on the ground – not a failure to employ the PLT or a direction by Chief Sloly to use enforcement.

234. The arrest of protestors leaving Coventry Road with fuel on February 6<sup>th</sup> (following negotiations with the PLT) was not carried out on Chief Sloly's direction, as was suggested by Acting Deputy Chief Ferguson.<sup>397</sup> The instruction to carry out these arrests was approved by Deputy Chief Bell,<sup>398</sup> and was communicated by the Event Commander, Superintendent Patterson,

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<sup>396</sup> Chief Sloly's involvement with the PLT remained at the strategic level. He encouraged his team to make greater use of the PLT and to ensure that they were integrated into POU operations. He did not direct individual enforcement action that could have interfered with the PLT's work. In any event, the use of enforcement to prevent public safety risks does not run contrary to the *National Framework*; this framework provides for enforcement where needed. The preservation "of the option to employ a variety of tactical responses as necessary" is a core part of the measured approach. As the *National Framework* sets out, in response to an ongoing event, an incident commander or an event commander should be deployed. This incident commander may ensure that various steps are taken such as monitoring the reaction of the public and responding to conflict with the lowest possible level of force. There is no inherent contradiction of the *National Framework* in undertaking enforcement action to address illegal conduct, in the context of an illegal protest, which is having significant impacts on the quality of life of residents. This is precisely what the OPS's command team decided to do in interdicting the transport of fuel to the downtown core which both posed a public safety risk and allowed the protestors to sustain themselves and disrupt the lives of Ottawa residents. See COM00000666 at pp. 5 & 17.

<sup>397</sup> See e.g.: Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 50.

<sup>398</sup> Testimony of Deputy Chief Bell, TRN00000008 at p. 158.

at a meeting that took place that morning at 10:00.<sup>399</sup> The decision never reached the level of Chief Sloly.<sup>400</sup> A tweet announcing the OPS's decision to charge individuals transporting fuel to the core was posted later that day but it appears that certain PLT members were not aware of the decision to interdict fuel or the OPS's communication announcing that decision.<sup>401</sup> Superintendent Patterson approved this tweet and said, as noted in Staff Sergeant Ferguson's interview summary, that the "mistake was 'on him'".<sup>402</sup> Chief Sloly did not direct, authorize, or permit this communication: Superintendent Patterson did.<sup>403</sup> Nor did Chief Sloly direct, authorize, or permit any other corporate communications that were contrary to PLT messaging or undermined PLT's work. Corporate communications were led by John Steinbachs, the OPS's Executive Director of Strategy and Communications, who managed significant updates from the Chief and the service to the Board and public.<sup>404</sup>

235. As Deputy Chief Bell testified, the transport of fuel into the core raised public a safety hazard.<sup>405</sup> It accordingly had to be interdicted, notwithstanding a wish to support the PLT. Ultimately, the ICS team has responsibility for public safety. These arrests may have been the result of miscommunication between the command team and PLT officers on the ground who had

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<sup>399</sup> Testimony of Inspector Lucas, TRN00000009 at p. 56; Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 7. Notes of Christiane Huneault, OPS00014454 at p. 88.

<sup>400</sup> Testimony of Chief Sloly, TRN00000028 at pp. 130–132, referring to Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 8

<sup>401</sup> Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 7.

<sup>402</sup> Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 8. See also, Notes of Staff Sergeant Ferguson, OPS00014568 at p. 12.

<sup>403</sup> Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 8. See also, Notes of Staff Sergeant Ferguson, OPS00014568 at p. 12.

<sup>404</sup> See, e.g., testimony of Chief Sloly, TRN00000013 at p. 153; Witness Summary of Interim Chief Bell, WTS.00000029 at p. 8; email from John Steinbachs to Board and City officials, February 10 at 3:29 pm, OTT00006035.0001; notes from 11:00 call with OPS command and senior staff, February 11 at 11:00 am, OPS00005899 at p. 2 (Chief Sloly asks attendees to inform Steinbachs of updates that may help with messaging)

<sup>405</sup> Testimony of Deputy Chief Bell, TRN00000008 at pp. 158–159.

not been notified of Event Commander Patterson's direction to interdict fuel.<sup>406</sup> Chief Sloly was working hard to integrate the PLT and avoid such issues, but the nature of the protests made perfect integration impossible.

236. As to Rideau & Sussex, there is no merit to the suggestion<sup>407</sup> that Chief Sloly interfered with negotiations to move trucks onto Wellington Street from this location. These negotiations did not bear fruit because of logistical issues which arose during the attempted relocation of trucks, operational decisions of the incident command team and difficulties associated to negotiating with a group of protesters who were associated with "a freeman-on-the-land, separatist, anarchist group."<sup>408</sup>

237. In brief, following a meeting between certain protestors and the Ottawa City Manager on February 8 to discuss moving trucks from Rideau & Sussex,<sup>409</sup> the protestor group attempted to convince other protestors to relocate from the intersection. According to Staff Sergeant Ferguson's witness statement, these efforts were stopped because it got dark, there were officer safety concerns and the OPS command had not yet approved the decision to move the trucks.<sup>410</sup>

238. It was Superintendent Patterson who decided not to approve the relocation – as was appropriate. Superintendent Patterson's notes for February 8<sup>th</sup>, at 17:45 state: "Info from PLT – wanted to move further down Wellington – West. Decision was not approved – some vehicles maybe."<sup>411</sup> This coincides with Staff Sergeant Ferguson's recollection that he was informed of the

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<sup>406</sup> See *id.*, at pp. 159 – 160.

<sup>407</sup> See e.g.: Witness Statement of Inspector Lucas, WTS.00000024; Witness Statement of Superintendent Drummond, WTS.00000050 at p. 5.

<sup>408</sup> Witness Statement of Inspector Lucas, WTS.00000024 at p. 9.

<sup>409</sup> Witness Statement of Superintendent Drummond, WTS.00000050 at p. 4.

<sup>410</sup> Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 11.

<sup>411</sup> OPS00014519 at p. 4.



lack of approval around that time.<sup>412</sup> Superintendent Patterson's notes further clarify that he briefed Chief Sloly on the state of PLT operations at 19:00. According to these notes, Chief Sloly gave "[n]o direction. Wanted briefing on what was said to Steve K."<sup>413</sup>

239. Negotiations between OPS PLT and certain protest representatives continued through the day on February 9<sup>th</sup> and an agreement in principle appeared to have been reached.<sup>414</sup> Staff Sergeant Ferguson sent a "decision-point" email to Superintendents Burnett and Drummond requesting approval from the incident command team at 8:32 a.m. on February 10<sup>th</sup>.<sup>415</sup> At 9:10 a.m., Superintendent Drummond responded, "Mark, need to clarify the decision made yesterday with Legal, DC Ferguson and yourself that we would not be moving the vehicles from Rideau/Sussex further west on Wellington."<sup>416</sup>

240. Throughout the day on February 10<sup>th</sup>, the PLT continued negotiating with protest representatives at Rideau and Sussex. Ultimately a deal was struck to move a handful of trucks

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<sup>412</sup> WTS.00000027 at p. 11.

<sup>413</sup> Notes of Superintendent Patterson, OPS00014519 at pp. 4 – 5. That the decision to withhold approval for this negotiation came from Superintendent Patterson is corroborated by Acting Deputy Chief Ferguson's notes of a one-on-one discussion with him on the morning of February 9 (see OPS00014479 at pp. 68 – 69). In those notes, Superintendent Patterson is recorded as saying that the relocation "was not a win for us" and that the negotiation did not proceed because "Steve K just listened, ultimately no further action was initiated because they could not get an answer and it became dark and too dangerous to move in the darkness." Notes of the meeting also show that Superintendent Patterson recommended proceeding with a public order plan because there was, in his view, no real benefit to moving the demonstrators to the "west end of Wellington" and that Acting Deputy Chief Ferguson approved this plan (OPS00014479 at p. 69). Acting Deputy Chief Ferguson's notes are corroborated by the notes of Christiane Huneault who was at this meeting as a scribe, OPS00014454 at p. 134. The POU plan to clear Wellington had been developed under the guidance of the Event Commander, Superintendent Patterson. As Acting Deputy Chief Ferguson testified it was Superintendent Patterson who had "proposed and was working on towards executing" that POU plan. She referred to it as "his plan." (TRN00000006 at pp. 78 & 79). Ultimately, representatives of the OPP expressed concerns about taking POU action at this site and none was taken. This POU sub-plan was appropriately dealt with entirely within the incident command structure and Chief Sloly cannot be faulted for failing to take adequate steps to ensure that it was properly constituted – especially considering that it was never executed.

<sup>414</sup> Witness Statement of Staff Sergeant Ferguson, WTS.00000027 at p. 12.

<sup>415</sup> Email from Staff Sergeant Ferguson to Superintendent Drummond, February 9 at 8:32 am, OPS00009705.

<sup>416</sup> Email from Superintendent Drummond to Superintendent Patterson, 10 at 9:10 am (2:10 pm UTC), OPS00009705.

onto Wellington Street. The evidence before the Commission shows that steps were taken to implement this negotiation but that ultimately it was not carried out because protesters blocked the movement of trucks and chanted “hold the line” when the police began moving barriers.<sup>417</sup>

241. Finally, as to Confederation Park, on February 3 the OPS advised the National Capital Commission (“NCC”) that protesters were erecting a wooden shack in the park and that a stockpile of fuel was growing on site.<sup>418</sup> On February 4<sup>th</sup>, Chief Sloly, Deputy Chief Bell and Acting Deputy Chief Ferguson were provided with a lengthy briefing note explaining that tensions on site were high and that the PLT was working to de-escalate the situation. The briefing note was drafted by Acting Inspector Isabelle Lemieux, an OPS officer who had been asked to attend the site by Acting Deputy Chief Ferguson. Chief Sloly responded as such: “excellent work by you, Isabelle, the PLT and other involved ... Trish - ... ensure we engage local elders in any plans and negotiations.” Discussions of operational planning continued on this email chain without Chief Sloly’s involvement, as is appropriate.<sup>419</sup>

242. Planning and negotiations continued throughout the day on February 4. Ultimately, however, negotiation efforts appeared to stall. Early in the morning of February 5, as noted above, a briefing note was circulated to the OPS stating that the group at Confederation Park was fractured. While there appeared to be some commitment to “leave the land as they found it,” there was “no clear decision to remove the structure. Relationships then became tense, and the Algonquin delegation needed to be escorted to their vehicle by PLT.”<sup>420</sup> Chief Sloly was concerned

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<sup>417</sup> Testimony of Keith Wilson, TRN00000015 at p. 48; HRF00001587; Witness Statement of Staff Sergeant Ferguson, WTS.0000027 at p. 12.

<sup>418</sup> Witness Summary of NCC panel, WTS.00000031 at p. 4.

<sup>419</sup> Email Chain dated February 3 – 4, OPS00006691. For Acting Inspector Lemieux’s rank, see, e.g., OPS00004537.

<sup>420</sup> OPS00007355.

by this update and convened a meeting to discuss the events overnight. The agenda included a reference to the fact that “negotiations with Algonquin elders failed, they attacked elders, and we now have no other options except to isolate, contain and remove encampment.”<sup>421</sup>

243. At the meeting, Chief Sloly did not direct that negotiations at Confederation Park be cancelled, nor did he call off PLT involvement. Rather, meeting notes show that participants agreed that POU planning and negotiations would proceed. Chief Sloly also advised that he would call the OPP to extend negotiation efforts.<sup>422</sup> Ultimately, a negotiated end to the encampment at Confederation Park was achieved on February 6<sup>th</sup> without further incident. Chief Sloly described this as a “success” of the PLT.<sup>423</sup>

244. The PLT’s operations were imperfect at times, and Chief Sloly was more engaged in the process than he would have been for a more minor event. He did not, however, fail to respect the role of the PLT or inappropriately interfere with their work. Throughout the protests, Chief Sloly sought greater PLT integration to avoid miscommunications and lack of alignment.

245. Finally, it is important to note that PLT strategies are not always successful. They didn’t work in Windsor<sup>424</sup> or in Ottawa<sup>425</sup> to persuade protestors to leave without the need for enforcement. The fact that a PLT operation does not result in a successful resolution does not

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<sup>421</sup> *Id.*

<sup>422</sup> Notes of Christiane Huneault, OPS00014454 at p. 59.

<sup>423</sup> Testimony of Chief Sloly, TRN0000012 at p. 120.

<sup>424</sup> Testimony of Superintendent Earley, TRN00000019 at p. 139.

<sup>425</sup> Testimony of Interim Chief Bell, TRN00000008 at pp. 203 – 204; testimony of Inspector Lucas, TRN00000009 at p. 54; witness summary of Superintendent Bernier, WTS.00000030 at p. 21 (detailing the plan that ended the occupation, with a minimal role for PLT).

suggest that there was a failure to properly engage the PLT or inappropriate interference by the OPS's command.

246. The size of the protest, the number of groups involved, the lack of clear protest leadership and the unrealistic expectations of the protesters made it such that a negotiated solution to the demonstration was not feasible.

*Arrival and Integration of Integrated Planning team: February 8*

247. The night of February 7, Commissioner Carrique contacted Chief Sloly to offer the assistance of certain OPP planners and subject matter experts to assist in operationalizing the request for 1,800 additional officers.<sup>426</sup>

248. Commissioner Carrique proposed sending OPP Chief Superintendent Carson Pardy to Ottawa to establish an integrated planning team which would assist in developing the OPS's plan with the assistance of subject matter experts, and would test the OPS's resource request.<sup>427</sup> Chief Sloly had previously requested such planning expertise and readily agreed to the offer. Chief Sloly testified that he and Commissioner Carrique "were very quickly in agreement that that would be very helpful" to bring in experienced planners like Chief Superintendent Pardy.<sup>428</sup>

249. The next morning, Chief Superintendent Pardy and his team were on their way to Ottawa to assist the OPS. This was in large part set in motion by Chief Sloly, Chair Deans and Mayor Watson's efforts in drafting a letter requesting 1,790 police resources.

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<sup>426</sup> Text messages between Commissioner Carrique and Chief Sloly, OPP00004586 at p. 6.

