

PUBLIC ORDER EMERGENCY COMMISSION

**CLOSING SUBMISSIONS OF
THE GOVERNMENT OF CANADA**

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Canada's Submissions

OVERVIEW

1. In January and February of 2022, Canada was faced with an unprecedented, urgent situation of unlawful protests, escalating illegal blockades at border ports of entry across the country, and a crippling occupation of the nation's capital (the "convoy emergency"). These events were interconnected. They were inspired by the unlawful occupation of Ottawa and stimulated by rising online extremist rhetoric which manifested itself in threats to the lives of police officers, elected officials, and health care providers, among others. Elements of the convoy protesters wanted to replace the elected government if their anti-government grievances were not resolved.
2. Over a three-week period, these volatile events raised serious threats of violence to persons and property (including to critical infrastructure) that seriously called into question the ability of police to respond effectively. After considering all available options and existing authorities, and acting on the advice of the professional public service, the Governor in Council believed, on reasonable grounds, that this urgent situation exceeded the provinces' capacity or authority to respond effectively to the crisis on a nationwide scale. In order to quell this crisis, the *Emergencies Act* ("EA") was invoked, with the support of several premiers and territorial leaders, and for a limited time.
3. There were threats to the security of Canada in the form of illegal blockades at key border ports of entry such as Windsor, Ontario; Coutts, Alberta; Emerson, Manitoba; Surrey, British Columbia; and other ports of entry across the country. The discovery of weapons and an extremist group of individuals willing to die for their cause at the Coutts blockade revealed a real potential for serious violence. The potential that there were weapons and threat actors at other illegal protests was very real.
4. At the same time, there was the unlawful occupation in Ottawa, which was described by the former Chief of Police as a "tinder box" ready to explode. The evidence confirmed the "unorganized chaos" that gridlocked the city. Counsel for Freedom Corp., Mr. Wilson, admitted that this illegal occupation attracted individuals and groups with violent tendencies, like "moths to a flame".
5. There was also the real potential of serious violence from the racial harassment, intimidation and threats to residents of Ottawa, Windsor and those at other illegal blockades, and the risk of violence from counter-protests. The lives and livelihoods of ordinary people were seriously affected as many businesses closed, and people were without work for weeks due to this convoy emergency.
6. At the same time, there was escalating online Ideologically Motivated Violent Extremism ("IMVE") rhetoric, and threats against the lives of police and elected officials, including the Prime Minister and the Deputy Prime Minister. The hate speech and symbols targeting ethnic minorities and racialized persons were prevalent and prominent at these unlawful protests.
7. There were also serious threats to the economic security of Canada; to Canada's trade relationship with the United States; to our main supply chain of essential goods, food, fuel and medicine to all

parts of the country; to Canada's reputation as a safe and reliable investment destination; and to the economic well-being of Canadians. The security threats were real and escalating across the country, including threats to impede access to airports and railway lines. It was not known where the next illegal blockade would suddenly arise and further strain the resources of law enforcement.

8. The evidence confirms that these well-financed illegal blockades across the country were interconnected, loosely coordinated, and appeared designed to stretch police resources and overwhelm their capacity to respond effectively. The Ottawa occupation inspired copycat events in Canada and in other countries such as France, New Zealand and the United States. These unlawful protests adversely affected confidence in the rule of law in Canada among Canadians, and in the international community.
9. In this inquiry, the government witnesses outlined the deliberate, step by step approach in which careful consideration was given to all available options and existing authorities before the declaration of a public order emergency was chosen as the option of last resort. One of those options, resolution of this complex situation through engagement with the protesters, was seriously pursued and considered, though ultimately was not a workable solution.
10. By February 14, the cities of Ottawa and Windsor, and the government of Ontario had already declared states of emergency. After extensive engagement and formal consultation between federal officials and ministers with their provincial counterparts, as well as with municipal leaders in affected communities, the Governor in Council invoked the *EA*. As noted above, the Governor in Council did so with the support of several premiers and territorial leaders.
11. The measures taken for dealing with the emergency were proportional, effective, time-limited and compliant with the *Charter of Rights and Freedoms* ("*Charter*"). The measures were of significant benefit to law enforcement in deterring and dispersing the illegal protests, including in Ottawa and Windsor, and keeping the areas cleared. They allowed the police to safely and quickly bring the situation under control, and to compel the services of heavy tow truck operators and to indemnify them accordingly.
12. The *EA* measures were revoked as soon as they were no longer required. In the end, these measures resolved the crisis situation across the country after 9 days, without any serious injury or loss of life. Based on all the foregoing facts and reasons, the Governor in Council believed, on reasonable grounds, that a public order emergency existed and necessitated the taking of temporary special measures for dealing with the emergency.

CANADA'S PARTICIPATION IN THE PUBLIC ORDER EMERGENCY COMMISSION

13. The Government of Canada ("Canada") was granted full standing before the Public Order Emergency Commission, in respect of all matters set out in its Terms of Reference.¹ Throughout its participation, Canada has been committed to supporting the Commission's work, respectful of its mandate, and faithful to its guiding principles of transparency, proportionality, fairness, timeliness and expedition.² Even considering the strict statutory timelines on which the

¹ PC 2022-392, dated April 25, 2022; Decision on Standing dated June 27, 2022, paras 20-22.

² Public Order Emergency Commission, *Revised Rules of Practice and Procedure*, dated October 7, 2022, Rule 10.

Commission was required to operate, the scope of documentary production and access to witness and departmental evidence provided by Canada to this Commission is without precedent.

14. Canada produced thousands of documents relevant to the Commission's mandate, while protecting privileged information and information whose disclosure would be injurious to the public interest.³ The Commissioner was directed that he must perform his duties in such a way that the inquiry did not jeopardize any criminal or other investigation, or injure international relations, national defence, or national security.⁴
15. To ensure that the Commissioner could fulfil his mandate, Canada provided the Commission with documents over which public interest immunity and national security and international relations claims were made pursuant to ss. 37 and 38 of the *Canada Evidence Act* ("CEA"), with see-through redactions. A great deal of work was then required to produce these documents and those containing other privileged information in a manner that could be disclosed to parties or the public.
16. Exceptionally, Canada also committed to producing the inputs that were before Cabinet when it considered the circumstances that led to the declaration of a public order emergency and the special temporary measures. These inputs are normally protected by Cabinet confidence, but were provided while still protecting Cabinet secrecy in the deliberations and views of the ministers.⁵
17. These inputs comprised factual and background information, options and analyses were brought to the attention of ministers in the context of Cabinet and Cabinet committee discussions. Their exceptional disclosure permitted the Commission to have access to the facts considered by the Governor in Council when it declared a public order emergency. Canada also provided the agendas and participant lists of the Incident Response Group ("IRG") and other Cabinet committees and Cabinet meetings that considered these matters. Of the 371 federal Commissions of Inquiry that have taken place in Canada since Confederation, the exceptional disclosure of information protected by Cabinet confidence has been made in only three others.⁶

³ Among others, documents were redacted in accordance with the following privileges and immunities: section 37 of the *Canada Evidence Act*, RSC 1985, c C-5 ("CEA") (specified public interest immunity); section 38 of the *CEA* (international relations, national defence and national security); section 39 of the *CEA* (confidences of the King's Privy Council of Canada); solicitor-client privilege and litigation privilege; and irrelevant personal information.

⁴ Order in Council, PC 2022-392, dated April 25, 2022, subparas (a)(vi)(B) and (C).

⁵ The Supreme Court of Canada has acknowledged the need to respect the confidentiality of Cabinet decision-making in order to uphold the constitutional principle of responsible government. See for example, *British Columbia (Attorney General) v Provincial Court Judges' Association of British Columbia*, 2020 SCC 20, para 108.

⁶ TRN00000001, Opening Remarks of the Government of Canada, p 26. Note: The three other federal Commissions of Inquiry in which there has been exceptional access to information normally protected by Cabinet Confidence were: Commission of Inquiry concerning Certain Activities of the Royal Canadian Mounted Police (McDonald Commission), OIC OC 1977-1911; Commission of Inquiry into the Sponsorship Program and Advertising Activities (Gomery Commission), OIC PC 2004-110; and Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings between Karlheinz Schreiber and the Right Honourable Brian Mulroney (Oliphant Commission).

