

IN THE MATTER OF THE PUBLIC ORDER EMERGENCY COMMISSION

**CLOSING SUBMISSIONS – FACTUAL PHASE
THE CORPORATION OF THE CITY OF WINDSOR**

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Introduction

1. The illegal blockade of the Ambassador Bridge (the “**Bridge**”) in the City of Windsor (“**Windsor**” or the “**City**”), which began on February 7, 2022, disrupted trade, and posed a serious threat to the national economy. The blockade also had profound negative impacts on the City and its residents, schools, and businesses.
2. The City acted effectively and appropriately in response to this unprecedented, engaging in a coordinated effort to support the successful police operation and mitigate impacts on the local community. Windsor Police Service (“**WPS**”) led the response to the blockade because it was a public order and public safety issue. WPS worked through appropriate policing chain of command structures to secure the resources necessary to safely clear the occupation. WPS quickly and seamlessly established a joint command with the Ontario Provincial Police (“**OPP**”) to respond to the Blockade. WPS and the OPP, together with policing partners including the Royal Canadian Mounted Police (“**RCMP**”) and other municipal police services, successfully cleared the blockade of the Bridge by Sunday February 13th, peacefully with no loss of life or serious injury to the public, protesters or the police.
3. Although the trade corridor was re-opened to traffic shortly after midnight on February 14, 2022, before the federal government invoked the *Emergencies Act*, there was a well-established threat that protesters would return to blockade the Bridge anew. Police continued to control traffic on Huron Church Road, the municipal road connecting the Ambassador Bridge to Ontario’s 401 system, until March 13, 2022, to guard against a renewed blockade. Though this benefitted the provincial and national economy, these necessary policing efforts negatively impacted Windsor and its residents, schools and businesses.

Roadmap to Windsor closing submissions – factual phase

4. The federal government referred to blockades of trade corridors and international borders when describing the public order emergency in the Proclamation Declaring a Public Order Emergency.¹ The federal government specifically referred to the Ambassador Bridge blockade in explaining the circumstances that led to the declaration of a public order emergency.²

¹ Proclamation SOR/2022-20, HRF00000509.

² The Report to the Houses of Parliament: Emergencies Act Consultations, dated February 16, 2022, refers to communications between federal officials, and the Mayor and provincial officials about the Ambassador Bridge blockade, SSM.CAN.00000121_REL.0001. The Prime Minister’s February 15, 2022 letter to all premiers outlining the reasons why the government decided to declare an emergency referenced the unlawful protest at the Ambassador Bridge, SSM.CAN.00000144_REL.0001.

5. The Commissioner must consider the Ambassador Bridge blockade and the efforts of the police and the City and police in response in order to report on the circumstances that led to the federal public order emergency declaration.³ As described in **Part I** below, the evidence before the Commission establishes that:

- (a) the Ambassador Bridge blockade presented an unprecedented challenge to the City and the WPS;
- (b) the protest in Windsor appeared to be a leaderless movement, with no clearly identifiable leader and no agreement with respect to strategy or goals;
- (c) the blockade was unlawful from the outset and involved violence and threats of violence;
- (d) the City acted effectively, appropriately, and in a unified manner in response to this unprecedented challenge, engaging in a coordinated effort with WPS and other partners to support the successful police operation that peacefully brought the blockade to an end on February 13th, less than a week after it was established;
- (e) after the blockade was cleared, there was a real threat that the protesters would return to block the Bridge again, and the City continued to support police operations to maintain access to the Bridge until the situation stabilized almost a month later;
- (f) the City was not involved in and did not seek to influence police operational decisions;
- (g) the City effectively communicated with the provincial and federal governments before, during and after the blockade; and
- (h) Windsor used appropriate available tools in response to the Blockade and in support of police, including in supporting and continuing an injunction.

6. The impacts of the blockade in Windsor are also relevant to understand the circumstances of the federal government's emergency declaration. The closure of the Bridge was a matter of national concern that threatened our national economic security. As set out in **Part II**, below, the overwhelming evidence before the Commission establishes that:

- (a) the Ambassador Bridge specifically, and the critical trade corridor generally in Windsor, has provincial, national and international economic importance. The Bridge is by far the busiest crossing in Canada and represents the highest number of loaded truck container crossings annually;
- (b) the blockade of the Bridge posed a particular risk of economic damage to the automotive sector, with impacts felt immediately – several automakers in Canada and the U.S. scaled back or cancelled production due to parts shortages resulting from the Bridge closure;

³ Order in Council P.C. 2022-392, paragraphs (a)(i) and (a)(ii).

- (c) the blockade of the Bridge had immediate adverse effects on the Canadian economy. While the impact on GDP would likely be transitory if the blockades were short-lived and did not spread, the economic impacts would grow substantially if the disruptions persisted or spread;
- (d) the blockade put Canada's reputation as a trading partner at risk and threatened Canada's relationship with its trading partners including the United States; and
- (e) the profound negative impacts on the local community in Windsor.

7. In **Part III**, Windsor submits that the evidence before the Commission with respect to border blockades and the experience in Windsor has established the following facts relevant to the Commissioner's findings on the use of the *Emergencies Act* and the appropriateness and effectiveness of the measures taken:⁴

- (a) the border blockades generally, and the threat to the Ambassador Bridge specifically, was an urgent and critical situation of a temporary nature that seriously endangered the economic security of Canadians;⁵
- (b) the threats to national economic security seriously endangered the lives and safety of Canadians, including local residents in Windsor;
- (c) the blockade was unlawful from the outset, resulting in the denial of fundamental rights and freedoms to those detrimentally affected by the blockade, and constituted a serious threat to the rule of law;⁶
- (d) all three orders of government are required to respond to threats to international border crossings, given the local and provincial nature of the approaches to this national infrastructure; and
- (e) while the Ambassador Bridge blockade was cleared before the invocation of the *Emergencies Act*, the threat that the blockades would spread or return to the Ambassador Bridge continued. Although the measures taken under the *Emergencies Act* were not specifically used in Windsor, the federal declaration sent a clear signal that repeated attempts to blockade the Ambassador Bridge would not be tolerated by Canadian officials, and sent an important signal to trading partners that Canadian supply chains would remain accessible.

8. As a local government at the front lines of emergency response and the home of critical infrastructure including multiple international border crossings, Windsor is particularly interested in the forward-looking mandate of the Commissioner. The Commissioner will need to consider the lessons learned in Windsor⁷ in order to make meaningful recommendations in the policy phase of the

⁴ Order in Council P.C. 2022-392, paragraph (a)(iii).

⁵ *Emergencies Act*, RSC, 1985, c 22 (4th Supp), s. 3.

⁶ *CSIS Act*, section 2.

⁷ Order in Council P.C. 2022-392, paragraph (a)(iii).

Commission’s work. Windsor has prepared separate closing submissions with respect to the Commission’s policy phase (“**Windsor Policy Submissions**”). Despite the effective response to the Ambassador Bridge blockade, the process revealed jurisdictional gaps and uncertainties that must be addressed. From Windsor’s perspective, the lessons learned outlined in **Part IV** include:

- (a) the importance of swift, effective communication and cooperation within and between all levels of government in responses to threats to critical infrastructure;
- (b) the importance of emergency planning and City Council speaking with “one voice” in a crisis;
- (c) the municipal injunction was a useful tool in Windsor;
- (d) gaps in resources at the local level – human resources including policing and hard resources including jersey barriers – influences speed and capacity of emergency response;
- (e) there was confusion within and between the provincial and federal governments with respect to jurisdiction and responsibility related to the governmental response to the border blockades;
- (f) there is an obvious and urgent need for an interjurisdictional framework to protect critical infrastructure with the municipality and first responders at the table at every stage; and
- (g) Municipalities and local authorities bear the weight of the impacts, response, recovery and preparation for threats to critical infrastructure in their borders

9. These submissions should be read together with the City’s Institutional Brief and Timeline of Events.⁸

I. The Blockade of the Ambassador Bridge

10. The Blockade was preceded by “slow roll” convoys that drove in a loop up and down Huron Church Road at the end of January. These slow roll protests, which did not directly target the Bridge, would typically last two or three hours and were monitored by WPS.⁹

11. On February 3, 2022, WPS learned that protesters were planning a “slow-roll” demonstration in Windsor. WPS Chief Pam Mizuno informed then-Superintendent (now Deputy Chief) Jason Crowley that

⁸ City of Windsor Institutional Report, pp. 29-35, WIN.IR.00000001 and Appendix A – City of Windsor Institutional Report, WIN.IR.00000002. Windsor’s Institutional Report outlines the City’s response to the Ambassador Bridge Blockade at paras 110-126.

⁹ Testimony of Deputy Chief Crowley, Transcript vol. 18, p. 173 lines 5-20, TRN00000018

he would be in charge of the WPS's response. Deputy Chief Crowley requested and obtained an operational plan for the slow-roll, including a plan for the potential blocking of the Bridge.¹⁰

12. His Worship Drew Dilkens, Mayor of Windsor ("**Mayor Dilkens**") first learned of the possibility of a protester blockade of the Ambassador Bridge around noon on Friday, February 4, 2022, from Chief Mizuno.¹¹ Around the same time, WPS and the Canada Border Services Agency ("**CBSA**") staff advised City staff and Windsor Fire and Rescue Services that another truck convoy was anticipated that weekend, possibly continuing in to Monday.¹²

13. Mayor Dilkens immediately reached out to Minister Marco Mendicino to share the information, advising by text "It sounds like they may be attempting to block traffic to the Ambassador Bridge".¹³ Mayor Dilkens understood from Chief Mizuno that the protests had been peaceful prior to the 4th, and there had been no blockage of traffic to or from the Bridge.¹⁴

14. On Friday, February 4, 2022, Deputy Chief Crowley began working with Superintendent McDonnell of the OPP, reaching out for assistance from the OPP over the weekend.¹⁵

15. Over the weekend, Windsor began working with WPS to prepare for a potential blockade of either of the Ambassador Bridge, and potential impacts on the Detroit-Windsor Tunnel. The City's preparations included sourcing jersey barriers, arranging for a Transit Windsor bus to ensure that healthcare workers could cross the border for work, and preparing for a meeting of the Community Control Group ("**CCG**").¹⁶ City leadership communicated effectively internally and externally. For example, on Sunday February 6, 2022, the City's Community Emergency Management Coordinator ("**CEMC**"), Fire Chief Stephen Laforet, advised senior City staff that the Bluewater Bridge in Sarnia was being targeted by protesters. He confirmed the possibility of the Ambassador Bridge being targeted by Monday. Chief Laforet confirmed

¹⁰ Deputy Chief Crowley Witness Summary, WTS.00000017; WPS Debrief, WPS000000002.