<sup>427</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 71.

<sup>428</sup> Testimony of Chief Sloly, TRN00000012 at p. 177.

250. Chief Sloly knew that the OPS's policing partners expected to review the plan to dismantle the occupation, and that despite considerable efforts by the OPS ICS and planning teams, there were still advances that needed to be made—especially with respect to developing the public order component of the plan.<sup>429</sup>

251. The absence of a comprehensive plan to end the occupation on the morning of February 8<sup>th</sup> does not indicate that the OPS did not have any plan. The OPS always had an operational plan to maintain safety in the City during the occupation – the plan was first signed on January 28 and was updated and evolved on a constant basis to meet changing circumstances (for example, with the Neighborhood Subplan) while resources were coming.<sup>430</sup>

252. Delays in developing a comprehensive plan can be ascribed to a number of issues: the OPS did not have the experience or expertise to develop a comprehensive plan for such an unprecedented crisis, the OPS did not have full-time planners on staff,<sup>431</sup> the OPS ICS did not have a sufficient commitment of resources to make inputs into a possible plan,<sup>432</sup> and the situation on the ground was continually evolving.<sup>433</sup> These delays in finalizing a comprehensive plan led Chief Sloly to gather his command team, the ICS team, and the planning team on February 8 and 9 to work together to help advance the plan as much as possible such that it could be presented to the OPP and the RCMP. To accelerate the required evolution of the plan, Chief Sloly identified 8 concepts that he felt should guide the OPS's operations if it was to bring the occupation to an

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<sup>429</sup> Testimony of Chief Sloly, TRN00000012 at pp. 178, 183.

<sup>430</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at pp. 179 & 306.

<sup>431</sup> Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 38.

<sup>432</sup> *Id* at p. 135; Notes of Chief Sloly citing comments of Staff Superintendent Stoll, OPS00014484 at p. 3.

<sup>433</sup> Testimony of Chief Sloly, TRN00000012 at p. 169.

end.<sup>434</sup> This effort led to a concept of operations which significantly advanced the plan and contributed directly to the final version of the OPS plan that brought the occupation to an end.<sup>435</sup>

253. Chief Sloly acknowledges that this involvement in operational planning, by the Chief, was exceptional. He did not normally participate in operational planning for events,<sup>436</sup> but the team was under considerable pressure, the OPS was under considerable scrutiny, the RCMP and OPP would be assessing the plan and the resource request, and he therefore determined that a “full commitment across the command team” was needed to move the planning process forward.<sup>437</sup>

254. Acting Deputy Ferguson and the planning team worked on operationalizing these concepts into a plan that could be presented to policing partners from the OPP and the RCMP at a meeting that evening. Acting Deputy Chief Ferguson prepared a slide deck which identified 7 factors for success around which the OPS’s operational planning should develop – as Acting Deputy Chief Ferguson testified, these concepts had been identified in conjunction with Chief Sloly.<sup>438</sup>

255. On the evening of February 8<sup>th</sup>, Acting Deputy Chief Ferguson presented this strategic concept of operations to policing partners from the OPP and the RCMP. Chief Sloly was not present at the start of that meeting (he was at a security assessment at his residence due to threats against him and his family),<sup>439</sup> but he understood that the OPP and the RCMP did not consider the

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<sup>434</sup> Christiane Huneault notes of February 8<sup>th</sup> at 11:30 a.m., OPS00014454 at p. 114.

<sup>435</sup> Testimony of Chief Superintendent Pardy, TRN00000007 at p. 149; testimony of Chief Sloly, TRN00000012 at p. 183.

<sup>436</sup> Acting Deputy Chief Ferguson testified that Chief Sloly’s involvement in the initial operational planning process was as expected and did not involve directing planning, TRN00000006 at p. 130. Deputy Chief Bell testified that before the arrival of the Freedom Convoys he had observed no issues with the Incident Command structure and Chief Sloly’s involvement therein, TRN00000008 at p. 139.

<sup>437</sup> Testimony of Chief Sloly, TRN00000012 at p. 183. See also testimony of Superintendent Bernier, TRN00000010 at p. 71, where he agreed in cross examination that it would be the responsibility of a Chief of police to ensure that a plan was being drafted.

<sup>438</sup> See: OPS00008518. Testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 63.

<sup>439</sup> Witness Summary of Chief Sloly, WTS.00000040 at p. 33.

operational plan to be sufficiently developed. A second meeting was scheduled for the next day to help bolster the concept of operations to obtain greater buy-in from the Service's policing partners.<sup>440</sup>

256. At this early morning planning meeting on February 9, the OPS's executive command agreed to develop a phase three operational plan centered around the integration of resources into the 7-point concept of operations.<sup>441</sup> At this meeting, Chief Sloly emphasized the importance of unity within the command team during this critical phase.<sup>442</sup> Chief Sloly stated that Acting Deputy Chief Ferguson was to be in charge of the operation and that major changes to the command team or to the operational plan needed to be approved by him.

257. In a poor attempt to emphasize the importance of unity and commitment to implementation of the operational plan, Chief Sloly said that he would "crush" anyone who undermined the implementation of the operational plan.<sup>443</sup> Chief Sloly acknowledged that the use of the term was "inappropriate".<sup>444</sup> That said, Chief Sloly never insisted that all changes to the operational plan be approved by him – only major changes akin to strategic level directional changes<sup>445</sup> or changes to senior ICS leadership. He made clear that Acting Deputy Chief Ferguson was "in charge of the operation".

258. Everyone, including Chief Sloly, was under tremendous strain. The Commission has seen multiple examples of intemperate exchanges involving a number of police leaders and public

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<sup>440</sup> Testimony of Chief Sloly, TRN00000012 at p. 177.

<sup>441</sup> *Id* at p. 183.

<sup>442</sup> Testimony of Chief Sloly, TRN00000012 at p. 182, referring to Witness Summary of Chief Sloly, WTS.00000040 at p. 36.

<sup>443</sup> Notes of Christiane Huneault, OPS00014454 at p. 130.

<sup>444</sup> Testimony of Chief Sloly, TRN00000013 at p. 47.

<sup>445</sup> Testimony of Chief Sloly, TRN00000012 at p. 184.

officials over the course of its work, although Chief Sloly was subjected to more scrutiny than others in this regard.<sup>446</sup> As Chief Sloly himself put it, “none of us are supermen or superwomen, and this was a super difficult situation. And, mistakes were made, moments were lost, relationships were strained, meetings didn’t go the way they were intended to.”<sup>447</sup> There was no evidence before the Commission that OPS members felt belittled or berated by Chief Sloly, and nor was Chief Sloly asked to respond to such a suggestion.<sup>448</sup>

259. At this February 9 morning command briefing, Chief Sloly also advised his team that the OPP had come to assess whether the OPS was “worthy” of additional resources and referred to “political masters” needing to be convinced that support ought to be given to the OPS. These comments did not reflect any distrust of policing partners and were not attempts at resisting, opposing or interfering with efforts to establish a unified command. They were rather reflective of the fact that provincial and federal ministers had made public statements suggesting that the OPS had received all of the support it needed. Chief Sloly had also just had a meeting with Federal Ministers Blair and Mendicino in which he and Mayor Watson again articulated that the OPS simply did not have the resources to end the occupation – only to be met with decidedly unhelpful

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<sup>446</sup> For example, a great deal of time was spent in evidence over Chief Sloly’s participation in the allegedly “contentious and heated” meeting on February 9 between the OPS command team and the Integrated Planning Team: see testimony of Interim Chief Bell, TRN00000008 at pp. 105 – 107, referring to interview summary of Interim Chief Bell, WTS.00000029 at p. 17. Other “heated” meetings – such as the February 10 exchange between Acting Deputy Chief Ferguson and Superintendent Patterson which resulted in the removal of Superintendent Patterson as Event Commander, or the situation in the command room during the first weekend where OPS members were reportedly shouting and cursing – were subject to far less scrutiny. See notes of Acting Deputy Chief Ferguson, OPS00014479 at p. 75, testimony of Acting Deputy Chief Ferguson, TRN00000006 at p. 84; and see Witness Summary of Superintendent Craig Abrams, WTS0000013 at p. 2.

<sup>447</sup> Testimony of Chief Sloly, TRN00000012 at p. 278.

<sup>448</sup> Chief Superintendent Carson Parly testified that he could “feel the tension” at a call on February 12 and that Chief Sloly was “blunt”, but did not make any further comments regarding his feelings at that time: TRN00000007 at p. 168. He later testified that he could “feel for Chief Sloly, [given] the burden he was under: TRN00000007 at p. 270. The words “belittle” or “berate” were only used before the Commission in discussing unrelated exchanges between Mayor Watson and Larry Brookson, the Chief of the Parliamentary Protective Service. See, e.g., testimony of Mayor Watson, TRN00000003 at p. 233.



questions about whether they had considered ticketing and towing protesters for traffic offences.<sup>449</sup> Chief Sloly was also aware at the time that a blockade at the Ambassador Bridge was forming and that it would impair the OPP and RCMP's ability to assist in Ottawa.<sup>450</sup> As it turns out, the Ambassador Bridge blockade immediately became a priority for the Premier and the OPP,<sup>451</sup> and resolving the protests in Ottawa and Windsor simultaneously was impossible.<sup>452</sup>

260. Chief Sloly's comments were meant to provide his command team with a level of awareness around the political realities facing the OPS at that time.<sup>453</sup> Absent proper cohesion and focus on developing a sound and detailed plan, Chief Sloly was concerned that the political pressures imposed on the Service would impair its ability to resolve the occupation.<sup>454</sup>

261. The reference to "political masters" was also not unique to Chief Sloly. For example, Christiane Huneault's notes from a February 3 NCR meeting record the following comment from someone with the initials RS or SR (likely Rob Stewart): "masters need to do something more

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<sup>449</sup> Readout of Tripartite Call of February 8<sup>th</sup>, SSM.NSC.CAN.00002052\_REL.0001 at p. 3. The Deputy Minister of Transport knew municipal police forces were unable to obtain towing resources at that time. He described the situation as "impossible" to resolve, even though the federal government spent nearly 10 days discussing the issue with its partners: testimony of Deputy Minister Keenan, TRN00000024 at pp. 253 – 254.

<sup>450</sup> Testimony of Chief Sloly, TRN00000012 at p. 193, TRN00000013 at pp. 133, 162.

<sup>451</sup> Readout of call between Premier Ford and Prime Minister Trudeau on February 9, SSM.CAN.00006068\_REL.0001 at p. 1 (Premier Ford notes that Windsor is the "bigger" problem for Ontario); statement of Premier Ford at First Ministers' meeting on February 14 (noting that Ontario "[threw] all our resources at that bridge"), SSM.NSC.CAN.00000625\_REL.0001 at p. 5; testimony of Superintendent Dana Earley, TRN00000019 at pp. 36 – 37, referring to Superintendent Earley's witness summary, WTS.00000022 at p. 2; notes of Superintendent Earley, OPP00004534 at pp. 1 – 2 ("Deputies advised whatever is needed for plan will be available. Province focus is Windsor"); Institutional report of the RCMP, DOJ.IR.00000011 at para. 250, p. 55, citing PB.NSC.CAN.00000568\_REL.0001.

<sup>452</sup> Testimony of Commissioner Carrique, TRN00000011 at pp. 94 – 95, 99 – 100, 275.

<sup>453</sup> See testimony of Chief Superintendent Parly who agreed in cross-examination that statements by federal, provincial and municipal politicians added to the complexity of the challenges facing Chief Sloly, TRN00000007 at p. 201.

<sup>454</sup> Testimony of Chief Sloly, TRN00000012 at p. 189.

constructive than just watching.”<sup>455</sup> In his testimony before the Commission, Mr. Kanellakos referred to certain branches of the provincial government’s lack of engagement as “direction from their political masters”.<sup>456</sup> Commissioner Carrique himself testified that he wouldn’t have used the word “worthy” but that he could “sympathise with why somebody may feel that way” and that could see “why [the conditions around the arrival of resources] might be described that way.”<sup>457</sup>

262. Chief Sloly was directly involved in and supported the arrival of an integrated command team from the outset. The assistance of the OPP and the RCMP was needed by the OPS and was welcomed by Chief Sloly. However, Chief Sloly also understood that it was important for the OPS to maintain its status as the police of jurisdiction and to remain as operational lead for the protests while integrating policing partners into the fold.<sup>458</sup> Under the PSA, it is the OPS which is legally responsible for the provision of adequate and effective policing in the City of Ottawa, absent an inability to do so, and that responsibility should not be assigned unless entirely necessary to a national or provincial service which is not accountable to the municipality in the same way and has fewer ties to the community being policed.<sup>459</sup> The importance of the police of jurisdiction remaining the operational lead whenever possible was emphasized by Commissioner Lucki who stated “Ottawa Police Service had the lead in that, and that was very, very important, that they –

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<sup>455</sup> OPS00014454 at p. 38. An explanatory note below one instance of “RS” indicates “Rob Stewart”: OPS00014454 at p. 36.

<sup>456</sup> Testimony of City Manager Kanellakos, TRN00000003 at p. 77.

<sup>457</sup> Testimony of Commissioner Carrique, TRN00000011 at p. 75.

<sup>458</sup> *Id* at p. 184.

<sup>459</sup> Deputy Solicitor General Di Tommaso insisted throughout his testimony that the OPS, with the support of the OPP, was maintaining adequate and effective policing at all times. See TRN00000021 at pp. 149, 241, 373 – 374.

there always has to be somebody who is taking the lead, and it's the police of jurisdiction."<sup>460</sup>  
There can be no suggestion that Chief Sloly's position in this regard was unreasonable.