18. Commission counsel requested that Canada waive solicitor-client privilege over the legal advice provided to Cabinet regarding the threshold for declaring a public order emergency. Canada declined to waive solicitor-client privilege over this advice. The Supreme Court of Canada has recognized that solicitor-client privilege has evolved from a rule of evidence to a rule of substantive law and that it is a principle of fundamental justice.⁷ Protecting solicitor-client privilege is essential to ensuring that everyone is able to be frank and honest in seeking legal advice. If those seeking legal advice are not confident their communications will be protected, the solicitor-client relationship, and the ability to obtain relevant legal advice, is undermined.
19. In the context of government, the privilege promotes effective public administration by ensuring that government officials are free to seek legal advice to guide their decision making, without concern that their communications with counsel will subsequently be made public. Waiving solicitor-client privilege would undermine the sanctity of the solicitor-client relationship between the Attorney General of Canada (and the Department of Justice) and Cabinet.
20. Courts and other tribunals consistently and effectively conduct their functions without the need to waive solicitor-client privilege. Similarly, this inquiry can address its mandate without the need to set aside this fundamental protection of the solicitor-client relationship. However, Canada's explanation of the legal framework that governs the declaration of a public order emergency under the *EA* forms part of these written submissions.
21. Collecting and reviewing documents from relevant government departments, and ensuring the proper redaction of the large volume of documents disclosed to the Commission and the parties for use in the inquiry, involved a multi-stage process that, in the normal course, would easily have taken more than a year to complete. Due to the deadlines imposed by the *EA*,⁸ this extensive work took place on an extremely compressed timetable and was ultimately completed within just six months.
22. In his opening statement, Commissioner Rouleau pointed out that, unlike other commissions of inquiry, the deadlines for this Commission are measured in days, not years, with no mechanism for an extension.⁹ Meeting these deadlines required a tremendous effort on the part of Canada, and other parties, who worked together to assist the Commission in fulfilling its important mandate. While this process was not without its challenges, Canada is confident that the Commissioner was provided with the evidence necessary to understand the circumstances leading to the declaration of public order emergency and the measures put in place. In his remarks at the conclusion of the evidentiary stage of the inquiry, the Commissioner acknowledged that the evidence adduced at the hearings was sufficient to provide answers relevant to the Commission's mandate.¹⁰

⁷ *Canada (Attorney General) v Chambre des notaires du Québec*, 2016 SCC 20, para 28; *Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53, para 38.

⁸ *Emergencies Act*, RSC 1985, c 22, (4th Supp), s 63.

⁹ TRN000000001, Opening Remarks by Commissioner Rouleau, pp 6-7.

¹⁰ TRN000000031, Closing Remarks by Commissioner Rouleau, p 254.

23. Before the public hearing began, 53 federal officials, 9 Ministers and the Prime Minister, participated in interviews with Commission counsel.¹¹ Canada also provided the Commission with Institutional Reports from 14 government departments. These reports provided an overview of each department, its responsibilities, organizational and reporting structure, and its role in the events leading to the Declaration of Public Order Emergency.¹² These detailed reports facilitated the Commission's ability to investigate the underlying circumstances in a comprehensive and efficient way. Among them was a classified Institutional Report from the Canadian Security Intelligence Service ("CSIS"), produced *in camera* to the Commission, permitting it to have access to national security information otherwise protected under section 38 of the *CEA*.
24. Finally, during the evidentiary hearings, 21 federal government witnesses from nine government departments testified. In addition to government officials, witnesses included 7 Cabinet Ministers and the Prime Minister of Canada.¹³

FACTS AND EVENTS LEADING TO THE CONVOY EMERGENCY

I. Background context to the convoy emergency

a. Brief history of federal public health measures

25. On March 11, 2020, the World Health Organization Director-General declared COVID-19 a pandemic.¹⁴
26. Between March 13, 2020 and March 27, 2020, all provinces and territories declared public health emergencies pursuant to their respective public health legislation and began implementing a range of measures in response to COVID-19.¹⁵
27. All governments – federal, provincial and territorial – implemented various measures, including restricting travel and requiring quarantine or isolation. The purpose of each of these measures was to protect the lives of Canadians.
28. The provinces and the federal government share jurisdiction over "health". Many public health measures were implemented provincially, because of provinces' broad jurisdiction over property and civil rights in the province and matters of a local and private nature.¹⁶ The federal government pursued measures in areas of federal jurisdiction, including, aeronautics,

¹¹ See Annex "A" – List of Government Witness Interviews.

¹² See Annex "C" – List of Institutional Reports filed with the Commission.

¹³ See Annex "B" – List of Government Witnesses.

¹⁴ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 25; COM00000380, The World Health Organization, *WHO Director-General's Opening Remarks at the Media Briefing on COVID-19*, dated March 11, 2020.

¹⁵ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 27-39.

¹⁶ *Constitution Act, 1867*, ss 92(13), 92(16); See generally *Reference re Assisted Human Reproduction Act*, 2010 SCC 61; *Taylor v Newfoundland*, 2020 NLSC 125.

international or interprovincial railway and marine transportation undertakings, border control and quarantine.¹⁷ Some of these measures are detailed in the Commission’s Overview Report – *The COVID-19 Pandemic and Government Responses*.¹⁸

29. In March 2020, the Government of Canada began implementing various restrictions on foreign nationals entering the country.¹⁹ These measures were adjusted and adapted throughout the pandemic.
30. Around the same time, schools began closing their doors to in-person learning²⁰ and gathering limits were imposed across the provinces. By the summer of 2020, these gathering limits began to apply to smaller groups of people, thereby impacting social gatherings in private homes as well as larger gatherings. Many of these limitations came into effect right before the holidays in December, 2020.²¹ In addition, many businesses were ordered closed, or were only permitted to allow curb-side or take-out service.²²
31. Beginning in December 2020 and for varying periods of time over the course of the next year or so, some provinces instituted “lockdowns”, “stay at home orders” or curfews.²³ Some limited access to the province. In early July 2020, New Brunswick, Nova Scotia, Newfoundland and Labrador, and Prince Edward Island agreed to create an “Atlantic Bubble” in which only residents of those provinces could travel between them without the need for self-isolation.²⁴
32. Many provincial governments began imposing mask mandates requiring all persons to wear masks in indoor public settings, including while riding public transit.²⁵

b. COVID-19 vaccine mandates

33. Following the introduction of approved vaccines in Canada, starting in December 2020, and as they became widely available, authorities across Canada began adopting public health

¹⁷ *Constitution Act, 1867*, ss 91 (chapeau), 91(2), 91(11) and 92(10)(a); See generally *Spencer v Canada (Minister of Health)*, 2021 FC 621; *Mississauga (City) v Hung*, 2022 ONCJ 429; *Canadian Constitution Foundation v Canada (Attorney General)*, 2021 ONSC 2117.

¹⁸ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 42, 97, 138-145, 167-171, 173-180.

¹⁹ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 42; COM00000153, *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada)*, PC 2020-0157; COM00000151, *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*, PC 2020-0162; COM00000152, *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada from the United States)*, PC 2020-0161; COM00000154, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation)*, PC 2020-175.

²⁰ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 56-68.

²¹ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 69-81.

²² COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 82-95.

²³ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 95-96; COM00000356, *Stay at Home Order*, O. Reg. 265/21; COM00000196, *Order in Council 2-2021 – Ordering of measures to protect the health of the population amid the COVID-19 pandemic*, dated January 8, 2020.

²⁴ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 95.

²⁵ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 97-108.

- measures.²⁶ For example, a number of governments began limiting access to certain locations to vaccinated persons. These measures were commonly referred to as “vaccine passport” rules.²⁷
34. Governments across Canada also implemented measures related to vaccine mandates for workers. The Government of Canada implemented a policy on October 6, 2021 that required all public servants to attest to their vaccination status or face consequences that included being placed on an unpaid leave of absence for those who refused to comply.²⁸
 35. Some provinces also began adopting rules tying travel and movement across borders to vaccination status.²⁹
 36. Nonetheless, prior to January 15, 2022, foreign national commercial truckers had been permitted to enter Canada without regard to their vaccination status. In addition, all commercial truck drivers were exempted from a general requirement for persons entering Canada to provide a proof of a negative pre-arrival PCR test result prior to entry, and to test when entering Canada. They were also exempted from the requirement for unvaccinated persons entering Canada to test on day 8 after entering and to quarantine.³⁰
 37. On October 12, 2021, the United States government announced that starting in January, 2022, all inbound foreign national travellers, including commercial truckers from Canada, entering the US at land or ferry ports of entry would be required to be fully vaccinated.³¹ On November 24, 2021, the United States confirmed that the requirement would take effect on January 22, 2022.³² It would effectively bar unvaccinated commercial truckers from Canada from working in cross-border transportation.
 38. On November 20, 2021, the Government of Canada amended its *Quarantine Act*³³ entry orders to significantly reduce the categories of foreign nationals who could enter Canada unvaccinated. These amendments came into effect on January 15, 2022. The amendments removed the exemption allowing foreign national commercial truckers to enter Canada unvaccinated. Effective January 15, the Chief Public Health Officer issued a decision pursuant to the

²⁶ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 124.

²⁷ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, paras 124-125.

²⁸ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 138; COM00000266, Treasury Board Secretariat, *Policy on COVID-19 Vaccination for the Core Public Administration including the Royal Canadian Mounted Police*, dated October 6, 2021.

²⁹ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 168; COM00000120, *Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19*, No. 47, dated November 30, 2021.

³⁰ COM00000155, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*, PC 2021-0902, September 15, 2021, s 3(1); COM00000582, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Quarantine, Isolation and Other Obligations)*, PC 2021-0904, September 15, 2021, s 2.2(2), Sched 1, Table 2, Item 13.

³¹ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 176; COM00000602, United States Department of Homeland Security, Secretary Mayorkas to Allow Fully Vaccinated Travellers from Canada and Mexico to Enter U.S. at Land Borders and Ferry Crossings, dated October 12, 2021.

³² COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 69; COM00000537, Associated Press Article “US to require vaccines for all border crossers in January”, dated November 24, 2021.

³³ *Quarantine Act*, SC 2005, c 20.

applicable *Quarantine Act* emergency order imposing pre-arrival and in-Canada testing and quarantine on all unvaccinated commercial truckers permitted to enter Canada.³⁴

39. On January 28, 2022, in the midst of the Omicron wave,³⁵ the Government of Canada amended the applicable *Quarantine Act* order to remove the exemption from pre-arrival and in-Canada PCR testing for unvaccinated commercial truck drivers, as well as the exemption from quarantine. These amendments came into effect on January 31, 2022.³⁶

c. Early protests relating to public health measures

40. Protests against public health measures began to materialize in Canada within a month of the introduction of such measures and have persisted throughout the pandemic.³⁷ One of the first such protests on Parliament Hill was on August 29, 2020. This protest was one of several that took place across the world, including protests by thousands of people in London, United Kingdom, and by tens of thousands in Berlin, Germany.³⁸
41. By the fall of 2020, protest numbers were increasing. On October 18, 2020, protesters rallied against lockdowns and other public health measures in downtown Toronto. CBC News reported that 1,500 people were in attendance.³⁹ By the spring of 2021, protests were occurring more frequently, and by the summer of 2021, the number of people gathering in various cities in Canada and around the world to protest public health measures were in the thousands.⁴⁰
42. On August 15, 2021, Prime Minister Justin Trudeau announced that a federal election would be held on September 20, 2021.⁴¹ The government's decision to impose public health measures based on science emerged as a key issue in the ensuing election campaign.
43. The Integrated Terrorism Assessment Centre ("ITAC") produced a threat assessment, dated August 26, 2021. In that assessment, ITAC concluded that the implementation of vaccination mandates, particularly in the context of a federal election, would be "highly likely" to result in increased online and real-world threats from anti-government and anti-authority IMVE adherents who believe that vaccine mandates are a violation of personal freedoms or part of a

³⁴ COM00000157, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*, PC 2021-0961, dated November 20, 2021, ss 5(1), s 10; DOJ.IR.00000005, Institutional Report – Transport Canada, para 25.

³⁵ TRN00000030, Evidence of the Deputy Prime Minister, p 78.

³⁶ COM.OR.00000002, Overview Report: The COVID Pandemic and Public Health Responses, para 178; COM00000162, *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Quarantine, Isolation and Other Obligations)*, PC 2022-0042, dated January 28, 2022.

³⁷ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 2.

³⁸ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 12; COM00000457, CBC News Article, "Global rally against COVID-19 safety measures comes to Parliament Hill", dated August 29, 2020.

³⁹ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 15.

⁴⁰ See for example, COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 45; COM00000496, Montreal Gazette Article, "Anti-lockdown march in Montreal draws several thousand protesters", dated June 6, 2021.

⁴¹ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 49; COM00000506, CTV News Article, "Trudeau calls federal election, voters to go to the polls September 20", dated August 15, 2021; COM00000504, *Proclamation Dissolving Parliament*, SI/2021-60.

wider government conspiracy.⁴² The RCMP's Ideologically Motivated Criminal Intelligence Team ("IMCIT")⁴³ unit produced similar assessments throughout 2021.⁴⁴

44. During the election campaign, there was an increase in hostility directed at campaign events, especially those of the Prime Minister.⁴⁵ He and his political staff observed a level of anger, violence, racism and misogyny expressed in public rhetoric that, in his view, was striking. His staff and RCMP officers, especially those who were female or racialized, were subjected to horrific abuse and threats.⁴⁶
45. For example, on August 27, 2021, a campaign event was cancelled in Ontario reportedly because of security concerns from protesters opposed to public health measures adopted in response to the COVID-19 pandemic.⁴⁷ On August 29, 2021, the Prime Minister was met with further protests in Cambridge, Ontario.⁴⁸
46. In the wake of the 2021 federal election,⁴⁹ a number of IMVE adherents expressed threats of violence on various social media platforms and secure forums. Most threats focussed on the Prime Minister's role in implementing vaccine mandates and COVID-19 response measures. Other motivations behind known online threats made against the Prime Minister included issues related to QAnon conspiracies.⁵⁰ Specific threats made against the Prime Minister included:
 - a. A mid-October 2021 Telegram post stating people have the "legal right to shoot" politicians, including the Prime Minister, for their roles in COVID-19 vaccination efforts;
 - b. An early October, 2021 posting in a QAnon forum stating "shoot that communist" when discussing the Prime Minister;
 - c. On September 10, 2021, a 32-year-old Kitchener resident was charged in connection with threats of harm and death made against the Prime Minister.⁵¹

⁴² TS.NSC.CAN.001.00000140_REL_0001, p 1, ITAC Report: The impact of COVID-19 vaccination mandates within the ideologically motivated violent extremism milieu, dated August 26, 2021.

⁴³ DOJ.IR.00000011, Institutional Report – RCMP, para 125; RCMP Federal Policing National Intelligence runs the Ideologically Motivated Criminal Intelligence Team (IMCIT), which provides intelligence reports and information on ideologically motivated actors and networks that may pose criminal threats to public order and safety.

⁴⁴ DOJ.IR.00000011, Institutional Report – RCMP, paras 128, 134.

⁴⁵ PB.NSC.CAN.00000500_REL.0001, RCMP-GRC Strategic Intelligence brief, dated September 13, 2021, p 1.

⁴⁶ WTS.00000084, Interview Summary – The Prime Minister, p 2.

⁴⁷ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 50, citing COM00000509, CTV News Article, "Second week of campaign ends with Trudeau rally cancelled for safety concerns", dated August 27, 2021.

⁴⁸ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 53; COM00000515, CTV News Article, "Trudeau met with another protest at campaign stop in Cambridge, Ontario", dated August 29, 2021.

⁴⁹ The 2021 Canadian federal election was held on September 20, 2021.

⁵⁰ QAnon is a movement representing an amalgamation of virtually every popular conspiracy theory under a single interpretive frame. See TS.NSC.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, dated January 12, 2022, p 12.

⁵¹ TS.NSC.CAN.001.00000148_REL_0001, ITAC Report, "Canada: An increase in ideologically driven online violent rhetoric targeting the PM", p 1.

47. At the same time, many individuals and groups were commencing court proceedings challenging various government vaccine mandates regarding restrictions on gatherings, air travel, quarantine requirements for air travellers entering Canada, and the termination of unvaccinated persons from their employment. As of August 2022, there had been over 17 court challenges to *Quarantine Act* measures and 47 court applications related to federal vaccine mandates.⁵²

d. The Freedom Convoy 2022

48. In response to the announcement that commercial truck drivers would no longer be exempt from quarantine when entering Canada unless they were fully vaccinated, a national event entitled “Freedom Convoy 2022” (“Freedom Convoy”) was planned on social media.⁵³
49. The Freedom Convoy began centered on anti-government sentiments related to public health responses to the COVID-19 pandemic.⁵⁴
50. On January 13, Christopher Barber, Brigitte Belton, James Bauder, and others attended a Facebook live meeting hosted by Patrick King. The group discussed routes and logistics for the Freedom Convoy before an audience that reportedly reached 3,000 viewers at one point.⁵⁵
51. On January 22 and 23, two contingents of Freedom Convoy participants departed for Ottawa from Prince Rupert and Vancouver, BC, respectively. CBC News reported that “[h]undreds of big rigs” were headed for Ottawa, and reported that the GoFundMe campaign had raised more than \$3 million and continued to grow.⁵⁶
52. On January 28, the Freedom Convoy arrived in Ottawa. Those who arrived represented various causes and grievances and a range of anti-authority movements.⁵⁷

⁵² COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, Appendix A.

⁵³ PB.NSC.CAN.00000529_REL.0001, RCMP IMCIT Special Threat Advisory, dated January 25, 2022, p 1.

⁵⁴ COM00000628 CBC News Article, “Convoy travels through Sask. to protest vaccine mandates for truck drivers”, dated January 24, 2022.

⁵⁵ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 77.

⁵⁶ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, para 79; COM00000629, CTV News Article “Truckers heading to Ottawa to protest vaccine mandates”, dated January 24, 2022.

⁵⁷ OPP00000835, Project Hendon Report, dated January 24, 2022, p 2; OPP00001205, Project Hendon Report, dated January 30, 2022, p 4; PB.NSC.CAN.00000529_REL.0001, RCMP Special Threat Advisory, dated January 25, 2022, p 2.