¹¹ Text Messages between Mayor Dilkens and Chief Mizuno, WIN00002298; email from Darrin Boismier (CBSA) to Carolyn Brown (Windsor), WIN00000010; Testimony of Mayor Dilkens, Transcript vol. 18, p. 19 line 10-p. 21 line 2, TRN00000018.

¹² February 4, 2022 Email from WPS to Windsor Fire & Rescue, WIN00000026; email from the assistant director of the Windsor Tunnel Operations Branch of the CBSA to Windsor staff and others, WIN00000010.

¹³ Text Messages between Mayor Dilkens and Minister Mendicino, p. 1, WIN00002295; Testimony of Mayor Dilkens, Transcript vol. 18, p. 21 line 3-p. 22 line 13, TRN00000018.

¹⁴ Testimony of Mayor Dilkens, Transcript vol. 18, p. 20 lines 24-28 TRN00000018.

¹⁵ Superintendent McDonnell Witness Summary, p. 4, WTS.00000026; email from Pat Morris (OPP) to Trish Ingalls (OPP) and others, OPP00001242; Ontario Provincial Police Institutional Report, OPP.IR.00000001.

¹⁶ Testimony of Mayor Dilkens, Transcript vol. 18, p. 23 line 17-p. 25 line 5, p 38 lines 22-26, TRN00000018; Chief Laforet Witness Summary, WTS.00000009.

that, if warranted, WPS would use the City's Emergency Operations Centre ("EOC") for a command centre.¹⁷

16. It was apparent that the WPS would be Incident Command, as the response to the Blockade was a public order and public safety issue.¹⁸

17. On the morning of February 7, 2022, Chief Laforet convened a meeting of the CCG¹⁹ to coordinate the municipal emergency response, streamline WPS and City communications, and ensure the City took no action that could impede law enforcement operations.²⁰ The CCG met regularly throughout the Blockade response. The City opened the EOC later that day, and staffed the EOC to support police operations.

18. Mayor Dilkens explained in his testimony why it was not practical to prevent the blockade from happening before it began. In response to Commission Counsel's questions on this subject, Mayor Dilkens explained that it is well understood in Windsor that it would be practically impossible to guarantee with any certainty a route for trucks without enormous disruption to the community:

MAYOR DREW DILKENS:... because of the distance from, say, E.C. Row Expressway, the end of the 401 to the Ambassador Bridge -- and we're talking three kilometers each way -- the number of businesses, the number of homes, the hotels that are built up that require direct access to Huron Church Road, it would be, for all intents and purposes, practically impossible to guarantee, with any certainty, that you could provide a route for trucks and -- without having huge disruption to the community. Not just the business community, but also the people who live on the west side of the city.

MS. NATALIA RODRIGUEZ: Right, because Huron Church Road does serve as an access point between the east side of the city and the west side. It seems to cut right through the city, is that right?

MAYOR DREW DILKENS: It bisects right through.²¹

19. The blockade of the Bridge took hold over the course of February 7, 2021.²²

¹⁷ Email from Chief Laforet dated February 6, 2022, WIN000040.

¹⁸ Chief Laforet Witness Summary, WTS.00000009.

¹⁹ The CCG is the equivalent of the Municipal Emergency Control Group under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 Standards, O. Reg. 380/04 – See Windsor's Emergency Response Plan, WIN00001054.

²⁰ Chief Laforet Witness Summary, WTS.00000009; Testimony of Mayor Dilkens, Transcript vol. 18, p. 25 lines 9-17, TRN00000018.

²¹ Testimony of Mayor Dilkens, Transcript vol. 18, p 25 line 18- p. 27 line 3, TRN00000018.

²² Email from Darrin Boismier (CBSA) to Carolyn Brown (City), WIN00002223; Email from Darrin Boismier (CBSA) to Carolyn Brown (City), WIN00000098.

20. Witnesses at the hearing agreed that the Windsor protests were a leaderless movement, with no clearly identifiable organizer and no agreement with respect to strategy, goals, or even which intersections to block.²³ Indeed, the Windsor protestor who appeared before the Commission testified that he attended protest without any goals whatsoever.²⁴ Participants included local protesters, but also included individuals from outside Windsor/Essex who came to Windsor to participate in the blockade.²⁵

21. Mayor Dilkens understood from police and media reports that “there was a very high temperature on the ground amongst the protestors” and that some were “willing to die for the cause.”²⁶ A commissioner trying to enforce parking rules being swarmed and having to be escorted to their vehicle by police.²⁷ WPS Deputy Chief Jason Crowley testified that there was violence during the blockade,²⁸ that he had dealt with a bomb threat and threats to blockade the Windsor Police Services Headquarters.²⁹ Superintendent Dana Earley of the OPP added that protests would get rowdier at night and would involve alcohol and drug use.³⁰ The Mayor was subject to a threat to firebomb his house.³¹

22. From the beginning of the blockade, Windsor, WPS and federal officials clearly publicized that the blockade was unlawful from the outset, and made it clear to the public and protesters that the blockade should stop.³² WPS and their policing partners used diplomacy, negotiation, and de-escalation tactics to bring the illegal blockade to a safe conclusion.

23. The City appropriately supported police operations as summarized in Windsor’s Institutional Brief at paragraph 118. The City was not involved in and did not seek to influence police operational decisions.³³ Windsor took steps to ensure there was no actual or perceived political pressure on police.³⁴

²³ Testimony of Mayor Dilkens, Transcript vol.18, p. 32 line 18-p. 33 line 7, TRN00000018; Testimony of Superintendent Earley, Transcript vol. 19, p. 42 line 18-p. 43 line 4, TRN00000019; Testimony of Paul Leschied, Transcript vol. 19 p. 168 lines 7-18, p. 180 line 21-p. 181 line 14, TRN00000019.

²⁴ Testimony of Paul Leschied, Transcript, vol. 19, p. 169 lines 20-24. TRN00000019.

²⁵ Testimony of Mayor Dilkens, Transcript vol. 18, p. 42, TRN00000018.

²⁶ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 42 line 27-p. 44 line 10, TRN00000018.

²⁷ February 9, 2022, Incident Report – Parking Enforcement, WIN00001584

²⁸ Testimony of Deputy Chief Crowley, Transcript, vol. 18, p. 288 lines 10-12.

²⁹ Testimony of Deputy Chief Crowley, p. 215 lines 4-10, p. 236 line 19-p. 237 line 12, TRN00000018.

³⁰ Testimony of Mayor Dilkens, Transcript, vol. 19, p. 81 lines 1-19, TRN00000019.

³¹ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 46 lines 1-17, p. 140 lines 4-16, TRN00000018; Testimony of Deputy Chief Crowley, Transcript, vol. 18, p. 238 lines 6-13, TRN00000018.

³² See Windsor/WPS efforts above, transcript Ministers Blair, Alghabra, and Mendicino February 9, 2022, media availability, PB.NSC.CAN.00002437_REL.0001, Testimony of Minister Blair, Transcript vol. 27, pp. 285 – 288

³³ Testimony of Deputy Chief Crowley, Transcript, vol. 18, p. 289, lines 20-25, TRN00000018.

³⁴ Email dated February 13, 2022, from Andrew Teliszewky to Windsor City Council, WIN00001413.

24. As discussed in Windsor's Institutional Brief at paragraphs 119-126 and in the timeline of key events, Windsor personnel were in contact with representatives of the provincial and federal governments before, throughout, and after the Bridge blockade to provide situational awareness. Witnesses repeatedly affirmed the value of proactive and direct communication between the City and all jurisdictions and partners. The Mayor was in contact with provincial and government representatives including Ministers Mendicino, Blair, Alghabra, Ontario Solicitor General Jones, Premier Ford, and the Prime Minister. The Mayor's Chief of Staff, Andrew Teliszewsky, was in contact and coordinated with political staff from across federal and provincial Ministers' Offices, including the offices of Ministers Blair, LeBlanc, and Alghabra.³⁵

25. As the Ambassador Bridge blockade carried on into the week, the general public grew impatient and the risk of counter-protests clashing with protestors grew.³⁶

26. WPS continued to request support from its policing partners including the OPP and RCMP, specifically public order expertise as WPS does not have a public order unit. The Mayor and his office amplified the WPS Chief's request for additional policing resources with the provincial and federal governments.³⁷ By February 9, 2022, OPP Superintendent Earley was assigned as OPP incident commander for the Windsor blockade, and had an operational plan in place in a matter of days.³⁸

³⁵ Testimony of Mayor Dilkens, Transcript vol. 18 p. 21 lines 3-15, TRN00000018; Email from Andrew Teliszewsky to Zita Astravas, WIN00001674; Readout of call on February 8, 2022, SSM.NSC.CAN.00002063_REL.0001; Testimony of Deputy Minister Stewart and Assistant Deputy Minister Rochon, Transcript vol. 22 p. 171 line 28-p. 173, line 21, TRN00000021; Readout of call between Mayor Dilkens and the Prime Minister on February 10, 2022, SSM.CAN.NSC.00002698; Witness Statement of Mayor Dilkens, pp. 6-7, WTS.00000019; Briefing Note to Minister LeBlanc, SSM.CAN.00002253_REL.0001; Email from Gowthaman Kurusamy to Andrew Teliszewsky, SSM.CAN.00005998_REL.0001; Readout of call between Minister Alghabra and Mayor Dilkens SSM.CAN.00000981_REL.0001.