263. At the same time that policing partners from the OPP and the RCMP were coming to Ottawa, the OPS was subject to intense political, public and media pressure. The Ministry of the Solicitor General had just released a statement praising the work of the Toronto Police Service and, in obvious contrast, stating, "We understand the Ottawa Police Service continues to express concerns about their ability to manage the ongoing occupation of the city ... To be clear, since the beginning of the protest, more than 1,500 Ontario Provincial Police personnel have been deployed to the City of Ottawa."<sup>461</sup> Around that time, the Federal Minister of Public Safety had also issued the inaccurate statement to the effect that 275 RCMP officers had been assigned to act under the OPS's command.<sup>462</sup>

264. As detailed above, both statements were grossly inaccurate.<sup>463</sup> Yet both public statements, made by Federal and Provincial Ministers, unfairly contributed to a public perception that the OPS was properly resourced yet ineffective. These public statements coincided with an unlawful motion passed by Ottawa's City Council to request that the RCMP assume jurisdiction over the protest red zone.<sup>464</sup> The fact that Chief Sloly was defending the position of his police service in these trying circumstances was appropriate and to be expected.

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<sup>460</sup> Testimony of Commissioner Lucki, TRN000000023 at p. 56.

<sup>461</sup> See: ONT00001912.

<sup>462</sup> SSM.CAN.00003603\_REL.0001; Transcript of press conference involving Minister Mendicino dated February 7<sup>th</sup>, OPS00008365 at p. 2.

<sup>463</sup> On the OPP numbers, see OPB00001014, ONT00005345, and testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 312. On the RCMP numbers, see testimony of Minister Mendicino, TRN00000028 at pp. 118 – 120.

<sup>464</sup> Testimony of Councillor McKenney, TRN00000002 at p. 225. See also: OTT00006610.

265. Finally, Chief Sloly's defence of the OPS's statutory jurisdiction did not impede integration or planning in any way, nor was it intended to do so. As explained, it was Chief Sloly who agreed to have integrated planners come to Ottawa on the evening of February 7<sup>th</sup>. On the afternoon of February 9, the OPS's planning team presented its updated plan to the OPS's policing partners. At this meeting, the participants agreed that planners from the OPS's policing partners would "continue to build and work with [Chief Sloly's] team and to build a plan to complement what their objectives were" from the concept of operations provided at that meeting.<sup>465</sup> Following this meeting, Chief Sloly was satisfied with the direction set out in the February 9<sup>th</sup> plan and was pleased to accept the integrated planning team and all other resource support offered by policing partners. Chief Sloly considered that the development of the operational plan and the integration of resources could be carried out by his incident command team and the OPS's planners.<sup>466</sup> From his perspective, what was agreed to on February 9 was the "plan", and it just needed to be continually updated as new resources arrived, with detailed subplans updated and filled out accordingly.<sup>467</sup>

## **THE MAYOR'S NEGOTIATION**

266. On February 12, Chief Sloly was advised by City Manager Steve Kanellakos of possible negotiations between a representative of Mayor Watson and a representative of the protesters.<sup>468</sup> Chief Sloly testified that he personally supported this engagement, as long as it did not result in political direction of police operations and so long as the agreement did "not run counter to the

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<sup>465</sup> Testimony of Chief Superintendent Pardy, TRN00000007 at p. 149.

<sup>466</sup> Witness Statement of Chief Sloly, WTS.00000040 at p. 36. This is corroborated by a note from Christiane Huneault which shows that Chief Sloly asked whether "the OPP/RCMP had officially folded into [OPS's] command structure." OPS00014454 at p. 142.

<sup>467</sup> See testimony of Chief Sloly, TRN00000012 at pp. 181 – 182, referring to WTS.00000040 at p. 36.

<sup>468</sup> Notes of February 12<sup>th</sup>, OPS00010638; Testimony of Chief Sloly, TRN00000012 at p. 266.

operational plan that was under the control of the Incident Commander.”<sup>469</sup> Until the point at which logistical support would be requested, Chief Sloly did not feel that the OPS should be involved in what was essentially a political negotiation that the City had asked him to keep confidential.<sup>470</sup> For that reason, Chief Sloly did not inform Superintendent Bernier of these negotiations until they were completed. Chief Sloly recognizes, in hindsight, that he should have shared this information with Superintendent Bernier for his “situational awareness” but he would not have wanted Superintendent Bernier to participate in these “political negotiations.”<sup>471</sup> There can be no suggestion, however, that Chief Sloly withheld this information or acted independently to keep it to himself, Deputy Chief Bell, who was serving as Major Incident Commander on February 12<sup>th</sup>, was aware of these negotiations at the time as well.<sup>472</sup>

267. Later in the day, Chief Sloly had a brief conversation with Mr. Kanellakos who advised that “there is substantial progress” and that an announcement might be made in the morning. It was reaffirmed that the City and the OPS were “completely separate” in these negotiations to date.<sup>473</sup> Chief Sloly had not been made aware of the details of the negotiations at this stage but was under the impression that trucks would be moved outside of the core.<sup>474</sup>

268. On the morning of February 13<sup>th</sup>, Mr. Kanellakos advised Chief Sloly that a deal had been reached and that an announcement would be made in the afternoon.<sup>475</sup> Notes of the call by Chief

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<sup>469</sup> Testimony of Chief Sloly, TRN00000012 at p. 266.

<sup>470</sup> *Id.* at pp. 266 & 269.

<sup>471</sup> *Id.* At pp. 267 – 268.

<sup>472</sup> Testimony of Deputy Chief Bell, TRN00000008 at p. 122.

<sup>473</sup> Chief Sloly notes of February 12<sup>th</sup>, OPS00010638 at p. 9.

<sup>474</sup> *Id.* At p. 10. Chief Sloly is recorded as having stated “Main convoy will remove their vehicles and put them outside. City has not asked us to do anything and nothing is signed.”

<sup>475</sup> Chief Sloly only received a draft of the letters exchanged between protest leaders and the Mayor once they were finalized, OTT00006985.0001.

Sloly's scribe state "there will be a significant reduction of trucks in the downtown core – will stage outside of the city."<sup>476</sup> Chief Sloly attended another meeting with City officials around noon. Notes of this meeting suggest that while an agreement to remove trucks from the residential area had been struck, there was no clear consensus on where they would be moved.

269. At the noon meeting, Chief Sloly is recorded as having stated that "[w]e [i.e., the OPS] have not been involved in the negotiation" and "without knowing the logistics of where they move, they might move into an area causing more traffic jams."<sup>477</sup> The notes of Kim Ayotte, the City's General Manager of Emergency and Protective Services, also show that participants were contemplating leasing farmland outside of the City to stage the trucks that were to leave residential areas.<sup>478</sup> It is clear that the City prioritized ensuring that trucks would leave residential areas and that decisions about where they would relocate would be worked out with the OPS.<sup>479</sup>

270. Chief Sloly asked Acting Deputy Chief Ferguson who the OPS representative should be and she recommended Superintendent Drummond, Deputy Chief Bell or Superintendent Dunlop to serve as a liaison with the City.<sup>480</sup> Chief Sloly asked Superintendent Drummond to assume the liaison role, to attend meetings and to report to Superintendent Bernier, the Event Commander.<sup>481</sup>

271. Chief Sloly had no further involvement in the matter of the Mayor's negotiation. Based on his notes, he learned at some point on February 14 that implementation of the negotiation would

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<sup>476</sup> OPS00011039 at p. 2.

<sup>477</sup> *Id* at p. 4.

<sup>478</sup> Transcribed notes of Kim Ayotte, OTT00030059.0001 at p. 13.

<sup>479</sup> Serge Arpin testified that "we [i.e., City staff and the Mayor's office] had no clear understanding of what proportion of trucks would end up going where" but that some would be on or near Wellington Street: TRN00000003 at p. 209.

<sup>480</sup> Notes of Chief Sloly dated February 13, OPS00011039 at p. 7.

<sup>481</sup> Witness Summary of Superintendent Drummond, WTS.00000050 at p. 7.

involve the movement of trucks onto Wellington Street.<sup>482</sup> As Event Commander, Superintendent Bernier facilitated this movement of trucks on the afternoon of the 14<sup>th</sup> before ultimately bringing it to an end on the morning of the 15<sup>th</sup>. Chief Sloly did not participate in this decision-making process or issue any direction about it.<sup>483</sup>

272. While the Mayor's negotiation did lead to the movement of some trucks, it was defied by many protesters.<sup>484</sup> As Superintendent Drummond testified, "I don't think it worked out the way that the City had hoped because they didn't see – not all the groups were aligned, and the groups didn't leave as they had hoped."<sup>485</sup> The efforts to implement these negotiations proved to be resource-intensive and of limited utility.

273. It is now clear that the protestors, given their disorganization and lack of leadership, could never have agreed to a comprehensive negotiation with the Mayor. For example, when Ms. Lich published a letter detailing an agreement to consolidate protest activities on Parliament Hill on behalf of the Freedom Convoy group, it was quickly rebuked by other protesters. Benjamin Dichter, who had been affiliated with Ms. Lich and was responsible for the Freedom Convoy group's social media communications issued a tweet stating "More fake news ... No deal has been struck."<sup>486</sup> Mr. Dichter then retweeted this communication from Ms. Lich's account, adding "the

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<sup>482</sup> See notes of Chief Sloly dated February 14, OPS00014566 at p. 8; Testimony of Chief Sloly, TRN00000012 at p. 273.

<sup>483</sup> Testimony of Chief Sloly, TRN00000012 at p. 275.

<sup>484</sup> Notes from call between Carson Pardy and Rob Bernier, OPP00003418. Inspector Beaudin testified that the outcome of the negotiation suggested that there was a "problem of the purported leaders getting buy-in", TRN00000009 at p. 193.

<sup>485</sup> Testimony of Superintendent Drummond, TRN00000010 at p. 257.

<sup>486</sup> COM00000831.

media lies to their viewers no ‘deal’ has been made. End the mandates. End the passports. That’s why we’re here.”<sup>487</sup>

274. Pat King for his part, released a video to his thousands of followers following the announcement of this agreement saying “it’s a lie ... get this out everywhere ... they have gone out and spread letters to the truckers. Truckers, in your trucks, do not move. Do not leave. There is no letter going out. There is no letter going around ... Do not leave the residential areas ... counter protesters went out, they passed out letters ... do not believe it.”<sup>488</sup>

## **PART IX - ROLE OF NAVIGATOR & ASI**

275. The occupation of Ottawa raised serious issues related to public confidence in the OPS. The importance of good communication in maintaining public confidence and public safety cannot be understated.<sup>489</sup> For this reason, OPS and the Board engaged Navigator Ltd. (“**Navigator**”) and Advanced Symbolics Inc. (“**ASI**”) to provide communications support during the Freedom Convoy events.<sup>490</sup>

276. Navigator and ASI had been retained months earlier to address the Board’s concern that OPS did not have enough resources in its communications department to maintain adequate communications.<sup>491</sup> As Chief Sloly testified, it is critical for a police service to gauge the public’s trust, as collaboration with the public is essential to maintaining effective policing.<sup>492</sup>

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<sup>487</sup> COM00000841; Testimony of Benjamin Dichter, TRN00000016 at p. 75.

<sup>488</sup> Multimedia database entry COM00000881 at timestamps 0:14 – 1:15.

<sup>489</sup> For example, the Mayor of Windsor was advised by the OPP to instruct City Councillors not to speak on the issues related to the demonstrations at the Ambassador Bridge because public communications by Ottawa City councillors had been used against police. See: WIN00000152.

<sup>490</sup> *Id.* at p. 161.

<sup>491</sup> Testimony of Chair Deans, TRN00000005 at p. 160; Testimony of Chief Sloly, TRN00000013 at p. 273.

<sup>492</sup> See: Testimony of Chief Sloly, TRN00000012 at p. 66 and TRN00000013 at p. 181.



277. There is no basis to suggest that Navigator or ASI were encouraged or allowed to influence OPS's operational and tactical decisions. While Acting Deputy Chief Ferguson stated in her interview with Commission Counsel, and in her notes, that she felt that Navigator was providing operational advice during the occupation, this evidence was not led from her at the public hearings and both Deputy Chief Bell and Chief Sloly testified that this was not the case.<sup>493</sup> Further, Acting Deputy Chief Ferguson did not raise any concerns about Navigator to Chief Sloly at the time during the convoy events.<sup>494</sup>

278. In cross-examination of Chief Sloly on this issue, counsel for the OPS read parts of the notes about Navigator, but Chief Sloly did not agree that Navigator or ASI provided operational advice to the OPS, let alone that such advice had been allowed to influence operations.<sup>495</sup> The Commission has heard no evidence that any of the discussions with Navigator or ASI informed the OPS's operational plans, and no witnesses from Navigator or ASI were interviewed or called to establish those facts.

279. Navigator and ASI provided strategic communications advice to the OPS and the Board during a crisis and neither the OPS, the Board, the Chief, or the consultants themselves should be criticized for these efforts.

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<sup>493</sup> Testimony of Deputy Chief Bell, TRN00000008 at pp.251 – 252; Testimony of Chief Sloly, TRN00000013 at pp. 69, 72.

<sup>494</sup> Testimony of Chief Sloly, TRN00000013 at p. 70; See also notes of Acting Deputy Chief Ferguson, OPS00014479 at p. 97, which record Acting Deputy Chief Ferguson as having begun to decline command meetings but do not record her having shared her specific concerns about Navigator with anyone at the service.

<sup>495</sup> Testimony of Chief Sloly, TRN00000013 at pp.61 – 69.

## **PART X - APPROVAL OF THE FINAL PLAN**

280. Following their February 9 meeting, the OPS and its policing partners worked in concert to evolve the operational plan. During this time, Chief Sloly requested briefings and information updates, but he did not ask that he approve the final document – he did not approve any version of the plan, nor as there any requirement that he do so. While there has been a suggestion throughout the hearings that Chief Sloly delayed approval of an integrated plan, the opposite is true.

281. Superintendent Bernier was appointed Event Commander on the evening of February 10<sup>th</sup> and assumed the role on the morning of the 11<sup>th</sup>. Superintendent Bernier testified that when he began as Event Commander, he had discussions with Chief Sloly about what he considered to be the appropriate demarcation between the strategic role of the Chief and the operational role of the Event Commander and that Chief Sloly accepted Superintendent Bernier’s view.<sup>496</sup> Superintendent Bernier added that a mutual understanding was reached over the Event Commander’s responsibility for approving the final iteration of the operational plan and that Chief Sloly did not “hold up” any such approval.<sup>497</sup>

282. This is borne out on the record before the Commission. Following the meeting on February 9<sup>th</sup>, Chief Sloly focused not on planning, but on trying to secure the resources that were needed to support the OPS’s plan and end the unlawful convoy events. On the afternoon of February 10<sup>th</sup>, Chief Sloly attended a meeting with representatives of municipal police forces and the OPP to discuss the arrival and integration of officers from other municipalities.<sup>498</sup> Following this meeting, Chief Superintendent Paré circulated an email to Chiefs of police across the province stating,

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<sup>496</sup> Testimony of Superintendent Bernier, TRN00000010 at pp. 76, 78.