II. The first week of the convoy emergency

a. The Freedom Convoy arrives in Ottawa

53. On January 19, the Government Operations Centre (“GOC”) began monitoring a demonstration planned for Ottawa, January 28 - 29.⁵⁸ The demonstration’s stated goal at the time was to end the mandatory vaccine mandate for truckers.⁵⁹ From the start of the GOC’s formal reporting on the event, Canada recognized that the Freedom Convoy could affect critical infrastructure.⁶⁰ The GOC assessed that convoys could also cause travel delays and severely impede travel within Ottawa.⁶¹
54. Convoy participants began arriving in Ottawa on Friday, January 28. On the same day, the Ottawa Police Service (“OPS”) activated the National Capital Region Command Centre (“NCRCC”). The NCRCC is a multi-jurisdictional forum whose purpose was to support the OPS, as incident command and police of jurisdiction.⁶²
55. By Saturday, January 29, an estimated 6,000-7,000 people had gathered on Parliament Hill, and the crowd was growing.⁶³ Ultimately, close to 8,000 people were reported on Parliament Hill alone, although many were dispersing by early evening.⁶⁴ On Sunday, January 30, an estimated 1,000-1,100 people remained gathered on Parliament Hill in addition to approximately 1,000 people in the vicinity.⁶⁵ The OPS estimated up to 15,000 people participating in the overall protest during the peak of the weekend.⁶⁶
56. Ottawa also saw an immense influx of vehicles. As early as Friday, January 28, the OPS instituted road closures due to vehicle congestion in several areas including on: Wellington from Elgin to Lyon, and Queen Elizabeth Driveway from Laurier to Catherine, in addition to restricting traffic on the Sir John A. Macdonald parkway.⁶⁷ On Saturday, January 29, the OPS estimated that over

⁵⁸ WTS.00000066, Interview Summary – Public Safety Canada, p 6; PB.CAN.00001061_REL.0001, Planned Truck Demonstration – Slowdown and Impacts to CI, dated January 20, 2022.

⁵⁹ PB.CAN.00001061_REL.0001, Update: Planned Truck Demonstrations – Slowdown and Impacts to CI, dated January 20, 2022.

⁶⁰ PB.CAN.00001063_REL.0001, GOC Update: Planned Truck Demonstrations – Slowdown and Impacts Planned for Ottawa, dated January 22, 2022; WTS.00000066, Interview Summary – Public Safety Canada, p 6.

⁶¹ PB.NSC.CAN.00000947_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure in Ottawa, dated January 25, 2022, p 3.

⁶² TRN00000003, Evidence of Steve Kanellakos, pp 181-182; DOJ.IR.00000011, Institutional Report – RCMP, paras 76-79.

⁶³ PB.CAN.00000707_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure – Convoy in Ottawa, dated January 29, 2022; OPS00004225, Email from Kim Ayotte, EOCCG Update 1: Planned Truck Demonstration, dated January 29, 2022.

⁶⁴ PB.CAN.00001081_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure – Convoy in Ottawa, dated January 30, 2022.

⁶⁵ PB.CAN.00001083_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure – Convoy in Ottawa, dated January 30, 2022.

⁶⁶ PB.NSC.CAN.00000525_REL.0001, RCMP IMCIT Special Threat Advisory – Update 5: Freedom Convoy 2022, dated February 3, 2022, p 2.

⁶⁷ OPS00004247, OPS Level 3 Briefing Note, dated January 28, 2022.

3,000 vehicles were converging on Ottawa's city centre, causing significant traffic delays.⁶⁸ The same day, there were estimates of 2,949 vehicles in Ottawa, including some 55 establishing themselves at Jet Form Park.⁶⁹

57. The Mayor of Ottawa Jim Watson and other witnesses gave evidence that Ottawa is a city that respects people who lawfully exercise their right to protest under the *Charter* and that is accustomed to protests occurring.⁷⁰
58. However, from the date of the Freedom Convoy's arrival, the protest in Ottawa was marked by serious illegality, including harassment, symbols of hatred, property damage, and intimidation.⁷¹ There was constant high-decibel air horn honking from the trucks, and some vehicles had installed train whistles.⁷² On Friday, January 28, Minto Properties received confirmation that individuals had started to enter office buildings in the downtown core and cause damage.⁷³ Intermittently throughout the Freedom Convoy and occupation of Ottawa, protesters had altercations with members of the public and contract employees on the Rideau Canal Skateway.⁷⁴
59. On Saturday, January 29, the OPS reported that criminal investigations were underway in relation to the desecration of the National War Memorial and Terry Fox statues.⁷⁵ Convoy participants urinated on the Cenotaph and danced on the Tomb of the Unknown Soldier. The Shepherds of Good Hope reported harassment of staff and clients by Freedom Convoy participants who stole meals from the shelter.⁷⁶ That same day, the Cadillac Fairview Rideau Centre was forced to close after individuals without masks started confronting staff aggressively. It ultimately remained closed until February 22 (an unprecedented length of time in the Rideau Centre's history) at a cost of \$2 million a day.⁷⁷ A read-out of a conversation between Member of Parliament Yasir Naqvi (Ottawa Centre) and the Prime Minister recounts some of what Mr. Naqvi was witnessing in his riding:

⁶⁸ PB.CAN.00000707_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure – Convoy in Ottawa, dated January 29, 2022.

⁶⁹ PB.CAN.00001847_REL.0001, COS Jones text with Khalil, dated January 29-30, 2022, p 2.

⁷⁰ TRN00000004, Evidence of Jim Watson, pp 11-12; TRN00000007, Evidence of Carson Pardy, p 112; TRN00000006, Evidence of Patricia Ferguson, p 105.

⁷¹ TRN00000031, Evidence of the Prime Minister, pp 145-148; OTT00001930.0001, Email from Julia Keast on behalf of Diane Deans, dated January 30, 2022, p 2; OTT00002235.0001, Email from Kim Ayotte to City Council, dated January 30, 2022; COA00000115 Shepherds of Good Hope on Twitter, dated January 30, 2022; TRN00000002 Evidence of Catherine McKenney, pp 156-157.

⁷² TRN00000004, Evidence of Jim Watson, p 8.

⁷³ PB.CAN.00000705_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure, dated January 28, 2022 p 3; PB.CAN.00000385_REL.0001, DEOC Notification: Freedom Convoy, dated January 29, 2022 pp 4-5.

⁷⁴ DOJ.IR.00000004, Institutional Report – National Capital Commission, paras 27, 42; PB.CAN.00000281_REL.0001, Email from Bruce Devine, Assault on a Skateway concession staff, dated February 8, 2022.

⁷⁵ SSM.NSC.CAN.00001853_REL.0001, Email from Caroline Williams, dated January 30, 2022, p 2.

⁷⁶ COM.OR.00000004, Overview Report: Timeline of Key Events, p 5; PB.NSC.CAN.00000028_REL.0001, RCMP PIU Update #24, dated January 30, 2022, p 1; TRN00000004, Evidence of Jim Watson, pp 11-12; OTT00001930.0001, Email from Diane Deans, Update on Demonstrations, dated January 30, 2022.

⁷⁷ TRN00000002, Evidence of Nathalie Carrier, pp 92-93; TRN00000002, Evidence of Mathieu Fleury, pp 157-158; COA00000145, Affidavit of Larry Andrade sworn February 25, 2022, para 52(d).

It's unbelievable, the images that we see are hard to believe. Saw a life size poster on a truck of Hitler and your name underneath. This is the kind of grossness our country is subject to. I have constituents being yelled at for wearing masks while out doing normal chores. There are all kinds of other issues people are facing in the neighbourhood and they don't know if they can sleep tonight.⁷⁸

60. Shortly after the Freedom Convoy's arrival, former OPS Chief Sloly approached the Ottawa City Solicitor about the possibility of the City obtaining an injunction against the Freedom Convoy. The City of Ottawa prepared injunction materials, but did not file them due to concerns that OPS did not have the capacity to enforce an injunction order.⁷⁹
61. A GOC report of January 26 stated that according to INTERSECT⁸⁰ the protest would be a "significant and extremely fluid event that could go on for a prolonged period".⁸¹ On that same day, the IMCIT reported that some individuals were willing to provide lodging and support to Freedom Convoy participants, and that part of the fundraising efforts from the GoFundMe campaign were supposed to go towards lodging for up to 10 days if needed.⁸² On January 27 the GOC reported an event organizer saying the plan was to "gridlock the city".⁸³
62. By February 1, the GOC reported that organizers vowed to either stay in Ottawa, or return to the protest at a later date.⁸⁴ On February 3, Freedom Convoy organizers held a press conference where Tamara Lich stated that they would remain in Ottawa until all vaccine mandates were removed.⁸⁵
63. While the number of participants decreased after the first weekend, the honking continued. The decrease in participants was more significant than the decrease in trucks, as many trucks remained entrenched.⁸⁶ Numbers began escalating as the next weekend approached.⁸⁷

⁷⁸ SSM.CAN.NSC.00002813_REL.0001, Read-out of call between the Prime Minister and Yaser Naqvi, dated January 30, 2022.

⁷⁹ WTS.00000001, Interview Summary – Steve Kanellakos, p 6.

⁸⁰ INTERSECT is a pre-existing multijurisdictional emergency preparedness program co-chaired by the OPS, the RCMP and the City of Gatineau.

⁸¹ PB.CAN.00000701_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure, dated January 26, 2022, p 3.

⁸² PB.NSC.CAN.00000530_REL.0001, RCMP FPNI IMCIT Special Threat Advisory Update 1, dated January 26, 2022, p 3; TRN00000006, Evidence of Patricia Ferguson, pp 169-170.