³⁶ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 46 lines 1-17, TRN00000018.

³⁷ While there was evidence before the Commission of confusion at political levels regarding WPS' requests for resources, this confusion was temporary and was cleared up in a matter of hours as a result of the open and effective communication between the City and federal leaders. Further, WPS made its requests directly to its policing partners through the proper policing channels such that at the same time of this minor confusion, the policing resources and support from the OPP and other policing partners had already arrived in Windsor or were on their way. Testimony of Commissioner Carrique, Transcript, vol. 11, p. 75 line 14-p.79 line 2, p. 259 line 2-p. 260 line 3; Superintendent McDonnell Witness Summary, WTS.00000026; WPS Board meeting minutes, WIN00002174; Read out of February 8, 2022 call with Public Safety Canada and Mayor Dilkens Chief of Staff, SSM.CAN.0006030_REL.0001; OPP Institutional Report at p. 28, OPP.IR.00000001; Scribe notes pp. 8 – 10, OPP00003592; Text messages between Commissioner Carrique and Di Tomasso, including pp. 52 & 85, OPP00004580; February 9, 2022 email exchange between Minister Mendicino, Minister Blair and Commissioner Lucki, SSM.CAN.NSC.00002677_REL.0001; Deputy Chief Crowley Witness Summary, WTS.00000017;

³⁸ Ontario Provincial Police Institutional Report, p. 28, OPP.IR.00000001.

27. Unified or shared command was established quickly in Windsor, with OPP Superintendent Earley and WPS Superintendent Crowley as CICs.³⁹

28. Ultimately, Windsor understands 500 to 600 police officers from the OPP, RCMP, and other municipal police forces arrived in Windsor leading up to the weekend of February 12 and 13, 2022.⁴⁰

29. On February 9, 2022, Mayor Dilkens began considering seeking an injunction. Mayor Dilkens testified that part of the reason for applying for the injunction was to send a signal to the public that the City was doing everything possible to resolve the Blockade: “it was the only positive step I could think of taking that would be helpful in terms of a signal to the public.” Mayor Dilkens testified that the injunction was intended to provide an additional tool for WPS, and that he had consulted with WPS Chief Mizuno who had confirmed that it would not impede her efforts.⁴¹

30. City Council adopted a resolution that an injunction be sought on February 10, 2022, and the matter was first heard by Ontario Superior Court Chief Justice Morawetz at 2pm the same day. The Automotive Parts Manufacturing Association (“**APMA**”) was the main applicant, as a significantly impacted party. Mayor Dilkens explained:

In the first 60 minutes of Huron Church Road being blocked, our phone rang at the mayor's office from our largest employer, Chrysler, or now Stellantis, to say, "What's going on at the Ambassador Bridge?"... And so we knew that the APMA, the Automotive Parts Manufacturer's Association, the CVMA, the Canadian Vehicle Manufacturers Association were impacted dramatically by the activity at the bridge.⁴²

31. Windsor and the Attorney General of Ontario were granted intervener status as parties.

32. Chief Justice Morawetz postponed the February 10th hearing to the next day to ensure the protesters were given notice. The Chief Justice granted an injunction order to clear the approaches to the Ambassador Bridge on February 11, 2022.⁴³ Morawetz J. found that the protesters’ conduct was unlawful, holding that, “simply put, freedom of expression does not extend to the point that the Protesters’ activities can result in the denial of fundamental rights and freedoms to all those detrimentally affected by the blockade.” The Chief Justice found that:

³⁹ Superintendent McDonnell Witness Summary, WTS.00000026.

⁴⁰ Deputy Chief Crowley Witness Summary, WTS.00000017.

⁴¹ Testimony of Mayor Dilkens Transcript vol. 18 pp. 53 – 55, TRN00000018.

⁴² Testimony of Mayor Dilkens Transcript vol. 18 pp. 56 – 57, TRN00000018.

⁴³ Order of Chief Justice Morawetz, February 11, 2022, WIN000000511.

There is no question that the Protesters' illegal blockade of the Bridge has caused and will continue to cause irreparable harm to the City, the residents of the City, the automotive industry, the businesses of Windsor and our economy if their unlawful conduct is permitted to continue.⁴⁴

33. Mayor Dilkens testified that the injunction provided the protesters with a day in court and an opportunity to present their position. Parties now before this Commission were granted intervener status in the injunction to make submissions as a friend of the court at the hearing. Mayor Dilkens also testified that the order sent a signal to the public. Deputy Chief Crowley testified that the injunction was "impactful" and provided another tool for police.⁴⁵

34. The City, the APMA, and WPS made significant efforts beyond the requirements of Chief Justice Morawetz' order to inform the public of the terms of the injunction and the legal consequences of the protest.⁴⁶ The City issued press releases, posted a link to the order on the front-page banner of its website, and posting large-format copies of the order at various locations along Huron Church Road.⁴⁷ WPS used social media and main stream media, handed out flyers to educate people on the existence of the order, and that the consequences would be a criminal charge of disobeying a court order.⁴⁸

35. The protesters did not voluntarily clear the blockade after the injunction was granted. On the 12th, in the face of police efforts to clear Huron Church road, a local pastor called for his congregants to join the protestors.⁴⁹ Police witnesses testified to the importance of taking a cautious approach that did not escalate to violence in order to ensure the safety of police, protestors, and residents, particularly given the presence of children. Deputy Chief Crowley testified about the use of children as human shields:⁵⁰

Well, the unpredictability of any crowd gathering is an enormous consideration for us. But in something like that, we had to make plans with Children's Aid Society on arrest plans. We had resources dedicated to just Children's Aid. Obviously, there's a huge safety concern. There was talk on open-source communications that they were going to use children as human shields at one point. So there was all kinds of considerations for us to keep the welfare of children, you know, very, you know, safe.

⁴⁴ Reasons of Chief Justice Morawetz, February 14, 2022 at paras 46, 52, ONT00003774.

⁴⁵ Testimony of Deputy Chief Crowley, Transcript vol. 18, p. 218 lines 3-12.

⁴⁶ Order of Chief Justice Morawetz, February 11, 2022, WIN00000511; Reasons of Chief Justice Morawetz, February 22, 2022 at paras 17-30, 48, WIN00000932.

⁴⁷ Reasons of Chief Justice Morawetz, February 22, 2022 at para 17, WIN00000932.

⁴⁸ Testimony of Deputy Chief Crowley, Transcript vol. 18, p. 287, TRN00000018

⁴⁹ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 65 lines 7-27, TRN00000018.

⁵⁰ Testimony of Deputy Chief Crowley, Transcript, vol. 18, p. 239 line 27-p. 240 line 8, p. 44 lines 6-9, TRN00000018.

36. Superintendent Earley explained that, due to the size and scale of the protest, it could not be removed all at once.⁵¹

37. WPS, the OPP, and their policing partners cleared the roadway by February 13, 2022. The Bridge was open for traffic shortly after midnight on February 14, 2022. The federal government declared the public order emergency later that day.

38. On February 14, Mayor Dilkens declared a municipal emergency to gain more flexibility to address the protest's aftermath and prevent a resurgence of the blockade.

39. The national security threat continued, because of the threat of protesters returning to begin the blockade anew. On February 18, 2022, Windsor successfully brought an application to continue the injunction under section 440 of the *Municipal Act, 2001*. Chief Justice Morawetz held on the evidence before him on February 18, 2022, several days after the Blockade was cleared:

[47] [...] on a balance of probabilities, that the protesters have breached multiple municipal by-laws and that there is a risk they will continue to do so based on the following uncontroverted evidence:

(i) Between the February 11 Order coming into effect at 7:00 pm on February 11, 2022 and into Sunday, February 13, 2022, the protesters continued to breach multiple municipal by-laws, as is evidenced by multiple tickets issued for by-law infractions including the need to have multiple vehicles towed from the roadways approaching the Bridge. Protesters also breached the February 11 Order, as is evidenced by multiple arrests of individuals for Criminal Code charges, including disobeying the February 11 Order. Further, I note that after the February 11 Order came into effect, the number of protesters obstructing the Bridge increased over the course of the evening and into the following evening.

(ii) There is evidence of the protesters' expressed intent to continue their blockade despite the February 11 Order.

(iii) There is evidence that the protesters plan to continue to protest on roadways approaching the Bridge. This includes the successful interception of a convoy of several transport trucks from Ottawa with the suspected intention of heading to Windsor, as well as police monitoring of social media which identifies calls for protesters to regroup, including messages of "it's not over," "we are not done" and "Civil war time."

(iv) As a result of the continued threat of a new blockade, police continue to control traffic flow onto Huron Church Road to protect access to the Bridge. In other words, traffic in the area is not flowing normally due to the threat of further blockades.

[48] The evidence clearly establishes that even after being informed of the terms of the February 11 Order, the protesters chose to ignore it and continue to impede and obstruct access to the Bridge.