<sup>497</sup> *Id.* at p. 76.

<sup>498</sup> Notes of Christiane Huneault, OPS00014454 at p. 145; Testimony of Superintendent Bernier, TRN00000009 at p. 286.

“Our Integrated Planning Cell composed of RCMP, Peel, York, Toronto and OPP personnel are mobilizing resources in support of the OPS Operations plan.”<sup>499</sup>

283. On February 11, Chief Sloly attended an evening briefing by Superintendent Bernier. Superintendent Bernier advised Chief Sloly that he was amending the mission statement and that he had selected Inspector Springer of the OPP to serve as his Deputy Event Commander in furtherance of his objective of setting up an “Integrated Command Table”.<sup>500</sup> Superintendent Bernier’s testimony and notes both confirm that later that evening he had a “check-in” conversation where he briefed Chief Sloly on the status of his integrated organizational chart, mission statement and the development of the operational plan. Chief Sloly responded that he was okay with everything Superintendent Bernier told him.<sup>501</sup> Chief Sloly understood and supported Superintendent Bernier’s decision to appoint a Deputy Event Commander from the OPP as it ensured that decisions made by the OPS’s command team were made in conjunction with its policing partners. This ensured that the OPS did not inappropriately take unilateral action outside of the integrated framework.

284. That night, Acting Deputy Chief Ferguson received an email from Superintendent Lue of the RCMP with a slide deck outlining the work that had been undertaken to evolve the operational plan. He wrote: “Obviously this plan originated with your plan, which we examined, bolstered and strengthened.”<sup>502</sup> Acting Deputy Chief Ferguson forwarded this email to Chief Sloly, Deputy Chief Bell and Superintendent Bernier, adding “I am very pleased with the approach and have had

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<sup>499</sup> Email of Chief Superintendent Pardy, OPS000009639.

<sup>500</sup> Notes of Christiane Huneault, OPS00014454 at p. 159. This is reflected in the command structure of the February 13<sup>th</sup> version of the Operational Plan, OPP00001851 at p. 22.

<sup>501</sup> Testimony of Superintendent Bernier, TRN000000009 at p. 302; Notes of Superintendent Bernier, OPS00010050 at p. 17.

<sup>502</sup> OPS00010470.

some conversation about goals and objectives. I think perhaps a teams meeting tonight to go through it and provide clarity to any questions may be effective.”<sup>503</sup>

285. That meeting was held at 3:00 in the afternoon on February 12<sup>th</sup> and included representatives from the OPS, OPP and RCMP who briefed Chief Sloy on the progress of the integrated planning team. While Chief Superintendent Pardy testified that he left this meeting with the impression that Chief Sloy’s approval was still required,<sup>504</sup> this impression was not shared by others present on the call. Superintendent Bernier testified that while there were moments of tension at this meeting, once he clearly communicated the status of the plan he understood that Chief Sloy’s sign off was no longer needed.<sup>505</sup> The contemporaneous scribe note reads “Chief good with everything so far.”<sup>506</sup> In the hours following this meeting, both Commissioner Carrique and Commissioner Lucki sent messages indicating that Chief Sloy accepted the plan but that final sign-off at the operational level (i.e. Event Commander Bernier) was outstanding.<sup>507</sup>

286. On February 13, Commissioner Lucki called Chief Sloy to ask whether he had approved the plan, despite having sent the messages noted above the previous day. Commissioner Lucki testified that Chief Sloy told her that there was no need for him to sign off on the plan – she confirmed that her impression that Chief Sloy had been delaying approval was based on “erroneous information.”<sup>508</sup> Following this discussion, Chief Sloy wrote to Acting Deputy Chief Ferguson, requesting a copy of the latest version of the operational plan (which he noted that he

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<sup>503</sup> *Id.*

<sup>504</sup> Testimony of Chief Superintendent Pardy, TRN00000007 at p. 170.

<sup>505</sup> Testimony of Superintendent Bernier, TRN00000010 at p. 18.

<sup>506</sup> OPS00010638 at p. 6. See also testimony of Superintendent Bernier, TRN00000010 at p. 18.

<sup>507</sup> Text message from Commissioner Carrique to Deputy Minister Di Tommaso, OPP00004580 at p. 109. Teams messages internal to the RCMP, PB.NSC.CAN.00008040 at p. 15.

<sup>508</sup> Testimony of Commissioner Lucki, TRN00000023 at p. 188.

had approved on February 9) in order to clear up confusion related to Commissioner Lucki's question. Acting Deputy Chief Ferguson responded at 6:00 p.m., stating that Superintendent Bernier was still reviewing the plan obtained from the Integrated Planning team and that he would sign off on it shortly, and attaching the last version of the document that Chief Sloly had reviewed on February 9<sup>th</sup>.<sup>509</sup>

287. As Chief Sloly testified, the version of the integrated plan approved by Superintendent Bernier on February 13 "was significantly more evolved than the 9<sup>th</sup> plan, but they were the same continuity of iterations from the pre-plan that we had on January 28<sup>th</sup>."<sup>510</sup> Chief Superintendent Parry gave similar evidence, with respect to the continuum between the OPS's operational plan and the work of the integrated planning team: "I appreciate that when you look at it from an appearance perspective, they look like very different plans. At its core, however, the plan that we developed was a build-on in support of, to complement the plan that – the concept that they had in place."<sup>511</sup>

288. The Commission has also heard a suggestion that Chief Sloly delayed the development and implementation of the integrated operational plan by seeking the approval of OPS's General Counsel, Christiane Huneault. Chief Sloly has explained that as a general matter, he prefers that counsel review documentation related to major events but that he did not ask Ms. Huneault to approve any operational plans and that he is not aware of this review process having caused any delay.<sup>512</sup> Superintendent Bernier corroborated this account, testifying that he (Superintendent

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<sup>509</sup> OPS00010711; OPP00001547.

<sup>510</sup> Testimony of Chief Sloly, TRN0000012 at p. 209.

<sup>511</sup> TRN00000007 at p. 154.

<sup>512</sup> Witness Summary of Chief Sloly, WTS.00000040 at p. 42.

Bernier) had asked Ms. Huneault to review the operational plan to ensure that it did not pose any legal risk to the OPS without, however, requiring that she provide formal approval.<sup>513</sup>

289. There is nothing unusual in that respect. For example, the OPP have an operational check that requires approval from the senior command before a POU operation begins and it was implemented in Windsor when Superintendent Earley requested approval from Deputy Commissioner Harkins to begin.<sup>514</sup> The OPP and RCMP both rely on legal reviews as would be prudent.<sup>515</sup>

290. In sum, the evidence before the Commission shows that once the integrated planning team began its work in Ottawa, Chief Sloly properly delegated the work of evolving the OPS's February 9<sup>th</sup> operational plan into an implementable, integrated operational plan which was ultimately signed off on by representatives of the RCMP, the OPP and the OPS on February 13<sup>th</sup> ("February 13 Plan"). This plan was updated as needed and successfully deployed to bring the occupation to an end.

291. In his testimony, Prime Minister Trudeau suggested that the February 13 Plan was insufficient, or, as he put it, "was not a plan at all"<sup>516</sup> when compared to the version on February 17. Three things are important to note about the Prime Minister's comments.

292. First, the Prime Minister did not read the February 13 or the February 17 plans at the time of these events or before his testimony before the Commission. There is no indication in his

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<sup>513</sup> Testimony of Superintendent Bernier, TRN00000010 at p. 75.

<sup>514</sup> Witness Summary of Superintendent Earley, WTS.00000022 at p. 6.

<sup>515</sup> For example, when the OPS requested that the OPP assist in interdicting fuel seizure, the OPP sought a Crown legal opinion. Testimony of Commissioner Carrique, TRN00000011 at p. 61.

<sup>516</sup> Testimony of Prime Minister Trudeau, TRN00000031 at p. 61-62

evidence or witness summary that he read any OPS plan.<sup>517</sup> Rather, he would “leave it up to [the] experts to draft, review, and approve Operational Plans” and did not have the “capacity ... to engage in any line-by-line review or assessment” of such plans.<sup>518</sup> The quality of the February 13 plan did not figure in his decision to follow the recommendation of the Clerk of the Privy Council to invoke the *Emergencies Act* and was an after-the-fact observation. Even as an after-the-fact observation, the Prime Minister’s comment was made without the benefit of reading the actual plans. This is not surprising as it would never be a Prime Minister’s responsibility to review and comment on detailed operational plans of a municipal police service.

293. Second, the February 13 plan continued to evolve until the operation began on February 18, including by the updated plan of February 17.<sup>519</sup> Thus the Prime Minister’s comparison of the two plans does not support a conclusion that the February 13 plan was inadequate. Like every operational plan before the Commission, whether in Windsor, Coutts or Ottawa, the process was iterative and reflected proper practice.

294. Third, the Prime Minister’s evidence stands in contrast to Commissioner Lucki’s evidence. When the February 13 Plan was put to the Prime Minister in evidence, he stated “I can’t speak to whether this is a good plan or a complete plan or not, I haven’t read this obviously”<sup>520</sup> and that in general, he “relies on the inputs of the experts around [him] to reassure [him] or not that there is a capacity to move forward.” The key expert around him would be Commissioner Lucki, who

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<sup>517</sup> The only reference to a “plan” in Prime Minister Trudeau’s interview summary is to the engagement proposal developed by Deputy Minister Stewart: WTS.00000084 at p. 7. His testimony confirms that he had not read any plan: Testimony of Prime Minister Trudeau, TRN00000031 at pp. 111 – 112, 114, 118, 124, 165-166.

<sup>518</sup> Testimony of Prime Minister Trudeau, TRN00000031 at p. 118.

<sup>519</sup> Testimony of Chief Superintendent Parly, TRN00000007 at p. 183.

<sup>520</sup> Testimony of Prime Minister Trudeau, TRN00000031 at p. 124.

testified that she and Commissioner Carrique were both “satisfied” with the February 13 Plan<sup>521</sup> which both the RCMP and the OPP had signed off on. The readiness and support for the plan can be evidenced by the fact that the February 13 Plan, in combination with the end of the Windsor border blockades, resulted in the massive deployment of RCMP officers from across Canada, and OPP officers from across Ontario.<sup>522</sup>

295. Superintendent Bernier of the OPS, portions of whose evidence was led through the Prime Minister to suggest that the February 13 Plan was not ready, in fact testified that he was “satisfied” the plan was sufficient to end the occupation.<sup>523</sup> It was “ready to implement.”<sup>524</sup>

296. It appears that the Prime Minister was simply not briefed by the RCMP on its view regarding the February 13 Plan. The Prime Minister was unable to reconcile his testimony with Commissioner Lucki’s evidence that the RCMP was “satisfied with the plan”.<sup>525</sup> When Commissioner Lucki’s testimony was put to him, the Prime Minister was unable to comment.<sup>526</sup>

297. Presumably, if Commissioner Lucki had been asked by Cabinet at the time, or had offered her views, she would have expressed her satisfaction with the February 13 Plan, advised that the Plan had been signed off on by the RCMP, and indicated that the RCMP was deploying hundreds

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<sup>521</sup> Testimony of Commissioner Lucki, TRN00000023 at pp. 69 – 70.

<sup>522</sup> Testimony of Commissioner Lucki, TRN00000023 at p. 36.

<sup>523</sup> Testimony of Superintendent Bernier, TRN00000010 at p. 37.

<sup>524</sup> Witness Summary of Superintendent Bernier, WTS.00000030 at p. 18. Given the fact that the plan was developed in crisis, it continued to change on a daily basis, but this was to be expected. See e.g. Testimony of Chief Superintendent Pardy, TRN00000007 at p. 146.

<sup>525</sup> Testimony of Prime Minister Trudeau, TRN00000031 at pp. 166 –168, referring to testimony of Commissioner Lucki, TRN00000023 at pp. 69 – 70.

<sup>526</sup> Testimony of Prime Minister Trudeau, TRN00000031 at p. 168.



of officers from across the country to support the plan. If Cabinet was not properly briefed, that is an issue with the briefing and not with the plan.<sup>527</sup>

298. The evidence of those with actual knowledge of the operational planning underway at the time shows that as of February 13<sup>th</sup>, the OPS, OPP and RCMP had approved an integrated plan to end the occupation in Ottawa. The OPS just did not have sufficient resources to implement it and to safely end the occupation. While support was arriving gradually, an exponential increase in deployable officers only took place through the week of February 14.<sup>528</sup>

299. The Prime Minister seems to have taken the view that the existence of the February 13 plan was not entitled to weight because he had been told other plans had been made but had not been able to be acted upon, and he was not going to count on this one. That is a view he could take, but it should not be added to the balance in the consideration of the quality of the February 13 Plan, or the role of OPS and Chief Sloly.

## **PART XI - RELATIONSHIP WITH THE BOARD**

300. Commission Counsel led a good deal of evidence about the workings of the Board and the issue of the relationship between the Board and the Chief and the rest of the OPS. It is important to situate the Commission in respect of this issue since it is purely a matter of Provincial and municipal concern and its connection to the mandate of the Commission is limited.

301. Chief Sloly respected the role of the Board and together with his senior command team, briefed the Board and the Chair appropriately and regularly both before and during the protests

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<sup>527</sup> Testimony of Commissioner Lucki, TRN0000023 at p. 81.