⁸³ PB.CAN.00000703_REL.0001, GOC Update: Key Points on Potential Impacts to Critical Infrastructure, dated January 27, 2022, p 2.

⁸⁴ PB.CAN.00000708_REL.0001, GOC Update: Key Points on Potential impacts to Critical Infrastructure, dated February 1, 2022, p 1.

⁸⁵ COM.OR.00000004, Overview Report: Timeline of Key Events, p 6.

⁸⁶ PB.CAN.00000441_REL.0001, Notification: Freedom Convoy, dated February 3, 2022, p 3.

⁸⁷ COM00000641, CBC News Article "Crowds swell in downtown Ottawa again for 2nd weekend of protests", dated February 5, 2022; PB.NSC.CAN.00001918_REL.0001, Truckers Convoy and Protective Services: Key Messages for Ministerial Briefing, dated February 4, 2022.

64. While the convoy was present in Ottawa, there were unprecedented closures and disruptions of public areas, monuments and tourist attractions. On January 28, protesters moved into Confederation Park, the site of several important monuments, including the National Aboriginal Veterans Monument. They used the Park as a food distribution area and overnight gathering place. From January 28 to February 6, there were parked campers, burn barrel warming stations, a mobile propane kitchen, music, tents, hay bales, and improperly stored propane tanks and other fuel containers that posed a significant risk to public. The park was closed using fences and barriers on February 6, and remained closed until March 1, 2022.⁸⁸
65. During the first week of demonstrations, former Chief Sloly assessed that the situation in downtown Ottawa was a tinderbox waiting to explode.⁸⁹

b. Convoy-related protest activity outside of the National Capital Region

66. Outside of the National Capital Region (“NCR”), similarly inspired protesters were also active. Canada Border Services Agency (“CBSA”) officials observed the first slow roll activity at the Port of Entry (“POE”) at Emerson, Manitoba, on January 17.⁹⁰
67. On January 25, a member of the public advised the CBSA of a blockade planned of the Coutts POE in Southern Alberta on January 28-29. The report indicated that comments in response to posts on the Freedom Convoy Facebook page encouraged individuals to go to Coutts if they could not go to Ottawa, and that Mr. King’s livestreams on Facebook had a “threatening” tone.⁹¹
68. Protests along trade corridors and at POEs escalated through late January and into February, limiting access to and disrupting services at multiple POEs across the country, and affecting the volume of goods crossing the Canada-United States border at key locations.⁹² Significantly, affected POEs included: Surrey/Pacific Highway, British Columbia; Coutts Alberta; Emerson Manitoba; and Ambassador Bridge and Blue Water Bridge, Ontario.⁹³ Coutts, in particular, had become the first major POE blockade by January 29.⁹⁴ Further details of the blockades at Coutts and the Ambassador Bridge are set out at paragraphs 119-145 and 146-184.
69. The demonstrations and blockades at POEs were coloured by the same vitriolic hate speech, particularly in social media, that was affecting the NCR. For example, on January 15, a

⁸⁸ DOJ.IR.00000004, Institutional Report – National Capital Commission, paras 26, 52-79;

PB.CAN.00000113_REL.0001, Email, Truck convoy – CO responsibilities, dated January 29, 2022.

⁸⁹ TRN00000012, Evidence of Peter Sloly, p 225.

⁹⁰ DOJ.IR.00000006, Institutional Report – CBSA, section III, para 1; TRN00000024, Evidence of John Ossowski, p 6.

⁹¹ PB.CAN.00001317_REL.0001, Email from Lynn Lamarche, AB Coutts Roadblock by Truckers, dated January 25, 2022.

⁹² DOJ.IR.00000006, Institutional Report – CBSA, section III, para 1.

⁹³ PB.CAN.00001324_REL.0001, CBSA PRA Trucking Protests Update #6, dated January 21-28, 2022;

DOJ.IR.00000006, Institutional Report – CBSA, section IV, paras 3-19.

⁹⁴ TRN00000024, Evidence of John Ossowski, p 9.

commercial truck operator who had refused to provide identification or proof of vaccination on request when crossing the border posted a video of their interaction on the TikTok social media platform. The video generated a number of comments suggesting that Border Service Officers (“BSO”) be shot and that CBSA facilities be attacked.⁹⁵

70. Atlantic Canada also faced a number of disruptions caused by convoy and protest activity leading up to the invocation of the *EA*. The RCMP responded to multiple attempts to blockade the TransCanada Highway at the New Brunswick/Nova Scotia border between January 26 and 29.⁹⁶
71. From the beginning, it was difficult for officials to negotiate with the protesters, as there were many factions with a variety of motivations, united by frustration and opposition to government policy, and without clear leadership.⁹⁷ The protesters were not homogeneous in either their grievances or organization. They espoused a range of grievances, often intertwined with conspiracy theories, in support of their opposition to public health measures.⁹⁸

c. Federal government monitored developing events closely

72. As the Freedom Convoy approached Ottawa, the Government of Canada understood that, given the multi-jurisdictional impacts of this demonstration on the NCR, all key stakeholders would be planning and collaborating to ensure public safety within their areas of responsibility. The OPS, as police of jurisdiction, was the planning lead for the NCR, having primary responsibility to deal with protesters and their vehicles.⁹⁹ The RCMP National Division was the planning lead in support of the RCMP’s protective mandate, and worked to support law enforcement partners in the region. Federal stakeholders contributed to the NCRCC.¹⁰⁰ The role of the RCMP in supporting the OPS in its policing response is discussed in greater detail below, at paragraphs 239-254.
73. The federal government believed that the OPS would be able to handle the unfolding situation,¹⁰¹ but it was monitoring events closely. From an early point, the Government of Canada, including the Privy Council Office (“PCO”), RCMP, CSIS, Public Safety (including the GOC), CBSA, Transport Canada and others, monitored the Freedom Convoy to assess the potential impact of the

⁹⁵ DOJ.IR.00000006, Institutional Report – CBSA, section IV, para 20; PB.CAN.00001562_REL.0001, Regional Incident Report 3981-21-148, dated January 15, 2022.

⁹⁶ NSG00000008, RCMP Situation Report to AG – Planned Protest Amherst NS to NS/NB Border, dated January 26, 2022; NSG00000091, Affidavit of Mark Peachey, sworn November 3, 2022, paras 7-9, 12-14, 18-20.

⁹⁷ OPP00001023, Email regarding Project Hendon Report, dated January 20, 2022.

⁹⁸ TS.NSC.CAN.001.00000211_REL_0001, CSIS National Security Brief, dated February 10, 2022, pp 1-2.

⁹⁹ SSM.NSC.CAN.00000294_REL.0001, Readout of ADM NS OPS, dated February 6, 2022, p 6; SSM.NSC.CAN.00000292_REL.0001, SSE Minutes, dated February 3, 2022, para 5; TRN00000003, Evidence of Steve Kanellakos, p 6.

¹⁰⁰ PB.NSC.CAN.00000992_REL.0001, Talking Points for Ministerial Briefing, dated January 26, 2022, p 2; PB.NSC.CAN.00000995_REL.0001, Ministerial Briefing – Truckers and Threats to Security, dated January 26, 2022.

¹⁰¹ TRN00000025, Evidence of Jody Thomas, pp 184-185.

situation on federal interests and responsibilities, and to assess the potential need for federal action or assistance. These efforts were frequently led by the PCO exercising its coordinating role.¹⁰²

74. The Commission received extensive evidence about how government officials kept senior officials and ministers informed during the Freedom Convoy through formal reporting tools and *ad hoc* meetings.¹⁰³ The federal government recognized that officials at various levels needed to have a real-time, common understanding of new information.¹⁰⁴
75. On January 25, PCO started convening daily calls with subject matter experts, key senior staff and staff from the offices of key ministers and the Prime Minister to brief and share information.¹⁰⁵ On January 28, RCMP Commissioner Lucki and others began briefing a small group of ministers at least daily. Attendees also shared new information they received from counterparts and contacts.¹⁰⁶ The first public service briefing of the Prime Minister on the Freedom Convoy took place on January 30.¹⁰⁷
76. Regularly, and in some cases daily, two groups of senior officials began to meet to coordinate and advance Canada's operational response to the Freedom Convoy: the Assistant Deputy Ministers' National Security Operations Committee ("ADMNSOPS"), which met daily from January 26 to February 12,¹⁰⁸ and the Deputy Ministers' Committee on Operational Coordination ("DMOC"), which met eight times between January 31 and February 14.¹⁰⁹ Through these regular meetings, senior officials and ministers could gain a common understanding of the situation, requested key information, and identified important actions.¹¹⁰
77. These conversations were informed by regular engagement with provincial and municipal partners.¹¹¹ The Deputy Minister ("DM") of Public Safety Stewart began reaching out to the City of Ottawa on February 3, and between February 3 and February 8 several calls took place

¹⁰² TRN00000026, Evidence of Jacqueline Bogden, p 8.