[49] I find that the City has established a strong prima facie case, on a balance of probabilities, that there has been a deliberate and continuing breach of

⁵¹ Testimony of Superintendent Earley, Transcript, vol. 19, p. 45 lines 1-16, TRN00000019.

municipal by-laws and the February 11 Order. I also find that there is a risk that protesters will reassert a presence on the roadways, thereby impeding or blocking access to the Bridge.⁵²

40. In granting a permanent injunction under section 440 of the *Municipal Act, 2001*, Chief Justice Morawetz held that the unlawful activity of the protesters must cease, and that a time-limited injunction would not provide the City and its residents with the required degree of certainty that by-law breaches will cease.⁵³

41. Police continued to control traffic flow on Huron Church Road. Windsor continued to support the policing operations including through the procurement of jersey barriers, traffic signal control, and signage.⁵⁴ Police limited the municipal Huron Church Road to Bridge-only traffic, progressively opening up east-west traffic flow until March 13, 2022, when the situation had stabilized in Windsor.⁵⁵

II. Impacts of the Blockade

a) National Economic Impacts

42. The consistent evidence of multiple witnesses who testified before the Commission was that the blockade of the Ambassador Bridge was a matter of national concern that threatened our national economic security. Border crossings, in particular the crossings in Windsor, are critical to the national economy.⁵⁶

43. The Ambassador Bridge specifically, and the critical trade corridor generally in Windsor, has provincial, national and international economic importance. The Bridge is by far the busiest crossing in Canada and represents the highest number of loaded truck container crossings annually.⁵⁷ The Ambassador Bridge handles between 300 and \$450 million of trade each day, as well as serving as an important travel corridor for Windsor residents.⁵⁸

44. The automotive sector was materially, negatively impacted by the Blockade. Christian Dea of Transport Canada described the auto sector as an “integrated North American supply chain” which, if

⁵² Reasons of Chief Justice Morawetz, February 22, 2022 at paras 47-49, WIN00000932.

⁵³ Reasons of Chief Justice Morawetz, February 22, 2022 at paras 65-69, WIN00000932.

⁵⁴ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 7 lines 3-28, TRN00000018.

⁵⁵ Testimony of Mayor Dilkens, Transcript, vol. 18, p. 65 line 28-p.68 line 3, TRN00000018.

⁵⁶ Testimony of Minister Blair, Transcript, vol. 27, p. 213 line 17-p. 215 line 10, TRN00000027.

⁵⁷ Department of Finance Institutional Report, p. 6, DOJ.IR.00000003; Windsor Institutional Report para 38, WIN.IR.00000001; Testimony of Mayor Dilkens, Transcript, Vol 18, p. 15 line 25-p.16 line 4, TRN00000019.

⁵⁸ Testimony of Mayor Dilkens, Transcript vol. 18, p. 16, lines 5-17, TRN00000018.

disrupted, impacts both Canada and the United States “very quickly”.⁵⁹ Transport Canada’s Institutional Report noted the “immediate impact on Canada’s economy” through impacts to the automotive sector, including to Ford, Toyota, Honda, Stellantis and General Motors plants.⁶⁰

45. These negative impacts extended to other industries as well. Christian Dea, in his testimony before the Commission, noted that 26% of Canada’s export value to the United States and 33 % of its import value from that country crosses the Ambassador Bridge.⁶¹ Transport Canada’s institutional report noted that the Bridge accounts for 5.2% of Canada’s total critical goods imports (i.e. agri-food, pharmaceutical, and critical minerals) and 11.2% of such exports.⁶²

46. Mayor Dilkens, in remarks on February 16, called the situation a “national security situation”.⁶³ Commenting on these remarks before the Commission, Mayor Dilkens further noted that it was a national economic security situation, given the amount of trade that crosses the Bridge.⁶⁴ Minister Mendicino described being engaged by his American counterparts as a result of the Ambassador Bridge blockade, noting, “there is a lot at stake in restoring public safety at the Ambassador Bridge”.⁶⁵ He further testified that the Bridge is “a vital artery, not only for Canada, but equally for the United States”.⁶⁶ Jody Thomas agreed with the U.S. Homeland Security advisor that international crossings are a national security issue.⁶⁷

47. As Minister Freeland testified:

I really do believe our security as a country is built on our economic security, and if our economic security is threatened all of our security is threatened. And I think that’s true for us as a country, and it’s true for individuals.⁶⁸

48. The Ambassador Bridge blockade also put Canada’s reputation as a trading partner at risk. Deputy Minister Keenan discussed this risk before the Commission, noting the “extremely high level of concern” about reputational risk associated with the blockade and noting that this represented “a strategic economic risk—and represents economic harm to the country that comes in the future that is quite

⁵⁹ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 144, lines 7-15, TRN00000024.

⁶⁰ Transport Canada Institutional Report, p. 22, DOJ.IR.00000005.

⁶¹ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p.142, lines 6-10, TRN00000024.

⁶² Transport Canada Institutional Report, p. 22, DOJ.IR.00000005.

⁶³ Windsor Threat Briefing, February 16, 2022, WIN00000972

⁶⁴ Testimony of Mayor Dilkens, Transcript vol. 18, p. 76, lines 1-23, TRN00000018.

⁶⁵ Testimony of Minister Mendicino, Transcript vol. 28, p. 92, line 20 - p. 93 lines 2, TRN00000028.

⁶⁶ Testimony of Minister Mendicino, Transcript vol. 28, p. 183, lines 2-10, TRN00000028.

⁶⁷ Testimony of Deputy Jody Thomas, Transcript vol. 25, p. 295 line 7-p. 297 line 1, TRN00000025. PB.CAN.00001661_REL.0001

⁶⁸ Testimony of Minister Freeland, Transcript vol. 30, p. 73 lines 6-10, TRN00000030.

material to the national interest".⁶⁹ Minister Freeland testified to her concern about the risk to Canada's attractiveness for foreign investments.⁷⁰ Deputy Minister Sabia also testified to the blockade's risk of damaging Canada's reputation as a good place to invest and its reputation as a reliable trading partner.⁷¹ Minister Freeland readily agreed that it reopening the Bridge was key to avoiding greater damage to this reputation.⁷² Mayor Dilkens similarly referred to the risk that the blockade posed to a \$5 billion joint venture to build an electric vehicle battery manufacturing plant in Windsor.⁷³

b) Local Impacts

49. The Ambassador Bridge blockade did not only threaten the national and provincial economies. The blockade also impacted the regional economy. Mayor Dilkens described his testimony before the Commission:

Again, within the first hour, our largest employer [Stellantis] called saying, "What's going on?" The very next day, on February the 8th, they suspended some of their manufacturing operations and it was intermittent during the week of the blockade. We also had part suppliers that basically stopped producing parts because they had nowhere to send them, and they don't stockpile large quantity of parts. And, you know, there was a huge, huge impact in the auto sector. But don't forget, even on -- in Essex County, you know, City of Windsor is plus or minus 230,000 people. If we take the neighbouring county, and we're part of that county, just not part of their government, it's about 450,000 people total in that area. We have the largest greenhouse operation in North America, second in the world next to Holland. And so a full 80 percent of all greenhouses in Canada are in Essex County. And so the produce that is produced in those facilities that operate 24/7 365, the vast majority of it is exported to the United States through the Ambassador Bridge. And so the regional impact, which we cannot discount, was material. It was major.⁷⁴

50. As discussed in Windsor's Institutional Brief at paragraphs 127-138, the blockade had an immediate negative impact on Windsor, its businesses, and residents. These local impacts were uncontroverted in the evidence before the Commission. Multiple witnesses before the Commission confirmed that these local impacts are apparent and well-known.⁷⁵

51. The blockade's impact on local residents continued after the protests were cleared from Huron Church Road due to the risk that protesters might return. Mayor Dilkens, when asked about the nature

⁶⁹ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24 p. 169 lines 3-26, TRN00000024.

⁷⁰ Testimony of Minister Freeland, Transcript vol. 30 p. 22 lines 2-23, TRN00000030.

⁷¹ Testimony of Deputy Minister Sabia, Assistant Deputy Minister Jacques, and Assistant Deputy Minister Mendes, Transcript vol. 25, p. 10 lines 5-13, p. 11 line 1-p. 12 line 7, TRN00000025.

⁷² Testimony of Minister Freeland, Transcript vol. 30, p. 134 lines 23-28, TRN00000030.

⁷³ Testimony of Mayor Dilkens, Transcript vol. 18 p. 82 lines 17-25, TRN00000018.

⁷⁴ Testimony of Mayor Dilkens, Transcript vol. 18, p. 80, lines 13-28 p. 81 lines 1-4, TRN00000018.

⁷⁵ For example, see testimony of Deputy Solicitor General Di Tommaso, Transcript vol. 21, pp. 351 & 352, TRN00000021

of impacts on residents and city services, described how the blockade had impacted the City's first response and transit services and how necessary efforts to protect the Bridge impeded Windsorites from going about their daily lives:

Well, major. And so let me mention several. When this all started, EMS had to move an ambulance to the other side of Huron Church. They had to make sure that they could cover that part of the city.

Our fire chief moved and deployed fire resources. There's a fire station literally 100 metres from where the protestors were protesting, but it's on the east side of Huron Church. They moved a truck to the west side to make sure that they could provide -- that they could get there and provide service to the west side of the city.

The transit routes were disrupted. The natural flow of people back and forth and having Huron Church Road closed was significant because there are no grocery stores on one side of -- on the west side of Huron Church. They're all on the east side. And a lot of folks have to take the bus. They don't have their own car on the other side of -- the west side of Huron Church, and so they require the city system to be able to move around and live their daily lives.

The University of Windsor. The University of Windsor is directly adjacent to Huron Church, directly adjacent to the Ambassador Bridge. The primary route that people in the City of Windsor would use to get to the University of Windsor is Huron Church Road. So 17,500 students that attend the University of Windsor.

You have a high school that was actually in the protest zone, Assumption High School. It's been there for probably 100 years. And so that school was directly impacted by the protest activity.