<sup>528</sup> Testimony of Commissioner Lucki, TRN0000023 at p. 36.

and occupation. He was mindful, however, of the Board's challenges in maintaining confidentiality, as described below.<sup>529</sup>

302. As the occupation progressed, the Board put tremendous pressure on Chief Sloy to advise them of the OPS operational plan and to take greater enforcement action.<sup>530</sup> Given the volatile and unprecedented nature of the events in Ottawa, the evolving planning, the lack of resource reliability and the leaks of operational information, Chief Sloy provided an amount of information to the Board which was appropriate and sufficient for the Board to fulfill its oversight function. Over the course of the occupation, Chief Sloy met repeatedly and at length with the Board and was in regular contact with Chair Deans. The information provided was more than the functional equivalent of what was contemplated in the Morden Report.<sup>531</sup>

303. On January 25<sup>th</sup>, before the Convoy's arrival, the OPS issued a communication to the Board advising that a significant demonstration was headed to Ottawa, that traffic disruptions could be expected and that it remained unclear how many trucks would arrive and how long they may stay.<sup>532</sup>

304. On January 26<sup>th</sup>, a special Board meeting was held and Chief Sloy and his senior command team provided a detailed briefing on the status of the OPS planning, consistent with the intelligence obtained by the OPS. Chief Sloy identified that facilitating the right to peaceful protest and

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<sup>529</sup> Testimony of Diane Deans, TRN00000019 at p. 111; witness summary of Graham Wight, WTS.00000081 at p. 4; testimony of Chief Sloy, TRN00000012 at p. 254.

<sup>530</sup> Testimony of Diane Deans, TRN00000019 at pp. 48 – 49, 181 – 182; testimony of Chief Sloy, TRN00000012 at p. 251; minutes of February 5 special meeting of the Board, OPB00001264.

<sup>531</sup> See: Minutes of January 26<sup>th</sup> board meeting, OPB00001257; Notes from February 1<sup>st</sup> Board Briefing, OPB0001624; Minutes from February 5 Board Meeting, OPB00001264; Minutes of February 11<sup>th</sup> OPSB meeting, OPB00001272. In Camera Minutes of February 11<sup>th</sup> OPSB meeting, OPB00001648. Chief Sloy also provided a public briefing to City Council at a meeting on February 7<sup>th</sup> which lasted several hours, Testimony of Chief Sloy, TRN00000013 at p. 158.

<sup>532</sup> OPS00002978.

maintaining the public's safety were the Service's priorities. Because the Convoys had been reportedly peaceful and lawful as they crossed the country, the OPS could not deny them access to the core.<sup>533</sup>

305. At this stage, the incoming protests were assessed to be significant and challenging but they were not anticipated to threaten the OPS's ability to provide adequate and effective policing. The information provided by Chief Sloly was consistent with this understanding and consistent with the degree of information sought by the Board. Chair Deans did not request an *in camera* meeting and testified that she left that meeting feeling that she and the OPS were "s[i]mpatico" with respect to what the Service's high level priorities should be.<sup>534</sup>

306. On February 1<sup>st</sup>, following the first weekend, Chief Sloly attended a Board briefing where he answered numerous questions from members.<sup>535</sup> In response to a question about his authority to dismantle the occupation, Chief Sloly stated: "There are authorities that as Chief of police I have to intervene in their protests, but I do not have unlimited resources and can only use use of force tactics in specific circumstances. ... A lot of my decisions are based on board priorities, mood of the crowd, etc."<sup>536</sup>

307. At this meeting, OPS counsel further briefed the Board on the legal framework guiding the OPS. The Board did not discuss a change in priority, provide any suggestions to the OPS or attempt

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<sup>533</sup> See minutes of January 26<sup>th</sup> board meeting, OPB00001257.

<sup>534</sup> TRN00000005 at p. 17.

<sup>535</sup> Notes from February 1<sup>st</sup> Board Briefing, OPB00001624.

<sup>536</sup> *Id.* at p. 7.

to develop policies in respect of the Freedom Convoy. Chief Sloly answered all questions that were asked of him as well as he could in the circumstances.<sup>537</sup>

308. Chief Sloly and his senior command team provided a further briefing to the Board and Council on February 2<sup>nd</sup>. At this briefing, Chief Sloly set out all the enforcement methods that the OPS had available and was deploying but also made clear that additional resources would be needed for the OPS to safely bring the occupation to an end.<sup>538</sup> The next day, Chair Deans wrote to Chief Sloly and stated “the Board is here to support you and willing to help you in any way we can.”<sup>539</sup> Chief Sloly advised Chair Deans that he was actively seeking assistance from the OPP, the RCMP and municipal police partners but that he “encouraged” her to use her influence to obtain additional resources for the OPS. Chief Sloly then invited Chair Deans to “let [him] know if [she] needed any more information.”<sup>540</sup>

309. Chair Deans then called a Board meeting for February 5<sup>th</sup>. Chair Deans testified that the “sole purpose” of that meeting was to ask Chief Sloly which specific resources he needed to bring about a safe end to the occupation.<sup>541</sup> This meeting served its purpose. Within 24 hours of it being held, Chief Sloly indicated to Chair Deans that the OPS required 1,800 additional officers to end the protests.<sup>542</sup>

310. At the meeting of February 5<sup>th</sup>, the Board requested further information on the operational plan which was in place at the time. Chief Sloly briefed the Board on the Neighbourhood Subplan,

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<sup>537</sup> *Id.*

<sup>538</sup> This briefing was canvassed above in the section titled “There May Not Be a Policing Solution”.

<sup>539</sup> Email from Chair Deans to Chief Sloly dated February 3<sup>rd</sup>, OPB00000424.

<sup>540</sup> *Id.*

<sup>541</sup> Testimony of Chair Deans, TRN00000005 at p. 25.

<sup>542</sup> *Id.* at p. 54.

explaining that every available OPS member was on active duty.<sup>543</sup> While there appeared to be some frustration from the Board about the state of the OPS's plan, Chief Sloly was clear to point out at the *in camera* portion of the meeting that the OPS was doing everything it could but that absent an influx of resources the relative effect of these efforts would be limited.<sup>544</sup> The Board at this meeting was also advised that a public order strategy to remove all of the demonstrators from Wellington Street would require the equivalent of every public order unit in Ontario<sup>545</sup> and that the OPS was exploring various options that it could implement if that became feasible.<sup>546</sup> This accurately reflected the state of the OPS at that time.

311. Chief Sloly also said that the OPS had a comprehensive plan but that he could not share the details of this plan with the Board because it was operationally sensitive. As Chief Sloly testified, the OPS had an operational plan (see the February 5 Operational Plan)<sup>547</sup> but did not have a plan that he could definitively say would end the occupation, as the OPS did not have the resource consistency or predictability to devise such a plan in the required degree of detail.<sup>548</sup>

312. Chair Deans understood this, testifying that "I definitely had the impression that we didn't have the resources to bring about an end to this occupation. He'd made that very clear. So yes, you need to understand your resource availability in having an operational plan."<sup>549</sup> While the absence of an easy and immediate solution was understandably frustrating to the Board, as Deputy Solicitor

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<sup>543</sup> Minutes from February 5 Board Meeting, OPB00001264

<sup>544</sup> Ontario Ministry of Solicitor General minutes from February 5<sup>th</sup> Board Meeting, ONT00001115.

<sup>545</sup> OPSB *In Camera* February 5<sup>th</sup> Board Meeting Minutes, OPB00001647 at p. 3.

<sup>546</sup> Ontario Ministry of Solicitor General minutes from February 5<sup>th</sup> Board Meeting, ONT00001115 at p. 4.

<sup>547</sup> See: February 5 Operational Plan, OPS00006941; testimony of Chief Sloly, TRN00000012 at pp. 86 – 87, 251 – 252.

<sup>548</sup> Testimony of Chief Sloly, TRN00000012 at p. 255.

<sup>549</sup> Testimony of Chair Deans, TRN00000005 at p. 49.

General Di Tommaso explained, a detailed and implementable plan was an “incredibly difficult and complex” undertaking requiring time and subject matter expertise.<sup>550</sup>

313. The final Board meeting to which Chief Sloly participated as Chief took place on February 11<sup>th</sup>. At this meeting, Chief Sloly with his senior command team provided the Board with an update on the OPS’s priorities and the status of their resource requests. He explained that the OPS’s specific focus was on neighborhood safety but that the overarching priority was to end the occupation. Chief Sloly added that progress had been made on resourcing but added *in camera* that the OPS did not have the resources to transition their maintenance approach to an assertive one.<sup>551</sup>

314. At this time, the OPS’s planning team was working with partners from the OPP and the RCMP to finalize a detailed plan to integrate resources from across the country in anticipation of a move toward what would become the largest public order operation in Canadian history.<sup>552</sup> Neither the minutes of this meeting nor the testimony of Chair Deans suggests that Chief Sloly refused to participate in meaningful dialogue at this meeting or that Board was unable to exercise any of the oversight functions it intended to at that meeting.

315. Finally, sometime on February 13 and 14, Chair Deans requested that Chief Sloly provide additional information on operational planning to the Board so the Board could, in turn, issue a press release on police operations, as the Toronto Police Services Board had recently done.<sup>553</sup>

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<sup>550</sup> Testimony of Deputy Solicitor General Di Tommaso, TRN00000021 at p. 310.

<sup>551</sup> Minutes of February 11<sup>th</sup> OPSB meeting, OPB00001272. In Camera Minutes of February 11<sup>th</sup> OPSB meeting, OPB00001648.

<sup>552</sup> Testimony of Acting Superintendent Beaudin, TRN00000009 at pp. 166, 168.

<sup>553</sup> See email from Jessica Bradley to John Steinbachs, February 14 at 6:54 pm, OPS00011100 (confirming Chair Deans’s request). One such request was initially sent by Christiane Huneault to Pat Morris: see OPP00001538 (email sent February 13 at 10:24 am).

Chief Sloly reached out to Chief Superintendent Pardy and Inspector Morris of the OPP to request that they attend and assist in providing an operations and intelligence update the Board.<sup>554</sup>

316. It is noteworthy that when asked by Chair Deans whether he would be doing anything any differently than Chief Sloly, Deputy Chief Bell said he would not.<sup>555</sup>

317. The *Independent Civilian Review into Matters Related to the G20 Summit* (“Morden Report”) was the subject of considerable questioning by Commission Counsel. The Morden Report was commissioned for the Toronto Police Services Board and does not have the force of law, nor even an endorsement from the Ministry of the Solicitor General. It provides helpful guidance, but it should be understood in the context for which it was prepared: a planned event in another jurisdiction under the governance of a different Board. Extending its reach to this situation is not justified or within the Commission’s mandate. That is especially true where Ontario is poised to proclaim a new legislative scheme to address the issues of oversight.<sup>556</sup>

318. In any case, the Morden Report sets out that “the overall purpose of the consultation between a police board and chief of police is to identify the elements that are required for the police service to deliver adequate and effective policing within the municipality.”<sup>557</sup> Where a critical point arises, that is, an organizationally significant event which requires advance planning at the command level and which is susceptible to, depending on the decisions made, impact the adequacy

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<sup>554</sup> Testimony of Superintendent Morris, TRN00000005 at pp. 282 – 283; Testimony of Chief Superintendent Pardy, TRN00000007 at p. 201.

<sup>555</sup> Testimony of Interim Chief Bell, TRN00000012 at p. 233.

<sup>556</sup> See *Community Safety and Policing Act, 2019*, being Schedule 1 to Bill 68, *Comprehensive Ontario Police Services Act, 2019*, SO 2019, c 1.

<sup>557</sup> Morden Report, COM00000616 at p. 99.

and effectiveness of policing in the jurisdiction, the Chief of Police has an obligation to brief the Board.<sup>558</sup>

319. The Morden Report clarifies that in these cases, “the Chief of Police should provide the Board with an operational briefing that outlines the broad contours of the operation/event/issue, highlights the Board policies that apply, if any, that may apply, and generally ensures that the Board is informed of what is going to take place.”<sup>559</sup> This is colloquially referred to in the report as the “what” of the operation, not the “how” – the purpose of the discussion of operations is not to review “technical elements” but to ensure that they are “consistent with the mission or objectives stated by the Board” and that the operations have the “benefit of an adequate policy framework.”<sup>560</sup>

320. The Morden Report was drafted in the context of an operation that had been planned for months<sup>561</sup> and set out a concept of “operational responsibility” which encompasses “the police service sharing operational information with the police board both *in advance of* and *after the operation*, thereby enabling the police board to engage in prospective governance and retrospective accountability.”<sup>562</sup> The Board was not briefed once during the G20 protests.<sup>563</sup> Even then, the Morden Report warns against the possibility that information-sharing obligations could become “overwhelming” for a police service.<sup>564</sup> The events related to the Freedom Convoy were unplanned, unforeseen, unprecedented, and extremely fluid. This limited Chief Sloly’s ability to

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<sup>558</sup> *Id* at p. 104 – 105.

<sup>559</sup> *Id* at p. 105.

<sup>560</sup> *Id* at p. 108.

<sup>561</sup> *Id* at p. 24.

<sup>562</sup> *Id* at p. 114, emphasis added.

<sup>563</sup> Morden Report, COM00000616 at p. 196.

<sup>564</sup> *Id.* at p. 104.



provide detailed and up to date information. Chief Sloly's responsibility to provide information to the Board must be understood in that context.

321. While the *Report of the Independent Civilian Review into Missing Person Investigations* conducted by Justice Gloria Epstein ("Epstein Report") refers to continued consultation and information-sharing between a Chief and a Board as an operation is carried out,<sup>565</sup> the degree of information a Board can reasonably expect must depend on the nature and volatility of the event in question. The Epstein Report dealt with a lengthy missing persons investigation, not an unanticipated national security crisis.

322. The Morden Report also states that the "recommendation that operational information should be provided to the Board in advance could be resisted on the basis that this type of operational information is sensitive in nature" and could compromise the operation if released to a third party.<sup>566</sup> The PSA sets out a scheme to protect sensitive information which includes the statutory power to hold *in camera* board meetings and the oath of secrecy which binds board members. Pursuant to the Morden Report, this scheme creates a "presumption of trust" between a chief and their Board.<sup>567</sup>

323. A presumption can be rebutted. Where a chief of police reasonably has concerns about their board's ability to maintain confidentiality, a chief must be entitled to be circumspect in what information is shared, while still providing the board with the information it needs to ensure that the service provides adequate and effective policing. Kenneth Weatherill, the Inspector General of

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<sup>565</sup> The Honourable Gloria J. Epstein, *Report of the Independent Civilian Review into Missing and Person Investigations*, vol 3, COM00000820 at p. 70 [Epstein Report].