¹⁰³ For example, DOJ.IR.00000006, Institutional Report – CBSA, section III paras 9-25; DOJ.IR.00000005, DOJ.IR.00000005, Institutional Report – Transport Canada, paras 72-73; DOJ.IR.00000011, Institutional Report – RCMP, para 46; WTS.00000066, Interview Summary – Public Safety Canada, p 6; TRN00000026, Evidence of Jacqueline Bogden, p 9; DOJ.IR.00000007, Institutional Report – PSPC, paras 42-48; DOJ.IR.00000008, Institutional Report – Public Safety Canada, paras 42-67; DOJ.IR.00000013, Institutional Report – Privy Council Office, Annex II, para 3; DOJ.IR.00000014, Institutional Report – Prime Minister's Office, paras 25, 35.

¹⁰⁴ WTS.00000066, Interview Summary – Public Safety Canada, pp 2, 6-7.

¹⁰⁵ DOJ.IR.00000013, Institutional Report – Privy Council Office, paras 28-29, 31-32.

¹⁰⁶ WTS.00000066, Interview Summary – Public Safety Canada, p 11; TRN00000022, Evidence of Dominic Rochon and Robert Stewart, p 22.

¹⁰⁷ TRN00000026, Evidence of Janice Charette, pp 118-119.

¹⁰⁸ WTS.00000066, Interview Summary – Public Safety Canada, pp 10-11.

¹⁰⁹ DOJ.IR.00000013, Institutional Report – Privy Council Office, para 27; WTS.00000066, Interview Summary – Public Safety Canada, p 11; TRN00000026, Evidence of Jacqueline Bogden, p 9.

¹¹⁰ DOJ.IR.00000013, Institutional Report – Privy Council Office, para 27; SSM.CAN.00000148_REL.0001, *Illegal Blockades – Chronology of Key Events*, dated April 29, 2022.

¹¹¹ See for example, DOJ.IR.00000013, Institutional Report – Privy Council Office, Annex II, pp 24-26; PB.CAN.00001159_REL.0001, Report to the Houses of Parliament: *Emergencies Act* Consultations, pp 2-5.

between federal government officials, City of Ottawa officials, and officials from the Ontario Provincial Police (“OPP”) and the OPS.¹¹²

78. In areas falling within federal responsibility, Canada acted promptly and efficiently. Protective measures were deployed with respect to federal assets in the NCR. On January 29, Public Services and Procurement Canada (“PSPC”) activated its Departmental Emergency Operations Centre (“DEOC”) to ensure safety and continuity of federal assets.¹¹³ The Alexandra and Macdonald-Cartier bridges closed due to load restrictions, access to federal buildings managed by PSPC was restricted for the entirety of the weekend, all construction activities near Parliament Hill stopped, and jersey barriers¹¹⁴ were installed on the East and West sides of the Supreme Court of Canada building to prevent heavy vehicles from compromising podium load restrictions.¹¹⁵ Some of these barriers had to be reinstalled over the course of the occupation after having been removed by protesters.¹¹⁶
79. Pursuant to its protective mandate and as a result of the changing threat environment, the RCMP updated its ministerial security plans with respect to its protective policing mandate in January 2021.¹¹⁷ For example, the RCMP provided the Deputy Prime Minister additional protection to ensure her security.¹¹⁸
80. Canada was also ready to assist where requested and appropriate. For example, on January 28, Canada received a Request for Assistance from Ontario for use of the parking lot of the Cartier Drill Hall in Ottawa as a staging area for police.¹¹⁹ Canada approved the request the next day.
81. On January 29, Transport Canada issued a Notice to Airman (“NOTAM”) with an airspace restriction over downtown Ottawa, in support of OPS efforts.¹²⁰ In total, Transport Canada issued 12 NOTAMs across Canada during the convoy emergency.¹²¹
82. On January 28, the CBSA issued event-specific guidance to POEs for BSOs to use “enhanced vigilance”, which involved closer examinations of travellers to ensure all entry requirements

¹¹² WTS.00000001, Interview Summary – Steve Kanellakos, pp 4-5.

¹¹³ PB.CAN.00000384_REL.0001, PSPC Convoy Update, dated January 29, 2022.

¹¹⁴ Jersey barriers are modular concrete or plastic barriers.

¹¹⁵ PB.CAN.00000379_REL.0001, DEOC Update, dated January 28, 2022, pp 2-3; DOJ.IR.00000007, Institutional Report – PSPC, para 19. “Podium” refers to a roadway on top of an underground garage. “Load Restrictions” refer to the weight a podium is capable of handling without causing structural issues.

¹¹⁶ PB.CAN.00000397_REL.0001, DEOC Report, dated January 30, 2022, p 2.

¹¹⁷ DOJ.IR.00000011, Institutional Report – RCMP, para 140.

¹¹⁸ TRN00000030, Evidence of Deputy Prime Minister Freeland, p 75.

¹¹⁹ COM.OR.00000004, Overview Report: Timeline of Key Events, p 5; PB.CAN.00001048_REL.0001, RFA for CAF Infrastructure in Ottawa, dated January 28, 2022; WTS.00000066, Interview Summary – Public Safety Canada, pp 15-16.

¹²⁰ PB.NSC.CAN.00001274_REL.0001, GOC Update – Key Points on Potential Impacts to Critical Infrastructure, dated January 29, 2022, p 3.

¹²¹ TRN00000024, Evidence of Michael Keenan, p 121; DOJ.IR.00000005, Institutional Report – Transport Canada, paras 31-36.

were met and individuals were seeking to enter Canada for a lawful purpose. The Border Operations Centre was instructed to provide situational reports twice per day.¹²² As a precautionary measure, CBSA implemented certain hardening measures at POEs, including directing closed circuit cameras back towards Canada so that officers, who face the United States, were aware of what may be coming from behind them on the Canadian side.¹²³

III. The second week of the convoy emergency

a. Rising volatility of the occupation in Ottawa

83. While parts of the protests began relatively peacefully, by the second weekend (February 5-6) there was a marked increase in the number of protesters and trucks in Ottawa, compared with during the first week.¹²⁴ The protests gained momentum across the country, and the situation became more complex. In Ottawa, the protest became “a symbol of general resistance to authority and defiance of the law” that went “beyond the issue of public health requirements”.¹²⁵
84. Witnesses described a situation of lawlessness on Ottawa’s streets. In the downtown core, protesters subjected Ottawa residents to frequent, prolonged high-decibel air horn honking from large trucks, intimidation, threats, harassment, and assaults. Public and police officials were also the target of harassment and assault. There were also fire hazards, such as open drum fires and fireworks in residential streets, and a complete disrespect for the people in the city and public property.¹²⁶ The Ottawa Hospital received disturbing calls that resulted in complaints to police, and there was evidence of a coordinated effort to spam the City’s social media feeds with toxic hate speech, misinformation, and rumours.¹²⁷ City Councillor and Chair of the OPS Board Diane Deans and her staff received threats from people linked to the convoy emergency.¹²⁸ The Governor General of Canada’s staff received hateful emails, some of which included demands that the Governor General fire the Prime Minister.¹²⁹

¹²² DOJ.IR.00000006, Institutional Report – CBSA, section III, para 7; TRN00000024, Evidence of John Ossowski, pp 7-9; WTS.00000045, Interview Summary – Nina Patel, p 2; WTS.00000046, Interview Summary – CBSA, p 2.

¹²³ TRN00000024, Evidence of John Ossowski, pp 7-8.

¹²⁴ See for example, PB.NSC.CAN.00002027_REL.0001, Key Points on Impacts to Critical Infrastructure, Demonstrations Across Canada, dated February 5, 2022; OTT00005513.0001, Letter from Mayor Jim Watson to Premier Ford and Solicitor General Sylvia Jones dated February 7, 2022; TRN00000012, Evidence of Peter Sloly, p 82.

¹²⁵ OPP00001765, Strategic Intelligence Report, Freedom Convoy 2022/Operation BearHug 2.0 Operational Intelligence Overview, dated February 8, 2022, p 15.

¹²⁶ TRN00000004, Evidence of Jim Watson, pp 38-41; TRN00000006, Evidence of Patricia Ferguson, pp 170-174.

¹²⁷ TRN00000004, Evidence of Kim Ayotte, pp 264-265; OTT00006781, EOCCG Update 15: Planned Truck Demonstration, dated February 11, 2022.

¹²⁸ TRN00000005, Evidence of Diane Deans, pp 59-60.

¹²⁹ SSM.CAN.NSC.00002819_REL.0001, GG call overview, dated February 5, 2022.