52. Windsor incurred significant, unforeseen expenses – approximately \$5.3 million⁷⁶ – in order to respond to this national crisis and protect Canada's national interests. Minister Mendicino agreed that there was significant reliance on Windsor's police force, and therefore on Windsor and its taxpayers, to protect this piece of national infrastructure.⁷⁷ Minister Freeland agreed that Windsor's daily efforts to keep traffic flowing over the bridge benefitted the entire country.⁷⁸ Assistant Deputy Minister Mendes confirmed that a renewed blockade would have contributed to escalating economic impacts.⁷⁹ It is clear that protection of this nationally significant infrastructure should not be borne by a single municipality on its own.⁸⁰ The Prime Minister acknowledged to Mayor Dilkens that the Ambassador Bridge blockade was "our problem".⁸¹ And yet, as Mayor Dilkens noted in his testimony:

You know, so the City of Windsor has carried all of the water. We're paying all of the bills, \$5.3 million for the, you know, execution of this particular police action, which was absolutely necessary, but I would submit is completely unfair that the

⁷⁶ Windsor Institutional Report, para. 138, WIN.IR.00000001.

⁷⁷ Testimony of Minister Mendicino, Transcript vol. 28, p. 176 lines 3-17, TRN00000028.

⁷⁸ Testimony of Minister Freeland, Transcript vol. 30 p. 135 lines 1-8, TRN00000030. See also Testimony of Deputy Solicitor General Di Tommaso, who agreed that the efforts to clear the Bridge and protect the Bridge from the return of a blockade benefitted the entire province: Transcript vol. 21, p. 352, TRN00000021.

⁷⁹ Testimony of ADM Rhys Mendes, Transcript vol. 25, p. 126, TRN00000025.

⁸⁰ Letter from Mayor Dilkens to Ministers Freeland (Canada) and Bethlenfalvy (Ontario), WIN00002244.

⁸¹ Testimony of Prime Minister Trudeau, Transcript vol. 31, p. 162, lines 6-24, TRN00000031.

City of Windsor is shouldering those costs. It was not a typical municipal policing matter. In fact, it was a national, economic emergency.⁸²

53. Mayor Dilkens wrote to the Ministers of Finance of both Canada and Ontario on March 15, 2022, requesting that the provincial and federal governments to reaffirm their commitment to dealing with the emergency situation “with the appropriate financial support the City of Windsor requires to cover the costs associated with clearing the illegal occupation.”⁸³ Deputy Minister Sabia testified that there was an internal process for dealing with requests for funding from municipalities and that the Department of Finance “treats those letters seriously”. Nevertheless, Windsor has not received any reply to date from either Canada or Ontario to its March 15, 2022 letter.⁸⁴

III. Use of the Emergencies Act⁸⁵ and Appropriateness / Effectiveness of Measures

54. The evidence is clear that the border blockades generally, and the threat to the Ambassador Bridge specifically, was an urgent and critical situation of a temporary nature that seriously endangered the economic security of Canadians. These threats to national economic security seriously endangered the lives and safety of Canadians, including local residents in Windsor.

55. As Chief Justice Morawetz found when granting the February 11 injunction, the blockade was unlawful from the outset, resulting in the denial of fundamental rights and freedoms to those detrimentally affected by the blockade, and constituting a serious threat to the rule of law.⁸⁶ Minister Lametti emphasized his agreement with Justice Morawetz’ decision and stressed that there was always an opportunity for protestors to conduct legal protests.⁸⁷

56. All three orders of government are required to respond to threats to international border crossings, given the local and provincial approaches to this national infrastructure.

57. While the Ambassador Bridge blockade was cleared before the invocation of the *Emergencies Act*, the threat that the blockades would spread or return to the Ambassador Bridge continued.⁸⁸ The

⁸² Testimony of Minister Freeland, Transcript vol. 30 p. 79 lines 19-25, TRN00000030.

⁸³ March 15, 2022 letter from Mayor Dilkens to Ministers Freeland (Canada) and Bethlenfalvy (Ontario), WIN00002244.

⁸⁴ Testimony of Deputy Minister Sabia, Assistant Deputy Minister Jacques, and Assistant Deputy Minister Mendes, Transcript vol. 25, pp. 127 - 129, TRN00000025;

⁸⁵ Order in Council P.C. 2022-392, paragraph a(iii).

⁸⁶ Testimony of Minister Lametti, Transcript, vol. 29, p. 147 line 18-p.149 line 20, TRN00000021.

⁸⁷ Testimony of Minister Lametti, Transcript vol. 29, p. 149 lines 3-7, TRN00000029.

⁸⁸ Reasons of Chief Justice Morawetz, February 22, 2022 at paras 47-49, WIN00000932.

Prime Minister and multiple Cabinet Ministers testified before the Commission that they were concerned about this threat at the time the *Emergencies Act* was invoked.⁸⁹

58. Windsor does not take a position as to whether the invocation of the *Emergencies Act* was justified in the circumstances. However, it is Windsor's position is that the *Emergencies Act* was a useful tool in responding to the national, economic emergency caused by the blockade. The *Emergencies Act*, from Windsor's perspective, demonstrated that the federal government was taking the Ambassador Bridge blockade situation seriously.⁹⁰ The federal declaration sent a clear signal that repeated attempts to blockade the Ambassador Bridge would not be tolerated by Canadian officials, and sent an important signal to trading partners that Canadian supply chains would remain accessible.⁹¹

IV. Lessons Learned

a) Importance of swift, effective communication between all levels of government

59. Clear and open communication between all levels of government, including direct communication between Windsor and the provincial and federal government, was essential to the successful resolution of the blockade.

60. Minister Mendicino agreed that two-way communication between the Federal Government and border municipalities was important:

MS. JENNIFER KING: Did the protests this year then reinforce your view of the value of the importance of two-way communication and collaboration between the Federal Government and border municipalities with respect to the protection of border infrastructure?

MINISTER MARCO MENDICINO: It really did, and especially because of the many unique aspects of this particular public order event.⁹²

61. Minister LeBlanc agreed that direct communication with municipalities is vital because of municipalities' key role in managing emergencies,:

MR. GRAHAM REEDER: Now, would you agree that this regular communication with municipal officials, was vital to the work of the federal government in responding to the blockades?

⁸⁹ Testimony of Prime Minister Trudeau, p. 86 line 22-p. 87 line 15, TRN00000018; testimony of Minister Lametti, Transcript vol. 29, p. 148 lines 5-12, TRN00000029; testimony of Minister LeBlanc, Transcript vol. 28, p. 342 line 25-p. 343 line 20, TRN00000028; testimony of Minister Blair, transcript Vol. 27, p. 284 lines 15-21, p. 322 lines 21-24, TRN00000027; testimony of Minister Mendicino, transcript vol. 28, p. 167 lines 8-19, TRN00000028.

⁹⁰ Testimony of Mayor Dilkens, Transcript vol. 18, p. 124, lines 1-11

⁹¹ Testimony of Mayor Dilkens, Transcript vol. 18, p. 70, lines 19-26.

⁹² Testimony of Minister Mendicino, Transcript, vol. 28, p. 173 lines 14-21, TRN00000028.

MINISTER DOMINIC LeBLANC: It was, and I -- my colleagues with operational responsibilities -- my own role in the intergovernmental space is not, obviously, operational the way it would be the Public Safety Minister or the Transport Minister. But provincial and municipal partners were obviously critical in managing this circumstance.

We're always conscious that municipalities operate constitutionally as creatures of provincial legislation; it's not a constitutional order of government. **But they have such an important responsibility in managing these Public Order Emergencies, that necessarily their officials, their law enforcement officials and so on, have open and active conversations, I think, with provincial, and certainly federal officials.** And that's in everybody's interest in trying to bring the maximum amount of pressure to bear on ending these illegal circumstances in the most efficient and safest way possible.⁹³ [emphasis added]

62. Chief Laforet and his team frequently offered updates to the Provincial Emergency Operations Centre as to the state of affairs in Windsor.⁹⁴

63. Unfortunately, communication was, at times, one-sided, and Windsor was left in the dark about certain key discussions and strategies, including strategies that had local implications.⁹⁵

64. For example, Minister of Transportation Omar Alghabra and his Deputy Minister Michael Keenan both conceded that the Transport Canada's Strategic Enforcement Strategy was not developed with any input from Windsor or other municipalities, despite referencing municipal by-laws and incorporating efforts by municipal first responders. The plan explicitly recognized that, given the complexity of the occupation and blockades, safe resolution required collaboration between three levels of government. However, Transport Canada left communications with municipalities to Minister Mulroney's office at the Province.⁹⁶ Deputy Minister Keenan noted that Transport Canada relied on its provincial partners to share its strategic enforcement plan as they saw fit.

65. Ultimately, Transport Canada's Strategic Enforcement Strategy was not even shared with Windsor or the WPS and as such quite obviously could not have had any impact on the emergency response on the ground.⁹⁷

⁹³ Testimony of Minister LeBlanc, Transcript vol. 28 p. 315 lines 8-28, TRN00000028.

⁹⁴ Chief Laforet Witness Statement, pp 1-3, WTS.00000009.

⁹⁵ Note: the below examples focus on communications (or lack thereof) with federal counterparts. There was also one-sided communications with Ontario counterparts. For example, Deputy Solicitor General di Tommaso was not aware of any provincial consultation with Windsor or WPS to determine what tools they may need to more effectively resolve issues in Windsor: Testimony of Di Tommaso, Transcript vol. 21, p. 351, p. 351, TRN00000021.

⁹⁶ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 228 line 27-p.230 line 23, TRN00000024; Testimony of Minister Alghabra, Transcript vol. 29, p. 267 line 10-p.271 line 10, TRN00000029.

⁹⁷ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 229 line 10-p. 230 line 23, TRN00000024; Testimony of Minister Alghabra, Transcript vol. 29, p. 267 line 10-p.271 line 10, TRN00000029.