<sup>566</sup> Morden Report, COM00000820 at p. 105.

<sup>567</sup> *Id* at p. 104.

Policing for Ontario in the Ministry of the Solicitor General, stated in his interview that all information shared in *in camera* board meetings is confidential and a board member could be suspended or removed for divulging any such information.<sup>568</sup>

324. Throughout the occupation, the OPS and its policing partners suspected that sensitive information related to pending operations had been linked to protesters on the ground. The OPP reported to the OPS “several ... operational security breaches in Ottawa,” at least one of which was linked to a social media post referring to a city worker as a source.<sup>569</sup> Chief Sloly was also aware of the Board’s history of leaks. This history of leaks was corroborated by Chair Deans in her testimony and in the witness summary of Graham Wight referencing the Board as a “leaky organization”.<sup>570</sup>

325. While Chair Deans testified that she would have liked to have more operational information, she also conceded that “on one level” she accepted Chief Sloly’s concerns for confidentiality, noting that “the City has a way of [confidential information] not becoming a secret for so long.”<sup>571</sup> Mr. Weatherill for his part expressed “concerns” to Commission Counsel about the extent of the information shared with the OPSB by Chief Sloly,<sup>572</sup> he conceded in cross-examination that he had no contact with any member of the Board or the OPS,<sup>573</sup> that he did not watch *in camera* portions of the hearings<sup>574</sup> and that it would be “unlikely” that he would have

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<sup>568</sup> Interview summary of Inspector General Weatherill, WTS.00000080 at p. 5.

<sup>569</sup> Internal OPP email chain dated February 10, OPP00001349. See also notes from OPS Convoy briefing #18 dated February 8, OPS00008418. Chief Sloly’s notes of February 14 make further reference to “unvaxed members leaking police operations,” OPS00014566 at p. 11.

<sup>570</sup> Testimony of Chair Deans, TRN00000005 at p. 111; interview summary of Graham Wight, WTS.00000081 at p. 4.

<sup>571</sup> Testimony of Chair Deans, TRN00000005 at p. 78.

<sup>572</sup> Witness Summary of Kenneth Weatherill, WTS00000080 at p. 4.

<sup>573</sup> Testimony of Kenneth Weatherill, TRN00000030 at p. 330.

<sup>574</sup> *Id.* at p. 335

attended the entirety of the briefings.<sup>575</sup> He also stated that he did not know that the Board struggled with leaks and agreed that it would be responsible for a Chief to “be careful” about releasing sensitive operational information where leaks are possible.<sup>576</sup> While he suggested that concerns about leaks ought to be raised with the Ontario Civilian Police Commission, such a solution was impractical in the middle of an ongoing crisis like this occupation as it would not have resolved the issue in time.<sup>577</sup> It was later reported in the media that one of the Board members had attended the protests on Wellington and reportedly declined to answer whether he had donated food from his restaurant to protesters.<sup>578</sup> Mr. Weatherill was not aware of this fact either.<sup>579</sup>

326. A Chief’s obligation to brief the Board is intended to form part of a reciprocal exchange aimed at ensuring that the Board can develop policies to guide the service’s operations.<sup>580</sup> A Chief should only be expected to provide information that the Board seeks to carry out a particular element of its mandate. As Chair Deans testified, she viewed the role of the Board during the occupation as ensuring that the OPS had the resources it needed because it would have been more appropriate to examine the details of the operation through a *post-mortem*.<sup>581</sup> With the assistance of Chair Deans in obtaining resources from the OPP and the RCMP, the OPS eventually got the resources it needed.<sup>582</sup> Chief Sloly’s briefings to the Board provided it with the information it needed to exercise that function.

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<sup>575</sup> *Id.* at p. 337

<sup>576</sup> *Id.* at p. 338; Witness Summary of Kenneth Weatherill, WTS00000080 at p. 5.

<sup>577</sup> *Id.* at p. 337.

<sup>578</sup> Testimony of Chair Deans, TRN00000005 at p. 112.

<sup>579</sup> Testimony of Kenneth Weatherill, TRN00000030 at p. 338.

<sup>580</sup> Morden Report, COM00000616 at p. 22. The Board did not develop any new policies in relation to the protests and the minutes of the Board meetings held in relation to the protest show that it did not attempt to do so. Witness Summary of Councillor King, WTS.00000002 at p. 1; Testimony of Chair Deans, TRN.00000005 at p. 80.

<sup>581</sup> *Id.* at p. 89.

<sup>582</sup> Testimony of Mario Di Tommaso, TRN00000021 at p. 150.

327. In sum, pursuant to the PSA, the Board had an obligation to ensure the adequacy and the effectiveness of the policing offered by the OPS. Throughout the occupation, Chair Deans stated that her objective was to assist the OPS in obtaining the resources that it needed to bring the occupation to an end. Chief Sloly provided the Board with the information it required to perform that function. While Chair Deans has testified that she was not always satisfied with the degree of information she had received, Chief Sloly provided the most detailed information that he could, bearing in mind the legitimate concerns related to leaks of operational information at the time and the constantly evolving situation on the ground.

## **PART XII - RESIGNATION**

328. On February 15<sup>th</sup>, Chief Sloly resigned as Chief of the OPS.<sup>583</sup>

329. Even though the OPS and Chief Sloly did their very best to keep the City safe during the crisis, there was, understandably, significant public frustration with the ongoing unlawful activities taking place in the City and a desire for the police to move quickly to end the situation.<sup>584</sup> Unfortunately, there was no solution for this unprecedented crisis until the OPS had the resources that Chief Sloly, the OPS, the Mayor and the Chair of the Board had been asking for.

330. The public's frustration was also fed by unhelpful statements by government officials. The Minister of Emergency Preparedness had issued public statements referring to the lack of police

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<sup>583</sup> COM00000659.

<sup>584</sup> See eg: TRN00000029 at p. 19. Councillor McKenney testified that counter-protests took place because members of the public felt it was their only way to ensure that "what was happening to our city was going to be responded to", TRN0000002 at p. 198. Commissioner Carrique for his part, referred to counter protests as a "concern throughout", TRN00000011 at p. 180. Superintendent Earley referred to possible presence of counterprotesters as "a significant issue for public and officer safety." The Clerk of the Privy Council, for her part, testified that declining trust and confidence in institutions like law enforcement led to people "taking matters into their own hands" – including at the Billings Bridge counter protest, TRN00000026 at p. 209. Ms. Deans echoed that testimony: TRN00000005 at p. 178.

enforcement as “inexplicable” and stating that police needed to “do their job.”<sup>585</sup> While Minister Blair walked those comments back before the Commission,<sup>586</sup> such comments left a very public impression that the Federal government had lost confidence in Chief Sloy and the OPS.

331. Similar pressures were mounting against the OPS and Chief Sloy from City Hall and the Board. About a week before his resignation, Chair Deans called Chief Sloy and told him that “a lot of people in this city want your head.”<sup>587</sup> Chief Sloy testified that this comment simply “piled onto the hundreds if not thousands of other comments” he had been receiving at the time, including comments in the media about the performance and efforts of the OPS which he characterized as “crushing to morale” throughout the organization.<sup>588</sup>

332. This growing lack of confidence came to a head on the evening of February 14 when Chair Deans called Chief Sloy and asked him if he would consider resigning. While Chair Deans testified before the Commission that she had not lost confidence in Chief Sloy,<sup>589</sup> Chief Sloy, quite reasonably, understood this discussion to be an invitation to resign.<sup>590</sup> Chief Sloy responded that he had “put his heart and soul into [the] organization [and] the mandate that [Chair Deans] had given [him]” and stated that he would be “seeing this thing through.”<sup>591</sup> Chair Deans suggested that Chief Sloy think about it overnight. This further cemented Chief Sloy’s view that she had lost confidence in him.<sup>592</sup>

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<sup>585</sup> Testimony of Minister Blair, TRN00000027 at p. 311.

<sup>586</sup> Testimony of Minister Blair, TRN00000027 at pp. 254, 311.

<sup>587</sup> Testimony of Diane Deans, TRN00000005 at p. 84.

<sup>588</sup> Testimony of Chief Sloy, TRN00000013 at p. 282; Testimony of Chief Sloy, TRN00000012 at pp. 65 – 66.

<sup>589</sup> Testimony of Chair Deans, TRN00000005 at p. 124.

<sup>590</sup> Testimony of Chief Sloy, TRN00000012 at p. 217.

<sup>591</sup> *Id.*

<sup>592</sup> Testimony of Chief Sloy, TRN00000013 at pp. 283 – 284.

333. Maintaining public trust and confidence in the police is an essential element of any service's ability to maintain public safety. A police service's ability to adequately carry out its functions is based on the public's engagement and the public's consent to the extraordinary powers that the police have been granted.<sup>593</sup> In terms of the convoy events, the lack of trust that public officials at all three levels of government had in the OPS and Chief Sloly was slowing down the arrival of requested resources. The lack of police resources available to the OPS was the number one public safety issue. It was also the number one risk to the health and wellness of OPS members.

334. Chief Sloly felt that he had done everything that he could for the OPS during his tenure, but he also understood importance in restoring trust in the OPS in this ongoing national security crisis in order to secure the needed resources in the fastest and most effective way possible. Chief Sloly described his last act in office in the following terms:

I did everything I could, literally, with the last act of my time in office, to remove myself out of a trust equation that was heading in the wrong direction for the Ottawa Police Service, which I led. Anything that could have contributed to faster and more resources arriving in this city, to address the still metastasising, local crisis and national crisis was my obligation, was my responsibility, and so I took that last act.<sup>594</sup>

335. Chief Sloly did not quit on the OPS or abandon Ottawa – his resignation was an act of self-sacrifice that was primarily intended to protect the public by trying to accelerate the arrival of resources that the OPS and the City so desperately needed. His decision to resign his office was an act of leadership informed by the motto by which he strives to live: “others before self, compassion for all.”<sup>595</sup>

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<sup>593</sup> Testimony of Chief Sloly, TRN00000013 at p. 180; Testimony of Minister Blair, TRN00000021 at p. 206.

<sup>594</sup> Testimony of Chief Sloly, TRN00000013 at p. 284.

<sup>595</sup> Chief Sloly's CV, COM000000759.

336. At all times, Chief Sloly worked passionately, in good faith, and to the best of his ability to lead the OPS and to defend the City of Ottawa.<sup>596</sup>

### **PART XIII - CONCLUSIONS ON FACTUAL PHASE**

337. Judicial inquiries have vital and weighty purposes. As the Supreme Court noted in *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)* [“Krever”]:

A public inquiry before an impartial and independent commissioner which investigates the cause of tragedy and makes recommendations for change can help to prevent a recurrence of such tragedies in the future, and to restore public confidence in the industry or process being reviewed.<sup>597</sup>

338. These purposes – to make recommendations for change and to restore public confidence – are distinct from the purpose of a trial. Unlike a trial, an inquiry is forward-looking. It aims not to apportion fault or determine liability for past events, but to learn from those events. It has a “social function”, addressing broad “social problem[s]” and playing “investigative, educational and informative” roles.<sup>598</sup> As the Commissioner indicated in his opening remarks, commissions of inquiry “seek not only to understand what has occurred in the past, but also to learn from those experiences and to make recommendations for the future.”<sup>599</sup>

339. This Commission is mandated to consider the myriad, complex causes of the national crisis that unfolded in January and February 2022. It is to examine the “circumstances that led to the

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<sup>596</sup> Testimony of Superintendent Bernier, TRN00000010 at p. 80; Testimony of Deputy Minister Stewart, TRN00000022 at p. 152; Testimony of Steve Kanellakos, TRN00000003 at p. 122; Testimony of Mayor Watson, TRN00000004 at p. 140; Testimony of Acting Deputy Chief Ferguson, TRN00000008 at p. 161; Testimony of Superintendent Bernier, TRN00000010 at p. 80; Testimony of Deputy Minister Stewart, TRN00000022 at p. 152; Testimony of Minister Blair, TRN00000027 at p. 275; Testimony of Minister Mendicino, TRN00000028 at p. 124.

<sup>597</sup> *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)*, [1997] 3 SCR 440 at para. 30.

<sup>598</sup> *Phillips v. Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97 at paras. 64 – 65.

<sup>599</sup> Opening Remarks of Commissioner Rouleau, TRN00000001 at p. 11.

declaration of a public order emergency” and to detail “findings”, “lessons learned”, and “recommendations”.<sup>600</sup> The Commission’s mandate reflects a forward-facing orientation which is, as the Commissioner remarked, to be focused “squarely on the decision of the federal government: why did it declare an emergency; how did it use its powers; and were those actions appropriate?”<sup>601</sup>

340. In fulfilling this mandate, the Commission has heard at length about the unprecedented nature of the protests which led to the invocation of the *Emergencies Act*. The occupation of Ottawa, the blockade of the Ambassador Bridge, the blockade at Coutts, and the other events across the country constituted a national security crisis.<sup>602</sup> Protesters drove from across Canada, passed through the jurisdictions of various municipal and provincial police services as well as that of the RCMP, were the subject of intelligence gathering from multiple agencies and were ultimately only removed from Ottawa through the efforts of over 2200 police officers from across the country.

341. The occupation of Ottawa was the result of a wide range of societal issues and structural deficits, ranging from misinformation and disinformation to the weaknesses in Canada’s national intelligence threat risk assessment process. All parties to this inquiry had a role to play in responding to the protests and Chief Sloly understood his role and worked passionately to fulfill it. That said, the ability to resolve issues which gave rise to the freedom convoy protests goes well beyond the capacity of a municipal police service, let alone a Chief of Police.

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<sup>600</sup> Order in Council PC 2022-392 (April 25, 2022) at ss (a)(i) and (iii).

<sup>601</sup> Opening Remarks of Commissioner Rouleau, TRN.00000001 at p. 12.