85. On February 4, Zexi Li, a city resident, commenced a class action against protest organizers and participants on behalf of residents of downtown Ottawa.¹³⁰ In the course of that proceeding, she applied for, and on February 7 ultimately obtained, an injunction from the Ontario Superior Court of Justice to enjoin horn honking in the downtown core.¹³¹ Although the injunction initially resulted in reduced honking, it made no appreciable impact in the resolution of the crisis in Ottawa.¹³²
86. Convoy leaders and supporters financially supported occupation participants to remain in Ottawa. Keith Wilson testified that he observed the distribution of cash to the participants of the occupation. The money was put into envelopes of \$500 each, and teams would then go out and distribute it to the participants.¹³³ A similar system was in place with another group of organizers who distributed envelopes, each containing \$2,000.¹³⁴ Similarly, supporters distributed 14.6 bitcoin to participants in Ottawa by handing out physical envelopes that contained instructions on how to access \$8,000 in bitcoin using a mobile phone.¹³⁵ Moreover, Ms. Lich confirmed that \$13,000 from money raised with GoFundMe was used to purchase bulk fuel and another \$13,000 was distributed to road captains.¹³⁶
87. On February 11, security officers from a company employed by the National Capital Commission (“NCC”) reported that they were receiving death threats by telephone and insults over social media, and that staff had concerns about continuing their work.¹³⁷ On February 12, protesters swarmed an NCC Conservation Officer monitoring Major’s Hill Park, raging and yelling at him, and preventing him from leaving. He reported to the NCC that he had never feared for his safety as much as he did in that moment. After this incident, the NCC pulled Conservation Officers out of heavy protest areas unless they were entering as part of coordinated access with OPS.¹³⁸
88. The situation in Ottawa was marked by volatility and unsafe conditions in a crowded area. It was unsafe for by-law officers to enforce by-laws within what became known as the “red zone”¹³⁹ in

¹³⁰ COM.OR.00000004, Overview Report: Timeline of Key Events, p 7.

¹³¹ COM.OR.00000004, Overview Report: Timeline of Key Events, p 8; HRF00000073, *Li v Barber et al.* (Interlocutory Injunction Order); HRF00001288, *Li v Barber et al.* (Motion Record, Plaintiff); HRF00001290, *Li v Barber et al.* (Supplementary Motion Record, Plaintiff).

¹³² TRN00000002, Evidence of Zexi Li, pp 34, 52-53.

¹³³ TRN00000015, Evidence of Keith Wilson, p 82-83; COM.OR.00000005, Overview Report: Protester Fundraising, p 44; WTS.00000032, Interview Summary – Chad Eros, p 10; TRN00000014, Evidence of Christopher Barber, p 112.

¹³⁴ COM.OR.00000005, Overview Report: Protester Fundraising, p 45, WTS.00000032, WTS.00000032, Interview Summary – Chad Eros, p 10; TRN00000014, Evidence of Christopher Barber, pp 112-113, 145; TRN00000014, Evidence of Brigitte Belton, pp 273, 294.

¹³⁵ COM.OR.00000005, Overview Report: Protester Fundraising, p 17.

¹³⁶ TRN00000016, Evidence of Tamara Lich, pp 287-288.

¹³⁷ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 49.

¹³⁸ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 51.

¹³⁹ A red zone of no-access roadways throughout the downtown core was established by the Ottawa Police Service and the City of Ottawa. See OPS00006283, Freedom Convoy Community Enforcement Operation, pp 4-6.

the downtown core without police accompaniment, and police were concerned that by-law enforcement could inflame the situation.¹⁴⁰

89. Individuals known to law enforcement were present at the intersection of Rideau and Sussex, important as a residential area, business centre and vital transit link. Police considered this area to be more dangerous and volatile than the downtown core, and to pose a higher likelihood of potential violence.¹⁴¹

b. The dangers posed to residents by the occupation of Ottawa

90. As Canada's capital, Ottawa is no stranger to large-scale demonstrations. However, witnesses observed that the Freedom Convoy was unique due to the large numbers of participants, the use of vehicles to block roads and access to buildings, the presence of many different groups with no apparent leadership, the number of sites affected, and the long duration.¹⁴² The NCC, OPS, City of Ottawa, and others reported not having the operational capacity to respond to such an extensive incident.¹⁴³ This exceptional event produced a number of damaging impacts on the City of Ottawa.
91. For instance, protesters occupied the area surrounding the National War Memorial from January 28 to February 19.¹⁴⁴ People at the Rideau Skateway, a UNESCO world heritage site managed by Parks Canada, experienced intermittent altercations with protesters, safety concerns due to the inability of ambulances to reach the site in a timely way, and the loud horns of convoy vehicles on the Queen Elizabeth Driveway.¹⁴⁵
92. There were also significant impacts on transitways. At the request of the OPS, the Sir John A. Macdonald Parkway was used as overflow parking for trucks from January 28 until February 19. This caused significant traffic disruption, noise disturbance, idling, and air pollution.¹⁴⁶ A number of other roadways, including the Sir George-Étienne-Cartier Parkway and the Queen

¹⁴⁰ OTT00004061.0001, Demonstration updates, dated February 4, 2022; TRN00000004, Evidence of Kim Ayotte, pp 213, 215-217; WTS.00000020, Interview Summary – Kim Ayotte, pp 4-5.

¹⁴¹ WTS.00000001, Interview Summary – Steve Kanellakos, p 6; TRN00000003, Evidence of Steve Kanellakos, p 170; TRN00000011, Evidence of Thomas Carrique, p 157.

¹⁴² DOJ.IR.00000004, Institutional Report – National Capital Commission, para 61; TRN00000012, Evidence of Peter Sloly, pp 30-32; TRN00000004, Evidence of Jim Watson, p 7; PB.NSC.CAN.00001443_REL, Email, Here is the update response, dated January 30, 2022; OPP00001187, Project Hendon Report, dated February 11, 2022; OPP00001767, Project Hendon Report, dated February 14, 2022.

¹⁴³ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 61; OPS.IR.00000001, Institutional Report – Ottawa Police Service, para 50; OPS00007118, Written Remarks by Peter Sloly, dated February 5, 2022; OTT.IR.00000001, OTT.IR.00000001, Institutional Report – City of Ottawa, p 17; OTT00006057.0001, Letter to Prime Minister Trudeau and Minister Mendicino Re Enforcement Resources Request, dated February 7, 2022; OTT00002779.0001, Email from Mathieu Fleury to Jim Watson, dated February 2, 2022.

¹⁴⁴ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 26.

¹⁴⁵ DOJ.IR.00000004, Institutional Report – National Capital Commission, paras 37, 40-41.

¹⁴⁶ DOJ.IR.00000004, Institutional Report – National Capital Commission, paras 26, 34-39; PB.CAN.00000077_REL.0001 Email from Ian Grabina Fw: SJAM/SGEC/Aviation parkway closures, dated January 27, 2022.

Elizabeth Driveway, experienced intermittent closures over a sustained period.¹⁴⁷ The OPS closed Portage Bridge to non-emergency vehicles from January 28 to February 19.¹⁴⁸ In the downtown core, OCTranspo reported that buses were unable to operate and had to be re-routed.¹⁴⁹

93. In the Parliamentary Precinct,¹⁵⁰ the NCC is responsible for maintaining sidewalks and government sites on Wellington Street. The occupation severely affected the NCC's ability to remove snow and ice, and ensure safe access to sites like Parliament Hill, the Supreme Court of Canada, and other key federal government buildings.¹⁵¹
94. The occupation of Ottawa posed a danger to City residents. The Commission heard a range of evidence about what residents and businesses in Ottawa experienced.¹⁵² Victoria De La Ronde testified about her feelings of helplessness and loss of independence, particularly as an individual living downtown with a visual disability.¹⁵³ During the incessant honking, she could not hear chimes or signals to safely cross the street for her daily activities.¹⁵⁴
95. Zexi Li testified that she saw bonfires at intersections and trash burning next to cans of fuel, or near areas where fireworks were set off later in the day.¹⁵⁵ She felt unsafe from the honking and shouting, and was harassed while wearing a mask.¹⁵⁶ On one occasion, a man in a truck backed his vehicle into her.¹⁵⁷ Ms. Li and her friends and neighbours were also sleep-deprived from the constant high-decibel noise level from the unrelenting horns.¹⁵⁸
96. Ottawa City Manager Steve Kanellakos confirmed convoy supporters intentionally bombarded Ottawa's 911 and 311 services with calls that interrupted or interfered with City services. The 911 calls came from the US. Ottawa hospitals expressed concerns about emergency calls being jammed, and access difficulties faced by hospital workers and patients seeking critical treatment.¹⁵⁹ Given the congestion and road closures, and the fact that this affected the ability of firetrucks to access certain streets, City of Ottawa official Kim Ayotte

¹⁴⁷ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 26.

¹⁴⁸ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 26.

¹⁴⁹ PB.CAN.00000385, DEOC Report, dated January 29, 2022.

¹⁵⁰ Parliamentary precinct means the premises, other than constituency offices of members of Parliament, that are used by the Senate, House of Commons, Library of Parliament or Parliamentary committees, members of the Senate or the House of Commons who are carrying out their parliamentary functions, the Senate Ethics Officer, the Conflict of Interest and Ethics Commissioner, the Service or the Parliamentary Budget Officer; PPS.IR.00000001, Institutional Report – Parliamentary Protective Service, pp 5-6.

¹⁵¹ DOJ.IR.00000004, Institutional Report – National Capital Commission, para 25.

¹⁵² OTT00014415.0001, Email to Jim Watson from Ottawa resident, dated February 2, 2022; TRN00000002, Evidence of Catherine McKenney, pp 164-166.

¹⁵³ TRN00000002, Evidence of Victoria De La Ronde, pp 6, 8-9, 14-15.

¹⁵⁴ TRN00000002, Evidence of Victoria De La Ronde, pp 8-9.