66. Further, section 25 of the *Emergencies Act* only requires consultation with provinces, not municipalities, with respect to a proposal to declare a public order emergency. However, it is apparent from the evidence before the Commission that communication between the federal government and municipal leaders was essential in the emergency response and consideration of the *Emergencies Act* declaration. The Report to the Houses of Parliament: Emergencies Act Consultations, dated February 16, 2022, refers to communications between federal officials, and the Mayor and provincial officials about the Ambassador Bridge blockade.⁹⁸

67. Municipalities were not consulted with respect to the measures required to manage the protests and blockades in their jurisdictions. National Security Advisory Jody Thomas acknowledged that such consultation would have been useful:

MS. JENNIFER KING: So in your witness summary, you state that: “The primary goal of the decision to invoke the Act was to provide local and provincial police forces with additional policing authorities that would allow them to manage copy cat protests and blockades in their jurisdictions.” (As read)

Are you aware of any consultation with the local police forces and municipalities with respect to the authorities required to manage the protests and blockades in their jurisdictions?

MS. JODY THOMAS: I’m not aware, but I was not a part of the consultation outside of the Federal Government.

MS. JENNIFER KING: Well would you agree with me that it would have been useful to consult with the police, including police of jurisdiction and local authorities, to get information about what would be useful on the ground?

MS. JODY THOMAS: Yes, I would agree.⁹⁹

68. The evidence before this Commission reinforced that mechanisms must exist for direct communications and cooperation between federal and municipal partners to protect nationally critical infrastructure where provincial partners are not responding, or are not responding fast enough in face of an emergency.

b) Importance of emergency planning

69. Windsor effectively relied on its Emergency Response Plan and emergency preparedness training in response to the blockades threatening the Bridge in February. As described above, the Windsor CEMC immediately convened the CCG, ensuring the required City leaders and partners were at the table.¹⁰⁰ The City’s EOC was ready and available to be used by the police as their command centre throughout.

⁹⁸ Report to the House of Commons: *Emergencies Act* Consultations, SSM.CAN.00000121_REL.0001.

⁹⁹ Testimony of Jody Thomas, Transcript Vol. 25, p. 299 line 18-p. 300 line 8, TRN00000025.

¹⁰⁰ Laforet Witness Summary, WTS.00000009; Testimony of Mayor Dilkens, Transcript vol. 18, p. 25 lines 9-17.

Windsor has a well-trained and committed emergency planning officer who worked tirelessly in support of Windsor's coordinated response.¹⁰¹

70. Windsor's City Council's focus on "speaking with one voice" was also an important part of Windsor's approach to this blockade. The importance of this approach is set out in Mayor Dilkens' witness summary¹⁰² and in his testimony:

That was extremely helpful. It was extremely helpful with communication to the public that they had one source of contact, that we weren't stepping on each other in terms of messaging, and as a City Councillor there's a great desire to respond to every complaint that's coming in from residents, and we were all receiving them. And so by sticking together like we did, I think it was actually good for the public that they had cohesive communication, that it was checked and many times the public comments where we had public [press] conferences, those comments that I delivered were reviewed by the Chief of Police and her tea[m] so that there was no -- there were no surprises when we delivered a message.¹⁰³

c) *The municipal injunction was a useful tool*

71. As described above, although the protesters did not voluntarily clear the Bridge once the injunction was granted, the injunction in Windsor was useful in that it:

- (a) sent a signal to the public;
- (b) communicated to protesters and the public that the protesters' actions were unlawful;
- (c) provided another tool for police, and was used by WPS to charge protesters with disobeying a court order in addition to mischief; and
- (d) enabled police to prevent protesters from gathering in areas near pathways to the Bridge.

72. The permanent *Municipal Act, 2001* injunction remains in place,¹⁰⁴ and clearly prohibits persons having notice of the Order from impeding or blocking access to the Ambassador Bridge and indirect or direct approaching roadways and access points.

d) *Resource gaps*

73. The evidence before the Commission regarding the responses to the protests and blockades throughout Canada reinforced that gaps in resources at the local level¹⁰⁵ – human resources including

¹⁰¹ *Ibid.*

¹⁰² Mayor Dilkens Witness Summary, p 9, WTS.00000019.

¹⁰³ Testimony of Mayor Dilkens, Transcript vol. 18, p 145 lines 9-21, TRN00000018.

¹⁰⁴ Order of Chief Justice Morawetz, February 18, 2022, WIN00001889; reasons of Chief Justice Morawetz, February 22, 2022, WIN00000932.

¹⁰⁵ Testimony of Deputy Minister Keenan and Christian Dea, Transcript, vol. 24, p. 229 lines 4-9, TRN00000024.

policing and hard resources including jersey barriers. Availability of resources influences the speed and capacity of emergency response.

74. Windsor was challenged in terms of resources available to respond to the scale of the Bridge blockade. While there was ultimately sufficient towing services available in Windsor,¹⁰⁶ six kilometers of jersey barriers were required for the police traffic plan to temporarily harden Huron Church Road.¹⁰⁷

75. Immediate access to required resources is critical to emergency response to protect critical infrastructure and the safety and security of the community, protesters and police.

e) Gaps in interjurisdictional coordination in managing threats to critical infrastructure

76. Despite the success of Windsor's response to the Blockade, the process brought to light gaps in coordination between different levels government in managing a threat to a federal border crossing connected to a provincial highway by a municipal road.¹⁰⁸ Ultimately, there was no evidence before the Commission that the jurisdictional wrangling had any meaningful impact on the speed or effectiveness of the response in Windsor. On the contrary, there was cohesion and alignment with the different police forces on the ground and between Windsor and its provincial and federal partners.¹⁰⁹

77. However, it is evident that when the blockade formed (1) confusion existed between the provincial and federal governments regarding jurisdiction and responsibility over the Ambassador Bridge blockade; and (2) it was unclear to some at the provincial and federal levels what legal tools were available to bring the blockade to a peaceful conclusion.

78. Further, it was unclear to Windsor at the outset which federal and provincial ministries to contact with respect to the ongoing blockade.¹¹⁰ As a result, as discussed above, Andrew Teliszewsky proactively reached out to ministerial chiefs of staff at the provincial and federal level to determine who would or could assist.¹¹¹

¹⁰⁶ The towing company that assisted the City received negative repercussions as a result of assisting police. Testimony of Mayor Dilkens, Transcript vol. 18, p. 31 line 6-p.32 line 6.

¹⁰⁷ Testimony of Mayor Dilkens, Transcript vol. 18, p. 31 lines 1-5.

¹⁰⁸ Testimony of Mayor Dilkens, Transcript, vol. 18, p.78 line 22-p.29 line 10, TRN00000018.

¹⁰⁹ Transcript of Federal Ministers press conference, February 15, 2022, p. 6, PB.CAN.00001128_REL.0001.

¹¹⁰ Email from Andrew Teliszewsky to Zita Astravas, WIN00000108.

¹¹¹ Email from Andrew Teliszewsky to Meredith Caplan Jamieson, WIN00000104; Email from Andrew Teliszewsky to Creed Atkinson, WIN00001115; Email from Andrew Teliszewsky to Zita Astravas and Mike Jones, WIN00001624;

79. The evidence before the Commission did not clarify the division of responsibilities within the federal and provincial governments. For example, although Minister Blair claimed the division of responsibilities between Public Safety and Emergency Management was clear, it was apparent from text messages during the blockade that the divisions are not as clear in practice.¹¹² It was unclear from the various Ministers' and Deputy Ministers' testimony which Ministry among Transport Canada, Public Safety or Emergency Management was responsible for emergency planning and response related to critical infrastructure.¹¹³ Similarly, it is unclear at the provincial level which provincial Ministry is currently responsible for threats to critical infrastructure such as the Ambassador Bridge, and the responsibility to coordinate the overall provincial emergency response was recently transferred to the Treasury Board although the Order in Council assigning this responsibility does not appear to have been updated.¹¹⁴

80. Federal Ministry of Transport correspondence indicated that the federal and provincial governments did not agree as to who had jurisdiction to act at the Bridge.¹¹⁵

Third, the Ontario Minister of Transportation continued to suggest the feds have full authority to manage international crossings, but this purposefully confuses authorities between governments. On the Ambassador Bridge itself we have federal authorities under:

- The Customs Act (CBSA)
- The International Bridges and Tunnels Act (TO

The Bridges and Tunnels Act has some authorities but they do not directly bring any authorities to bear on the blockade on the blockade. The Act gives us the authority to act when there is a clear nexus of safety and security related to the bridge itself, the ramps and the plaza. IE three years ago we almost shut down the bridge due to concerns about structural integrity. The problem is a lack of traffic getting to the Bridge because of a blockade on the streets of Windsor does not invoke the Act in any meaningful way.

[...]

We can further suggest quietly to Ontario truly wants us to invoke federal authority to manage this crisis they need to declare an emergency they cannot manage so we can thereby invoke the federal Emergencies Act to manage he blockades. IE turn their request to use federal authority into a poison pill based on the fundamental reality of legal authorities. I realize this is provocative, but it may be helpful to outline to Ontario the only realistic way to invoke federal authority on the streets of Ontario. May induce them to back away from this logic.

Email from Andrew Teliszewsky to Meredith Caplan Jamieson, WIN00001626; Email from Andrew Teliszewsky to Gowthaman Kurusamy and Mike Jones, WIN00001625.

¹¹² Testimony of Minister Blair, Transcript vol. 27, p. 165 lines 20-23 TRN00000027. Text exchanges between Katie Telford and Minister Mendicino, pp. 9 & 10, PB.CAN.00001844_REL.0001

¹¹³ For example, see: Testimony of Minister Mendicino, Transcript vol. 28, p. 14, lines 2-16 TRN00000028; Testimony of Minister Lametti, Transcript vol. 29, p. 66 lines 7-10 Testimony of Assistant Deputy Minister Freeman, Transcript, vol. 20 p. 180 lines 2-18, TRN00000020.