<sup>602</sup> Testimony of Commissioner Carrique, TRN00000011 at pp. 95 – 99, 183 – 184; testimony of Chief Sloly, TRN00000013 at p. 132; testimony of Mayor Dilkens, TRN00000018 at p. 82; testimony of Deputy Minister Stewart, TRN00000022 at p. 147; testimony of NSIA Thomas, TRN00000025 at pp. 281, 303 – 304; testimony of Janice Charette, TRN00000026 at p. 259; testimony of Minister LeBlanc, TRN00000028 at pp. 299 – 300; testimony of Katherine Telford, TRN00000030 at p. 299; testimony of Prime Minister Trudeau, TRN00000031 at p. 64; letter from Prime Minister Trudeau to Premier Ford, February 15, ONT00002857 at p. 2 (noting that “[t]his is costing Canadians their jobs and undermining our economic and national security”); Hendon Report of February 9, PB.NSC.CAN.00002621\_REL.0001 at p. 5.



342. In this context, it would be both unfair and ineffective to make findings of individual wrongdoing against Chief Sloly or any other party to this inquiry. To paraphrase Justice Gillese's Long Term Care Inquiry Report: "Because it was systemic failings – not individual ones – that created the circumstances allowing [the occupation to take hold], it would be unfair to embark on a personal attribution of responsibility."<sup>603</sup>

343. This unfairness is compounded by the strict statutory timeline under which this inquiry operated and the procedural difficulties it caused.<sup>604</sup> The parties had only weeks to sift through tens of thousands of documents, which continued to be produced until the close of the factual hearings. They had limited ability to present their own evidence and challenge the evidence proffered by other witnesses, some of whom were added to the witness list weeks into the proceedings. This process was not designed to provide individuals procedural fairness akin to that of a civil trial; accordingly, it is not properly suited to making findings which can carry important reputational impacts for individuals. The Supreme Court has cautioned against this very issue, holding that such findings are only permissible where they are *necessary* to a commission's mandate<sup>605</sup> – in this case, understanding the circumstances which led to the invocation of the *Emergencies Act*.

344. While the Commission must, to fulfill its mandate, make certain findings about the actions of police, this inquiry cannot constitutionally become an inquiry into policing, which is a matter

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<sup>603</sup> Justice Eileen E. Gillese, Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System, Vol. 1 p. 24.

<sup>604</sup> See *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.), s. 63(2) (establishing 360-day timeline for inquiry report).

<sup>605</sup> *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)*, [1997] 3 SCR 440 at para. 57(c) [emphasis added].

of provincial jurisdiction.<sup>606</sup> This Commission was convened by an Order in Council, issued by the Governor in Council, pursuant to two federal statutes.<sup>607</sup> This Commission, like all commissions of inquiry, is bound to respect the jurisdictional boundaries between the provincial and federal governments established in the Constitution.

345. A finding of misconduct against police forces and individual police officers would require the formulation of relevant standards of conduct and then a principled assessment of whether those standards were breached, and how they were breached. This poses both a fairness issue and a federalism issue. Much of the Commission’s work has focussed on determining what standards *do* or *should* apply to police in response to a public order emergency. The evidence has shown that this situation was unprecedented and that there was no pre-existing standard “playbook” for police to follow. If the Commission is to devise standards or make recommendations, it cannot legally make a finding of misconduct against someone for breaching these – a party to an inquiry cannot be faulted for breaching a standard that he did not know “until he read it in the report.”<sup>608</sup>

346. Federalism principles must also inform the Commission’s determination as to whether findings of misconduct against individual police officers are necessary. Either the Governor in Council intended an intensive inquiry into police standards of conduct or it did not. If it did not, then findings of misconduct touching on these issues are not necessary to discharge the mandate of this inquiry. If the Governor in Council did intend such an intensive inquiry to be made, it is

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<sup>606</sup> *Public Service Alliance of Canada v. Canada*, 2004 FC 13 at para. 60. See also Peter W. Hogg & Wade Wright, *Constitutional Law of Canada*, 5th ed., at s. 19:8 (noting that “Apart from Laskin C.J.’s surprising dissent in [*Di Iorio v. Montreal Jail (Warden of)*] (1976), [1978] 1 SCR 152], it never seems to have been doubted that provincial authority over the administration of justice in the province includes the provision of police services.”)

<sup>607</sup> Order in Council No. PC 2022-392 (April 25, 2022); *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.), s. 63; *Inquiries Act*, R.S.C. 1985, c. I-11, s. 2.

<sup>608</sup> *Stevens v. Canada (Attorney General)*, 2004 FC 1746 at para. 47.

questionable whether an intention to authorize such an inquiry can be justified on federalism grounds. This is especially true given that the province of Ontario did not seek party standing in these proceedings and is currently in the process of developing and implementing a comprehensive review of the legislation governing policing in the province.<sup>609</sup>

347. In any event, there is no compelling case for this Commission to devote its limited time and finite resources to singling out the conduct of individual police officers.

348. Making individual findings of wrongdoing “would also be ineffective: assigning blame to individuals will not remedy systemic problems or guard against similar” events.<sup>610</sup> Justice Arbour clearly articulated this point in her report on the *Inquiry into the Events at the Prison for Women in Kingston* where she wrote: “Attribution of personal blame would suggest personal rather than systemic shortcomings and justifiably demoralize the staff, while offering neither redress nor hope for a better system.”<sup>611</sup>

349. The same is true here. Turning this Commission into a finger-pointing exercise would do nothing to address the structural issues which saw protests, occupations and blockades take root across the country, and would not put the country in a better position to address future public order emergencies. While all involved, including Chief Sloly, have much to learn from the events related to the freedom convoy, no one person is to blame for these events, and nothing is to be gained from charging those who did their best under the most trying of circumstances with misconduct. As the evidence has shown, Chief Sloly is one such person. The Commission has heard from

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<sup>609</sup> See: *Comprehensive Ontario Police Services Act, 2019*, S.O. 2019, c. 1 – Bill 68.

<sup>610</sup> Justice Eileen E. Gillese, *Public Inquiry into the Safety and Security of Residents in the Long-Term Care Homes System*, Vol. 1 p. 24.

<sup>611</sup> Arbour *Inquiry into the Events at the Prison for Women in Kingston*, referenced in Gillese report at p. 24.

countless witnesses who have dealt directly with Chief Sloly that throughout the occupation he served the people of Ottawa in good faith and to the best of his ability to lead the OPS through an impossible situation.

350. The OPS faced difficulties in obtaining clear intelligence, in obtaining adequate resources and in withstanding intense and unjust political pressures from all directions but it avoided the worst. There were no riots, no losses of life and no serious injury. Following Chief Sloly's repeated requests for resources, the OPS received the support it needed. Under Chief Sloly's leadership, it devised and implemented an integrated plan to bring an end to the occupation. This, and not the evidence pertaining to the minutiae of particular police operations and interpersonal conflict at the OPS (introduced largely through hearsay evidence), is what the Commission ought to retain.

351. These are the basic factual issues which explain why the *Emergencies Act* was invoked. They explain why the situation in Ottawa developed into an occupation, why it took weeks to resolve and how it was ultimately ended. In fact, pursuant to the Commission's terms of reference, which only entitle it to make findings about the response of police "to the extent relevant to the circumstances of the declaration and the measures taken," they are the only police-related factual issues the Commission is entitled to rule on.<sup>612</sup>

#### **PART XIV - SUBMISSIONS ON POLICY PHASE**

352. An important part of the Commission's mandate is its policy function. Here the Commission is to set out its findings and lessons learned, including on the use of the *Emergencies Act* and the appropriateness and effectiveness of the measures taken under its subordinate

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<sup>612</sup> Order in Council P.C. 2022 – 392 at ss. (a)(ii).

legislation and to make recommendations on the use or any modernization of the *Act*, and areas for further study or review.

353. Chief Sloly sought standing so that he could faithfully participate in and fully support the important work of the Commission. He willingly and actively participated in four lengthy interviews with Commission Counsel that took place prior to the Commission's public hearings. Chief Sloly provided two full days of public testimony that included offering important insights and recommendations for the Commission's consideration.

354. Chief Sloly has also participated in parliamentary proceedings before the DEDC Committee regarding the federal government's declaration of Emergency, the PROC Standing Committee regarding expanding the federal jurisdiction for the security of the parliamentary precinct, the Standing Committee on Public Safety and National Security regarding systemic racism in policing, and the Prime Minister's listening circle regarding police reform. He was also the co-chair for Public Safety Canada's national expert committee on countering radicalization to violence.<sup>613</sup>

355. Chief Sloly's participation in these federal government consultations, committees and inquiries is part of his lifelong commitment to public service and ongoing efforts to help build a more safe, just, and inclusive country.

356. In addition to his former role as the Chief of the Ottawa Police Service, Chief Sloly brings to this Commission over three decades of private and public sector experience in the areas of

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<sup>613</sup> Testimony of Chief Sloly before the Special Joint Committee on the Declaration of Emergency, October 6, 2022, CCF00000032 at p. 3.

security, policing, and justice - including two tours of duty in the United Nations Peacekeeping Mission in Kosovo. Chief Sloly has played lead roles in the planning and implementation of major police operations, including multi-agency and multi-jurisdictional events

357. Yet, the societal issues and structural deficits that underpinned this unprecedented convoy events persist. So, the threat of another such occurrence happening again remains and there is an urgent need to learn all that we can from these events.

358. That is why Chief Sloly has been and will continue to support the Commission and make recommendations on how to better prevent, mitigate, respond to, and recover from such crises in the future.

*Policy Recommendations of Chief Sloly*

359. The Commission convened hearings about nine themes during the policy phase of its work. In addition to the recommendations found in his interviews and evidence, Chief Sloly proposed questions through Commission Counsel to the participants of many of the policy round-table discussions that were intended to assist the Commissioner in fulfilling his mandate by addressing recommendations for further study or review.

360. Wesley Wark, a national security expert who participated in the November 30 panel on National Security and Public Order Emergencies, endorsed Chief Sloly's opinion on the issues of the sharing of intelligence:

But I did want to give a little bit of credit to the former Ottawa Police Chief Peter Sloly for his thoughts about this. And I commend the Commissioner to some of those remarks that the former OPS Chief made about his feeling in retrospect that there was a need for a much more integrated system of intelligence assessment sharing that the OPS, other law enforcement

agencies and the entire National Security Intelligence community could draw on.<sup>614</sup>

361. In addition to the recommendations presented to the Commission in his interviews, Chief Sloly made the following additional recommendations and observations:

[Commission Counsel Frank Au] And knowing what we know now and reflecting back on the way that the OPS handled or applied the intelligence they got, what lessons, if any, should we learn from that?

[Chief Sloly] Thank you. An important question, Commissioner. ... [O]ne of my top recommendations for you to consider, sir, while we had excellent intelligence and particularly excellent support from the Ontario Provincial Police, this was, from the very onset, a national issue. It was a national event.

It started in British Columbia. It was joined on the east coast and it brought convoys from the southernmost point in Windsor. Probably the greatest number of participants and vehicles and vehicles came from our border with Quebec across the five interprovincial bridges.

The vast majority of the formal intelligence threat risk assessment reports that we relied on came from the Ontario Provincial Police.

To this day, I have a question. Why wasn't I getting intelligence threat risk assessments on a regular basis of the quality that I got from the OPP from our federal partners?

And I want to be clear, they contributed meaningfully and I'm grateful for their contributions. But I've said this in the Parliamentary committees and I'll say it again to the Commissioner.

There's a structural deficit in our national intelligence threat risk assessment process. I'm grateful for the Ontario Provincial Police for filling that gap and doing so to the very best of their ability, but it was not optimal for us or any other jurisdiction that faced any element of these events.

And one of my recommendations, sir, with great respect, is that there needs to be an investment in our national intelligence threat risk assessment structure organizationally, institutionally, through integrated organizations and institutions.

Some of that will be a financial investment, but it doesn't all have to be a financial investment. It needs to be an investment to bring this country truly into the 21st century where we are two decades, two and a half decades in.

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<sup>614</sup> Statement of Wesley Wark, TRN00000034 at p. 30.

[Commission Counsel Frank Au] Now, in your view, was there anything that the OPS could have done differently to better handle the intelligence they did have?

[Chief Sloly] There is no doubt, sir. And I'm sure you will ask me multiple times over the course of my testimony could we have done better. Absolutely.

I never had a chance to do a debrief. I suspect -- I understand that Interim Chief Bell has conducted some or completed one. I'm not sure of the status. And I'm sure within that document there will be many, many, many examples of how we could have done better and need to do better going forward.

I believe in his testimony lessons were already learned and applied to subsequent demonstrations, so if you're -- long way of answering, there's no doubt that we could have done some things better.

[Commission Counsel Frank Au] But specifically about how it handled intelligence, anything you can teach us from your experience?

[Chief Sloly] Low-hanging fruit, and I believe it's already been rectified to some degree.

A substantive element of our intelligence and information directorates, I would suggest even in other functional units and directorates, the ability for us to conduct open source social media and other online information gathering with the caveats of *Charter* rights, privacy rights. Absolutely, that would have to be a very transparent process.

I stand to be corrected, but when I became Chief of Police, we actually had a unit that would have, by description and definition, fulfilled much of that function. Not all of it.

It was either zero percent staffed or staffed by one person because we did not have the financial resources to put human beings into those budgeted positions. We didn't have the internal skill sets even if we could find a human being to sit in there.

I believe that's been rectified to some significant degree based on testimony from Interim Chief Bell, but that is something it took me almost a full year, two years to convince the Toronto Police Service to do, and this is going back 2010-2011 after the events of the G20 -- actually, before and after when we finally got our first -- it was called a cyber group, but really, it was for pre-intelligence and post-investigative online capabilities.

There are very few police services anywhere in Canada, municipal, provincial. OPP is an exception. I don't know about Sureté du Québec. RCMP and the OPP are the only -- and Toronto Police Service are the only ones that I would comfortably describe as a reasonable extending to optimal level of capability in that area. The Ottawa Police Service did not have that capability.<sup>615</sup>

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<sup>615</sup> Testimony of Chief Sloly, TRN00000012 at pp.45 – 48.



...

I think it came up in a comment earlier on when I was talking to Chair Deans, like, we're just human beings, and none of us are supermen or superwomen, and this was a super difficult situation. And mistakes were made, moments were lost, relationships were strained, meetings didn't go the way they were intended to, language was not precise enough, assumptions were made, rumours were passed around. Just -- it's just a human condition. Systems are built by human beings, policies are designed by human beings, institutions are just human institutions.

And I said it before on the Standing Committee, someone asked "Did the Ottawa Police Service fail?" Canada was exposed in these events, our institutions were exposed, our systems were exposed, and our leaders were exposed, and our frontline members were exposed. Probably worst overall our communities were exposed. We just got to get it better the next time. I'm fully committed to doing that, that's why I'm here.<sup>616</sup>

362. Chief Sloly has proposed twelve main recommendations to the Commission for consideration based upon thirty years in policing here and abroad, and his experience in the events of the Freedom Convoys.<sup>617</sup> His core recommendations for the Commission to consider are repeated here for convenience:

1. Create a *Charter*-based threshold for police interdiction in the context of largescale demonstrations with the potential to become occupations.
2. Create National Police Standards (for all areas of policing but specifically for Emergency Preparedness, Incident Command System, Critical Incident Command and Integrated Command).
3. Create a National Police College to Improve consistency in training for all Canadian police services. This should be for all areas of training but specifically for Emergency Preparedness, Incident Command System, Critical Incident Command, Integrated Command and PLT.
4. Create National/Provincial Police Inspectorate General to audit, assess and publicly report on the level of compliance with the national standards, police training and the overall effectiveness of all Canadian police services.

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<sup>616</sup> Testimony of Chief Sloly, TRN00000012 at p. 278.

<sup>617</sup> Witness Summary of Chief Sloly, WTS.00000040 at p. 61.

5. Create a new National Security Framework (specifically for CSIS) with an aligned and supporting Intelligence Led Policing Framework for all Canadian police services.
  6. Make needed investments in national security agencies and all Canadian police services (including financial investments).
  7. Invest in the health and wellness for members of all national security agencies/Canadian police services (including financial investments).
  8. Address the increasing risks and harms associated to social media misinformation/disinformation campaigns, online radicalization to violence and societal polarization.
  9. Amend the *Police Services Acts* across Canada to reflect the policing of public order issues of the scale and complexity that are now occurring in Canada.
  10. Address Police of Jurisdiction Issues in National Capital Region and invest in INTERSECT (including financial investments).
  11. Ensure future federal government decisions to invoke the *Emergencies Act* involve explicit, direct, and recorded consultation with the involved Police Services of jurisdiction.
  12. Consider all the above recommendations in relation to the unique status and needs of Indigenous nations/communities and their police services.
363. As he testified, Chief Sloly remains available to the Commissioner to elaborate on any of the recommendations he has proposed and to continue to assist in the future study or review of any of the issues addressed by the Commissioner.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 9<sup>th</sup> day of December, 2022.



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J. Thomas Curry



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Rebecca Jones



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Nikolas De Stefano

## **SCHEDULE 1: CHIEF PETER SLOLY**

1. Chief Peter Sloly has had successful careers as a professional athlete, a partner at a professional services firm and as a police officer who rose through the ranks to become Chief of the Ottawa Police Service (OPS). Over the course of his working life, Peter has travelled to five continents and over fifty countries.

2. He is a recipient of the United Nations and Canadian Peacekeeping Medals as well as being invested as an Officer of the Order of Merit (Police Forces). He is a graduate of the FBI's "National Academy" and a graduate of the Canadian Forces College "National Strategic Security Studies" program. He has a Masters in Business Administration and a Bachelor of Arts in Sociology.

3. Throughout his life, Chief Sloly has championed progressive community policing and done his best to help build a more safe, just and inclusive society. His personal motto is "others before self, compassion for all". He was born in Jamaica, immigrated to Canada and lives in Ottawa with his wife and two children.

4. Chief Sloly successfully sought standing so that he could faithfully participate in and fully support the important work of the Commission in addressing its mandate concerning the invocation of the Emergencies Act. He has willingly and actively participated in four lengthy interviews with Commission counsel that took place prior to the Commission's public testimony period. He testified longer than any other witness and provided two full days of public testimony, including offering important insights and recommendations for the Commission's consideration. Chief Sloly continues to support the Commission through the policy phase and, in his last formal act, made this final submission to the Commission.

5. Chief Sloly previously appeared before the DEDC Committee regarding the federal government's declaration of Emergency, the PROC Standing Committee regarding expanding the federal jurisdiction for the security of the parliamentary precinct, the Standing Committee on Public Safety and National Security regarding systemic racism in policing and the Prime Minister's listening circle regarding police reform. He was also the co-chair for Public Safety Canada's national expert committee on countering radicalization to violence.

6. Chief Sloly's participation in these federal government consultations, committees and inquiries is part of his ongoing efforts to help build a more safe, just, and inclusive country. In addition to his former role as the Chief of the Ottawa Police Service, Chief Sloly brings to this Commission over three decades of private and public sector experience in the areas of security, policing, and justice - including two tours of duty in the United Nations Peacekeeping Mission in Kosovo. Chief Sloly has played lead roles in the planning and implementation of major police operations – including multi-agency and multi-jurisdictional events.

7. Before this Commission and at other federal Standing Committees, Chief Sloly has publicly recognized everyone who was impacted by the convoy events - especially Ottawa residents and business owners. He also thanked the members of the OPS as well as the members of their policing and national security partners who were professional, ethical, and compassionate in their efforts to help safely resolve the crises.

8. A “whole of country” effort was needed to collapse the convoy events Ottawa while achieving a safe successful end to the national security crisis. Yet, the societal issues and structural deficits that underpinned this unprecedented convoy events. So, the threat of another such

occurrence happening again remains and there is an urgent need to learn all that we can from these events.

9. That is why Chief Sloy has been and will continue to do everything within his power to support the Commission and make recommendations on how to better prevent, mitigate, respond to, and recover from such crises in the future.

**SCHEDULE 2: SUMMARY OF RESPONSE TO SELECTED CRITICISMS  
OF CHIEF SLOLY**

<b>Response to Criticism</b>	<b>References in Submissions</b>
<p>Between January 13 - 28, 2022, Chief Sloly took appropriate steps to ensure that the OPS: appropriately collected intelligence concerning the Freedom Convoy, assessed that intelligence, disseminated it to the Special Events planning team and other appropriate recipients within OPS, and incorporated it into operational planning.</p>	<p>Paragraphs 57– 69</p>
<p>Between January 13 - 28, 2022, Chief Sloly did not assume responsibility for planning from the OPS Incident Command System (the “ICS”) leadership. The planning team took appropriate steps to ensure the development of an operational plan that appropriately considered and addressed the threats and risks the Freedom Convoy posed.</p>	<p>Paragraphs 58–74</p>
<p>Chief Sloly’s February 2 statement that “[t]here may not be a police solution to this demonstration” was appropriate, and Chief Sloly adequately explained what he meant and what actions OPS intended to take to address the Freedom Convoy short of solving it. Further, there is no evidence that the statement fostered a perception among the public and Freedom Convoy participants that OPS was vulnerable and unable to police the Freedom Convoy and/or that it contributed to a loss of public trust in OPS.</p>	<p>Paragraphs 111–121 Footnote 339</p>
<p>Chief Sloly did not make a statement on February 6, 2022 to members of the ICS leadership that they should request twice as many resources as they needed. No member of the ICS leadership gave this evidence.</p> <p>Rumours of such a statement, for which Chief Sloly is not responsible, appear to have undermined the credibility of the OPS’s requests for resources with the OPP, the RCMP, and governments.</p>	<p>Paragraphs 193–201</p>
<p>Chief Sloly’s February 7, 2022 public announcement of OPS’s request for 1,800 police and civilian personnel was appropriate:</p> <ul style="list-style-type: none"> <li>• The announcement was made in extraordinary circumstances, and did not invite inappropriate political influence into intra-police resourcing discussions;</li> <li>• The announcement did not expose OPS’s vulnerability to Freedom Convoy participants;</li> </ul>	<p>Paragraphs 185–192 Footnote 181</p>

<b>Response to Criticism</b>	<b>References in Submissions</b>
<ul style="list-style-type: none"> <li>• The announcement did not request more resources than Chief Sloly believed OPS needed; and</li> <li>• At the time of the announcement, OPS had done sufficient planning to determine how many and which kinds of resources were required and/or how resources would be used upon arrival.</li> </ul>	
<p>Between January 13 and February 15, 2022, Chief Sloly appreciated and maintained appropriate boundaries with the requisite autonomy of the OPS ICS leadership, given the circumstances. He did not inappropriately interfere with the operation of the OPS ICS, through:</p> <ul style="list-style-type: none"> <li>• Providing operational and/or tactical directions to OPS members, including issuing directions to close highway off-ramps and interprovincial bridges on the February 5-6 and February 12-13 weekends;</li> <li>• Requiring that operational plans and operational and/or tactical decisions be submitted to him and/or OPS legal counsel for review, approval, modification, or rejection; and/or</li> <li>• Delaying the communication of or withholding important information from the ICS leadership, including information concerning the negotiations between the City of Ottawa and Freedom Convoy leaders or the presence of the Integrated Planning Cell (the “Cell”) in Ottawa.</li> </ul>	<p>Paragraphs 175–182, 281–290, 266–272</p>
<p>Between January 13 and February 15, 2022, Chief Sloly did not behave inappropriately towards the OPS command team and other members of OPS, by at times berating them or belittling them. While he acknowledges that his language of “crush” was inappropriate, he notes that he was far from the only individual during the Convoy to have used intemperate language.</p>	<p>Paragraphs 148, 258 Footnote 448</p>
<p>Between January 13 and February 15, 2022, Chief Sloly did not inappropriately interfere with the work of the OPS or OPP PLTs. He did not:</p> <ul style="list-style-type: none"> <li>• Require his approval of decisions that PLT members were entitled to make;</li> <li>• Resist and disapprove of PLT efforts to shrink the footprint occupied by Freedom Convoy participants;</li> <li>• Direct or permit public order and/or enforcement actions that undermined PLT efforts to build trust and</li> </ul>	<p>Paragraphs 212–246 Footnote 396</p>



<b>Response to Criticism</b>	<b>References in Submissions</b>
<p>credibility with protestors, in ways that were inconsistent with the National Framework</p> <ul style="list-style-type: none"> <li>• Direct, authorize, or permit OPS corporate communications to issue messaging that were contrary to PLT’s messaging and undermined PLT’s work.</li> </ul>	
<p>Chief Sloly did not fail to appreciate his obligations related to the statutory oversight role of the Ottawa Police Services Board respecting policing-related events that reach “a critical point” as explained in the Morden and Epstein Reports. He did not, between January 13 and February 15, 2022, fail to keep the Board informed in an adequate and timely way of information of importance to its oversight responsibilities.</p>	<p>Paragraphs 300–327</p>
<p>Between January 13 and February 15, 2022, Chief Sloly did not make public announcements about OPS’s plans and intended actions concerning the Freedom Convoy without first verifying that OPS had the resources and ability to deliver on those announcements.</p>	<p>Paragraphs 185–211</p>
<p>Between January 13 and February 15, 2022, Chief Sloly did not encourage or allowed Navigator Ltd. and Advanced Symbolics Inc. to influence OPS’s operational and tactical decisions.</p>	<p>Paragraphs 275–279</p>
<p>Between January 29 and February 15, 2022, Chief Sloly did not assume responsibility for planning from the ICS leadership. The plans the team arrived at were not directed by Chief Sloly, and were adequate and suitable to resolving the Freedom Convoy situation.</p>	<p>Paragraphs 71–73 Footnotes 82–83; 85–86</p>
<p>Between January 29 and February 15, 2022, Chief Sloly did not assume responsibility for planning from the ICS leadership. The OPS took adequate steps to ensure that plans for specific operations, including those related to the intersection of Rideau Street and Sussex Drive, were properly resourced, appropriately supported by sub-plans for specialized units and contingency plans, and minimized risks to convoy participants, officers, and the public.</p>	<p>Paragraphs 232–246</p>
<p>Between January 29 and February 15, 2022, Chief Sloly did not direct or permit ill-advised enforcement actions such as ticketing and fuel seizures, and did not issue messaging concerning same, that gave rise to negative effects that include the following:</p> <ul style="list-style-type: none"> <li>• Interfering with PLT’s work;</li> </ul>	<p>Paragraphs 232–246 Footnotes 280; 378; 396</p>

<b>Response to Criticism</b>	<b>References in Submissions</b>
<ul style="list-style-type: none"> <li>• Exhausting OPS’s officers; and</li> <li>• Jeopardizing the safety of members of the public, Freedom Convoy participants, and officers.</li> </ul>	
<p>Between January 29 and February 15, 2022, Chief Sloly did not resist, oppose, or interfere with efforts to establish unified and/or integrated planning and command with OPP and RCMP, despite the demonstrable need for such unified and/or integrated planning and command, through actions that include the following:</p> <ul style="list-style-type: none"> <li>• Telling the OPS command team and ICS members that OPS and RCMP were controlled by their political masters;</li> <li>• Telling the OPS command team and ICS members that OPP and RCMP were not attempting to help OPS and were instead pursuing their own agendas that were contrary to OPS’s interests;</li> <li>• Taking or attempting to take unilateral OPS actions outside of the integrated planning and command framework that OPS and the Cell were developing; and</li> <li>• Expressing unjustifiable concern to the OPS command team and ICS members that the Cell and greater integration would interfere with OPS’s status as the police of jurisdiction.</li> </ul>	<p>Paragraphs 259–265</p>
<p>Between February 13 and February 15, 2022, Chief Sloly did not inappropriately interfere with the approval and/or implementation of the operational plan titled “Integrated Mobilization Operational Plan” OPP00001851.</p>	<p>Paragraphs 280–290 Footnotes 505–508</p>
<p>Between February 13 and February 15, 2022, Chief Sloly did not support OPS efforts to implement an agreement between the City of Ottawa and certain Freedom Convoy leaders without realizing that trucks would be relocated from side streets to Wellington St. pursuant to that agreement.</p>	<p>Paragraphs 266–274</p>