¹¹⁴ Testimony of Deputy Solicitor General di Tommaso, Transcript vol. 21, p. 355 & 356.

¹¹⁵ Email from Michael Keenan to John Ossowski, SSM.CAN.00000374_REL.0001.

81. Explaining these comments, Deputy Minister Keenan noted that:

The third point is because they're on the city streets of Windsor, the -- these federal acts have no scope covering the city streets of Windsor.

And that the remainder of it was making the point that Ontario sort of backed away, either on the basis that they think this can be left to the federal government and its jurisdiction. But we needed to make it clear that that doesn't work, and that if they -- the only feasible way that they have to do something and -- because the streets of Windsor are under the jurisdiction of the municipal authorities of Windsor and the provincial government. And if they really truly want us to solve this the only way to do that is to declare an emergency and ask us to intervene through our Emergencies Act. That would be a very provocative approach, and it may succeed in having Ontario come back to the table and start and start kind working using their authorities to solve the problem.¹¹⁶

82. Deputy Minister Keenan testified that there is a gap in the laws of the land with respect to the tools available to government to secure strategic trade corridors as the federal government has authority over the trade infrastructure, while local and provincial governments have jurisdiction over the access roads.¹¹⁷ Deputy Minister Keenan's suggestion that there would be broader toolset if the protest occurred on the Bridge was shared by other federal witnesses.¹¹⁸ However, none of the federal witnesses pointed to available powers under existing federal law similar to the measures taken by the federal government under the *Emergencies Act*, nor did any federal witnesses point to powers in a "federal toolkit" that were not available to provincial governments and authorities in response to the protests and blockades.

83. In any event, WPS would respond, and would use the same *Criminal Code* charges, if a protest occurred on the Bridge as opposed to on the municipal access road. Despite some confusion among federal witnesses,¹¹⁹ CBSA officers would not respond to a public order protest if they occurred on the Bridge. It is the WPS that responds to incidents on the Canadian side of the Ambassador Bridge.¹²⁰ The former president of the Canadian Border Services Agency ("**CBSA**"), John Ossowski explained that CBSA officers have limited authority on the Bridge – they are unable to directly engage in enforcement

¹¹⁶ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 176 lines 7-22, TRN00000024.

¹¹⁷ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 182 lines 1-6, TRN00000024.

¹¹⁸ Transport Canada Institutional Report at para 13, DOJ.IR.00000005; Transport Panel Witness Statement, pp. 6-7, WTS.00000065; Testimony of Minister Blair, Transcript vol. 27 p. 219 lines 1-4, TRN00000027; Testimony of Janice Charette and Nathalie Drouin, Transcript, vol. 26 p. 295 line 27-p.296 line 2, TRN00000026; Testimony of Minister Mendicino, Transcript vol. 28 p. 174 lines 15-25, TRN00000028.

¹¹⁹ Testimony of John Ossowski, Transcript vol 24 p. 73 line 12-p. 74 line 10; Testimony of Janice Charette and Nathalie Drouin, Transcript, vol. 26 p. 295 line 27-p.296 line 2, TRN00000026; Testimony of Minister Mendicino, Transcript vol. 28 p. 174 lines 15-25, TRN00000028.

¹²⁰ Testimony of Mayor Dilkens, Transcript vol. 18 p. 17 line 6-p.18 line 8, TRN00000018; Testimony of Deputy Chief Crowley, Transcript, vol. 18 p. 211 line 16-p. 214 line 13, TRN00000018; Testimony of Superintendent Earley, Transcript vol. 19 p. 135 lines 19-27, TRN00000019.

operations with respect to a public assembly, even if they occur within the port of entry itself.¹²¹ The police of jurisdiction would respond. Minister Mendicino also acknowledged in his testimony that there were “definitely gaps”¹²² in CBSA’s authority to take action at the Bridge. Deputy Minister Keenan agreed that there is “an authorities gap here that bears some analysis.”¹²³ Some federal witnesses including Janice Charette of the PCO, did not know that WPS would respond to policing events on the Bridge.¹²⁴

84. The City is carrying the costs of jurisdictional finger-pointing between the federal and provincial governments. For example, MTO assisted the OPP in identifying a contractor to place concrete barriers in Windsor.¹²⁵ The concrete barriers were installed at significant cost (over \$1 million), on the direction of the OPP, in order to manage risk of blockades further disrupting cross-border movement of people and goods. However, there was confusion at MTO as to who would pay for the barriers.¹²⁶ The OPP’s preliminary view was that compensation would be through “federal funds available to support the emergency response to re-open the Windsor-Detroit crossing”. There was later a suggestion that MTO would be covering the costs. Ultimately, as described in the Institutional Brief, Windsor payed the invoices to avoid any delays and has since asked the Province and Federal Government to reimburse these costs.¹²⁷ Windsor has received no response to date.

85. The jurisdictional wrangling apparent in the evidence before the Commission reveals the critical importance of study, planning and establishment of an interjurisdictional framework to protect critical infrastructure like the Ambassador Bridge before threats emerge. A border crisis is no time for jurisdictional wrangling between levels of government.

f) Urgent need for an interjurisdictional framework to protect critical infrastructure

Even as this emergency is over... We need to make sure our institutions are prepared and ready in the future. This issue won't just go away. – Prime Minister Justice Trudeau¹²⁸

¹²¹ Testimony of John Ossowski, Transcript vol. 24 p. 73 line 12-p. 74 line 10; p. 74 line 20-p. 75 line 28 TRN00000024; testimony of Deputy Minister Keenan, Transcript vol. 24, p. 228; Deputy Minister Briefing Material, February 16, 2022, p. 1, SSM.NSC.CAN.00000340_REL.0001.

¹²² Testimony of Minister Mendicino, Transcript vol. 28, p. 174 lines 15-16, TRN00000028.

¹²³ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 232 lines 3-6, TRN00000024.

¹²⁴ Testimony of Janice Charette and Nathalie Drouin, p. 295 line 27-p.296 line 2, TRN000000026.

¹²⁵ Witness Summary of Ian Freeman, p. 8, WTS.00000021.

¹²⁶ Email from Jasan Boparai (MTO) to Dana Earley (OPP), ONT00000182; email from Doug Jones (MTO) to Michelle Kim (MTO) and others, ONT00000438; email from Stephen Laforet (Windsor) to Joe Mancina (Windsor) and others, WIN00002143.

¹²⁷ Letter from Mayor Dilkens to Ministers Freeland and Bethlenfalvy, March 15, 2022, WIN00002244.

¹²⁸ Prime Minister Trudeau’s remarks regarding the revocation of the Emergencies Act on February 23, 2022, p.16, SSM.CAN.00002077_REL.0001.

86. Multiple witnesses before the Commission agreed with Windsor's conclusion that the blockades in February 2022 revealed an obvious need for broader collaboration and support of municipalities from provincial and federal governments to bolster the safety and security of our borders.¹²⁹

87. In a crisis, swift and decisive action is necessary. It is critical for there to be a plan in place, in advance, to address issues at international border crossings, including recovery after an event.

88. Windsor has been asking for all three levels of government to sit down develop a framework to protect critical infrastructure since the day after the blockade was cleared on February 13, 2022.¹³⁰ On February 14, 2022, Windsor City Council directed City Administration to partner with the federal and provincial governments on a long-term sustainable model to ensure the security and protection of Windsor's international crossings. Windsor proposed that all three levels of government meet and collaboratively study and develop a long-term, sustainable strategy to protect critical border infrastructure from all-hazards. The Mayor's Chief of Staff forwarded this motion to Minister Blair's office the same day it was passed.¹³¹ On a call with Minister Mendicino on February 18, 2022, Mayor Dilkens and MP Masse highlighted the desire for a comprehensive plan with redundancies to prevent this from happening again, including how to respond as a community and how to support local businesses.¹³²

89. The Commission heard that, on March 17th, 2022, Mayor Dilkens sent a letter to Ministers Jones, Mendicino, and Blair noting that:

Windsor's critically important international trade routes connect directly into local municipal roads in the City of Windsor. It is worth noting that, save for the presence of federal border security officials on site at the customs/border plazas who are responsible for processing international travel, there is no further strategic or

¹²⁹ Letter from Mayor Dilkens to Ministers Jones, Mendicino and Blair, March 17, 2022, WIN00002240; Testimony of Deputy Minister Keenan, Transcript vol. 24 at p. 228 line 26-p. 229 line 9, TRN00000024; Testimony of Deputy Solicitor General Di Tomasso, Transcript vol. 21 p. 353 lines 4-28, TRN000000021; Testimony of Deputy Minister Stewart, Transcript vol. 22 at p. 192 line 9-23, TRN000000022; Testimony of Minister Blair, Transcript vol. 27 p. 289 line 18-p.290 line 20, TRN000000027; Testimony of Minister Mendicino, Transcript vol. 28 p. 178 line 11-p. 180 line 17, TRN000000028.

¹³⁰ Testimony of Assistant Deputy Minister Freeman, Transcript vol. 20 p. 174 line 15-p.178 line 23, TRN000000020; letter from Stephen Laforet to Joe Mancina and others, WIN00002143; Letter from Mayor Dilkens to Ministers Jones, Mendicino, and Blair, March 17, 2022, WIN00002240; Testimony of Deputy Minister Stewart, Transcript vol. 22 at p. 192 line 9-23, TRN000000022; Testimony of Minister Blair, Transcript vol. 27 p. 289 line 18-p.290 line 20, TRN000000027; Testimony of Minister Mendicino, Transcript vol. 28 p. 178 line 11-p. 180 line 17, TRN000000028; Testimony of Prime Minister Trudeau, Transcript, vol. 31 p. 165 line 25-p. 166 line 11, TRN000000031.

¹³¹ WIN00000800; readout of Mendicino call between Minister Mendicino, Mayor Dilkens, and Brian Masse, p. 6, SSM.CAN.00006251_REL.0001.

¹³² SSM.CAN.00006251_REL.0001

resource support provided to the City of Windsor in facilitating the safety and security of those international trade routes.

90. Mayor Dilkens' letter further stated that the blockade "highlighted a vulnerability in our governance model", and requesting a meeting with all three orders of government to "debrief the blockade regarding emergency regulatory obligations."¹³³ Deputy Solicitor General di Tommaso testified that he was not aware of the letter to Ontario Solicitor General Jones, and it was not raised to his attention. Deputy Minister Blair, at the time of his testimony, was not aware of the letter, but said that it struck him as a reasonable request from the Mayor, and Prime Minister Trudeau agreed.¹³⁴

91. Mayor Dilkens described the need to have a plan that can be pulled "off the shelf":

And so my request to them, to the other levels of government was we need to sit down and figure this out. We need to figure out in the event that something like this were to happen again, how do we respond and, you know, sort of pull the template off the shelf that the response is seamless, that it's not, you know, a day or two here trying to figure out how many folks we need, and who's going to do what, and who should take the lead, and then ultimately, who's paying for it.¹³⁵

92. Given that the threats that led to the blockades in February 2022 have not gone away, it is particularly concerning that none of the provincial or federal witnesses at the Commission recalled Windsor's request to meet, and none provided a clear commitment to preparing a response framework together with Windsor on an urgent basis. Ten months after the blockade, Windsor has received no response to its reasonable requests.

93. Windsor's call for a response framework for the Bridge was echoed throughout the evidence before the Commission.¹³⁶ For example:

- (a) Deputy Minister Stewart and Assistant Deputy Minister Rochon agreed that the National Strategy for Critical Infrastructure does not address events like the Blockade¹³⁷
- (b) Senior advisor to the PCO, Mr. Hutchinson, pointed out gaps in the legislation and recommended that critical infrastructure protection legislation will require collaboration across federal, provincial, municipal and private sectors. Mr. Hutchinson agreed that

¹³³ Letter from Mayor Dilkens to Ministers Jones, Mendicino, and Blair, March 17, 2022, WIN00002240; Appendix A – City of Windsor Institutional Report, WIN.IR.00000002.

¹³⁴ Testimony of Minister Blair, Transcript vol. 27, p. 289 line 11-p. 290 line 1, TRN00000027; Testimony of Prime Minister Trudeau, Transcript vol. 31, p. 165 lines 5-14, TRN00000031; Testimony of Assistant Deputy Minister Freeman, Transcript vol. 20 p. 174 line 15-p.178 line 23, TRN00000020; Testimony of Deputy Solicitor General Di Tommaso, Transcript vol. 21 p. 353 lines 4-28, TRN00000021.

¹³⁵ Testimony of Mayor Dilkens, Transcript vol. 18, p 79 lines 10-18, TRN00000018.

¹³⁶ This request was amplified by participants in the policy roundtables. See Windsor Policy Submissions

¹³⁷ Testimony of Deputy Ministers Stewart and Assistant Deputy Minister Rochon, Transcript vol. 22, p 190 line 11 – p. 191 line 21, TRN00000022.

collaborative planning would support all governments in being able to fulfill their functions, and that there would be valuing in strengthening the tools and frameworks around protecting critical infrastructure.¹³⁸

- (c) the Canadian Trucking Alliance (“**CTA**”) and Canadian Manufacturers & Exports (“**CME**”) wrote to the Prime Minister and Premiers by letter dated February 10, 2022, stating that the border blockades “have halted the flow of essential goods and threatened the Canadian economy” and negatively impacted their members. CTA and CME called on the First Ministers:

... to meet to develop an action plan to end and prevent blockades at all ports of entry in Canada to ensure the safety and security of our supply chains and economy.

CTA and CME understand that each port of entry, and the roadways leading up to the plazas, have their own unique jurisdictional characteristics. That is why we believe an action plan must be formulated, that is national in scope, and outlines tailored plans for each port of entry and critical infrastructure link.¹³⁹

94. Canada’s emergency management and critical infrastructure frameworks must be updated and modernized.

95. Prime Minister Trudeau agreed in his testimony that, while he could not speak to the existence of a pre-existing plan or framework “it is clear that, if there was, it was not as effective as it could have been, and if there wasn’t, perhaps there should have been.”¹⁴⁰ Minister Mendicino agreed that the authorities available to police of jurisdiction and to federal authorities should be understood and planned in advance, including who is responsible for what resources.¹⁴¹ Minister Freeland similarly agreed that frameworks and laws to protect critical infrastructure should be studied and strengthened.¹⁴² Mayor Willet of Coumts Alberta, another border community, agreed that there was value having a plan or framework in advance to deal with blockade situations like the one his community experienced.¹⁴³

96. Key witnesses agreed that municipalities including Windsor cannot be excluded in future planning.¹⁴⁴ As Windsor discussed in its Institutional Report, municipalities and local police are the front-

¹³⁸ Testimony of Jeffery Hutchinson at p. 81 line 6 - p. 82 line 10.

¹³⁹ SSM.CAN.00001266_REL.0001

¹⁴⁰ Testimony of Prime Minister Trudeau, Transcript vol. 31, p 164, lines 3-6, TRN00000031.

¹⁴¹ Testimony of Minister Mendicino, Transcript vol. 28, p. 176 line 18 – p. 177 line 18, TRN00000028.

¹⁴² Testimony of Minister Freeland, Transcript vol. 30, p. 135 lines 9-13, TRN00000030.

¹⁴³ Testimony of Mayor Willet, Transcript vol. 20, p. 58 lines 17-23, TRN00000020.

¹⁴⁴ Testimony of Minister Mendicino, Transcript vol. 28, p. 176 line 18-p.177 line 22, p178 lines 11-20, TRN00000028.

line responders in an emergency, and have crucial local knowledge and situational awareness necessary in emergency response.¹⁴⁵ This was evident during the blockade.¹⁴⁶

97. The Commission also heard about how Windsor is not only a stakeholder, but a critical partner in emergency planning and management. It is essential that any planning with respect to the Bridge includes Windsor as an equal partner, to ensure that the City's needs and local concerns are addressed. This applies not just to Windsor, but to all border municipalities that host critical border infrastructure:

Every level of government has a role to play. The City has to be an equal partner, and the City, respectfully, plays a disproportionate role in trying to resolve some of these issues, like the issue we're talking about in February, that we need to have these things coordinated in advance, have the conversation worked out in advance so we know who's doing what and who's responsible to fund some of these costs.¹⁴⁷

98. Deputy Minister Keenan emphasized that there was merit to a specific emergency management plan developed by all three levels of government for international border crossings.¹⁴⁸

99. Ms. Jody Thomas, National Security and Intelligence Advisor to the Prime Minister, agreed that it would be useful to consult with the police of jurisdiction and local authorities to get information about what would be useful on the ground before declaring a public order emergency.¹⁴⁹

100. Ministers LeBlanc and Freeland also agreed that Windsor was not just a stakeholder, but a partner in debriefing the lessons learned and in developing frameworks and laws to protect critical infrastructure. They agreed that the Government of Canada would have active discussions with municipalities and work with them as partners to deal with enforcement related to critical border infrastructure.¹⁵⁰

101. Prime Minister Trudeau agreed that all three levels of government must collaboratively develop a framework to protect the critical infrastructure in Canada, and that a planning process to protect border crossings must include every level of government, including Windsor and other border communities.¹⁵¹

¹⁴⁵ City of Windsor Institutional Report at paras 84-91, WIN.IR.00000001.

¹⁴⁶ Testimony of Superintendent Earley, Transcript vol. 19, p. 35 lines 10-18, TRN00000019; Testimony of Commissioner Lucki and Deputy Commissioner Duheme, Transcript, vol. 23, p. 256 lines 6-16; Testimony of John Ossowski, Transcript, vol. 24, p. 71 line 15-p. 72 line 5, TRN00000024; Testimony of Minister Mendicino, Transcript, vol. 28, p. 177 line 27-p.178 line 10, TRN00000028.

¹⁴⁷ Testimony of Mayor Dilkens, Transcript vol. 18, p. 159 lines 22-28, TRN00000019.

¹⁴⁸ Testimony of Deputy Minister Keenan and Christian Dea, Transcript vol. 24, p. 232 lines 17-22, TRN00000024.

¹⁴⁹ Testimony of Jody Thomas, Transcript vol. 25, p. 300 lines 4-8, TRN00000025.

¹⁵⁰ Testimony of Minister Mendicino, Transcript, vol. 28, p. 218 lines 3-22, TRN00000028; Testimony of Minister Freeland, Transcript, vol. 30, p. 135 lines 9-19, TRN00000030.

¹⁵¹ Testimony of Prime Minister Trudeau, Transcript, vol. 31, p. 165 lines 15-24, TRN00000031.

g) Municipalities bear the weight of the impacts, response, recovery and preparation for threats to critical infrastructure in their borders

102. The Ambassador Bridge blockade was a reminder that local authorities including municipalities are most often the first responders in emergencies including threats to critical infrastructure, and local communities bear the brunt of this emergency response. The weight of ensuring a vital international trade corridor remained in efficient function rested on the municipality, local police and other local first responders, which is disproportionate to local resources and funds.

103. The City and WPS have experienced significant costs to address the illegal blockade and the subsequent need to secure Huron Church Road, in addition to bearing the brunt of the local impacts. These costs are well outside the normal course expenses a municipality like Windsor expects, coming as a result of clearing an international gateway for the benefit of the national economy. It is unreasonable to expect municipal taxpayers to bear the financial burden of national emergencies.

104. Without the required interjurisdictional planning and support described above and in Windsor Policy Submissions, communities will continue to pay the price in terms of impacts, response, recovery, and preparation for the next threat to national critical infrastructure.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 9th day of December, 2022.



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