¹⁵⁵ TRN00000002, Evidence of Zexi Li, p 10.

¹⁵⁶ TRN00000002, Evidence of Zexi Li, pp 7-8, 11.

¹⁵⁷ TRN00000002, Evidence of Zexi Li, p 25.

¹⁵⁸ TRN00000002, Evidence of Zexi Li, pp 7, 13.

¹⁵⁹ TRN00000003, Evidence of Steve Kanellakos, pp 134-135.

testified that the City was lucky no serious fires occurred.¹⁶⁰ The occupation also interfered with public services downtown, such as garbage pick-up, snow removal, home care services, ambulances, paramedics, and firetrucks.¹⁶¹ These interferences with essential services put vulnerable and disadvantaged people at risk.

97. Between February 11 and 13, Transport Canada lent subject-matter expertise in the transportation of dangerous goods to local law enforcement in Ottawa investigating propane being stored in unorthodox manners, and the potentially unlawful transportation of diesel and gasoline.¹⁶² The improper movement and storage of propane, gasoline and diesel created elevated risks for people in the vicinity, including the possibility of explosions or firebombs.¹⁶³
98. The occupation also jeopardized Canada's ability to fulfil its obligations under the *Vienna Convention on Diplomatic Relations* ("VCDR") and the *Vienna Convention on Consular Relations* ("VCCR").¹⁶⁴ The VCDR and VCCR are international legal instruments that impose binding legal obligations on Canada concerning the protection of foreign embassies and consulates. Under these instruments, Canada has "a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity". This includes taking all appropriate steps to ensure that diplomatic personnel have access to foreign missions to enable them to carry out their functions. It is important for Canada to uphold its obligations not only for the diplomatic community in Canada, but also because Canada expects other countries to fulfill the same international obligations to protect Canadian diplomats and diplomatic property abroad.¹⁶⁵
99. In downtown Ottawa, there are about 50 diplomatic properties. During the Freedom Convoy's occupation of Ottawa, Global Affairs Canada ("GAC") received complaints from foreign missions about the ability of their embassies to function effectively. Foreign missions raised a wide range of concerns about the downtown core pertaining to noise, fumes, and the ability of staff and consular clients to access missions.¹⁶⁶ It received one formal diplomatic note from a foreign embassy about risk to staff and access to their premises. The Diplomatic Security

¹⁶⁰ TRN00000004, Evidence of Kim Ayotte, pp 275-277.

¹⁶¹ TRN00000003, Evidence of Steve Kanellakos, pp 19, 80, 131-134.

¹⁶² TRN00000024, Evidence of Michael Keenan, pp 121-122; DOJ.IR.00000005, Institutional Report – Transport Canada, paras 37-40.

¹⁶³ TRN00000024, Evidence of Michael Keenan, p 261; TRN00000007, Evidence of Craig Abrams, pp 89-92.

¹⁶⁴ *Vienna Convention on Diplomatic Relations*, 18 April 1961, 500 UNTS 95, arts 22, 25 (entered into force 24 April 1964); *Vienna Convention on Consular Relations*, 24 April 1963, 596 UNTS 261, arts 28, 31.3 (entered into force 19 March 1967).

¹⁶⁵ TRN00000022, Evidence of Cynthia Termorshuizen, p 234; VCDR, art 25; VCCR, art 28.

¹⁶⁶ TRN00000022, Evidence of Cynthia Termorshuizen, pp 258-259; WTS.00000052, Interview Summary – Global Affairs Canada, pp 5-6.

Liaison Unit¹⁶⁷ also communicated with diplomatic personnel from six foreign missions in response to complaints or concerns.¹⁶⁸

100. While the Freedom Convoy demonstrations were not specifically directed at foreign missions, GAC was concerned about the potential harassment of diplomatic personnel and Canada's ability to protect their safety and security, in accordance with Canada's international legal obligations under the *VCDR* and *VCCR*.¹⁶⁹

c. Escalation of protest activity at border crossings

101. By the second week, the convoy emergency had spread to multiple strategic POEs across the country.
102. By February 5, slow roll activity had begun at the Osoyoos and Kingsgate POE in British Columbia.¹⁷⁰ Hateful speech also continued. For example, on February 5, a group of protesters verbally assaulted and intimidated a female member of the Syilx Nation at the Osoyoos POE in Southern British Columbia by yelling racial slurs and derogatory statements at her.¹⁷¹
103. Between February 8 and 11, a protest at the Pacific Highway POE in British Columbia grew to include hundreds of campers and other vehicles. By February 12, the protest had become a blockade.¹⁷² The event was fluid, unpredictable and marked by volatility,¹⁷³ including an incident where a military-style vehicle broke through an RCMP barricade on their way to the Pacific Highway POE, along with several other vehicles.¹⁷⁴
104. On February 8, the CSIS Director reported to Cabinet Ministers that CSIS was seeing an increase in online activity inviting people to participate in blockades at border crossings.¹⁷⁵ The President of the CBSA at the time of the events, John Ossowski, testified:

I think events like this, they feed off each other's energy and their successes and defeats, so I think even – it might not have been direct but certainly through social media channels, I would say that there was an implicit link

¹⁶⁷ The Diplomatic Security Liaison Unit is part of the Office of Protocol.

¹⁶⁸ WTS.00000052, Interview Summary – Global Affairs Canada, p 10.

¹⁶⁹ TRN000000022, Evidence of Cynthia Termorshuizen, pp 260, 267-269.

¹⁷⁰ WTS.00000045, Interview Summary – Nina Patel, p 2.

¹⁷¹ PB.NSC.CAN.00004460_REL.0001, Letter from Okanagan Nation Alliance to Canada and British Columbia, dated February 15, 2022.

¹⁷² WTS.00000045, Interview Summary – Nina Patel, p 2.

¹⁷³ WTS.00000045, Interview Summary – Nina Patel, p 2.

¹⁷⁴ SSM.NSC.CAN.00002230_REL.0001, Email from Mike Jones to Minister Mendicino, Trucker Update, dated February 13, 2022.

¹⁷⁵ SSM.NSC.CAN.00000295_REL.0001, SSE Minutes, dated February 8, 2022, p 10.

between what was happening all across the country with all of the different activities.¹⁷⁶

105. In Atlantic Canada, on February 7, three Members of Parliament in Nova Scotia received suspicious packages containing noxious substances and anti-government rhetoric.¹⁷⁷ The RCMP also responded to a further attempt to blockade the TransCanada Highway at the New Brunswick/Nova Scotia border on February 12.¹⁷⁸ While this event was not violent, the RCMP had intelligence that individuals intended to bring weapons to the blockade to respond to any show of force by police.¹⁷⁹ Both New Brunswick and Nova Scotia took steps to amend their emergency legislation or pre-existing emergency orders to address the ongoing threats of blockades.¹⁸⁰
106. On February 12, the RCMP also stopped a “breakaway” group in a slow roll convoy demonstration from blockading the Confederation Bridge between New Brunswick and Prince Edward Island.¹⁸¹ On the same day, protesters attempted to blockade ferry operations in Nova Scotia.¹⁸²
107. Police in Halifax, Nova Scotia responded to threats of blockades at maritime ports by erecting barricades to limit access.¹⁸³ There was also intelligence regarding potential blockades against a ferry that provided medical supplies to Newfoundland.¹⁸⁴ These events took place within the context of ongoing intelligence suggesting the risk of maritime blockades of ferry and shipping lanes,¹⁸⁵ and bridge blockades.¹⁸⁶
108. A number of incidents took place at POEs that threatened officers, other people, or infrastructure. On February 12, a group of protesters breached the confines of the CBSA plaza at the Peace Bridge POE in Fort Erie, Ontario, and attempted to gain access to the building.

¹⁷⁶ TRN00000024, Evidence of John Ossowski, pp 99-101; PB.CAN.00001523_REL.0001, CBSA Intelligence Alert, dated January 20, 2022; TRN00000006, Evidence of Craig Abrams, pp 271-272.

¹⁷⁷ NSG00000041, RCMP Situation Report 2022-006; PB.NSC.CAN.00000526_REL.0001, RCMP-GRC IMCI Report, dated February 10, 2022, p 7.

¹⁷⁸ NSG00000008, RCMP Situation Report 2022-67945; NSG00000091, Affidavit of Mark Peachy, sworn November 3, 2022, paras 10-22; NSG00000092, Affidavit of Haley Crichton, sworn November 3, 2022, paras 14-40, 44, 72.

¹⁷⁹ PB.NSC.CAN.00006656_REL.0001, RCMP-GRC IMCIT Special Threat Advisory – Update 6, dated February 10, 2022, p 8.

¹⁸⁰ SSM.CAN.NSC.00002872_REL.0001, Email from Mary-Liz Power Re: Protest Update, dated February 12, 2022, p 8; NSG00000001, Direction of the Minister under a Declared Stated of Emergency (Section 14), dated February 4, 2022; NSG00000002, Order (Section 8 of Chapter 450 of the Revised Statutes of Nova Scotia, 1989), dated January 28, 2022; NSG00000003, Direction of the Minister under a Declared Stated of Emergency (Section 14), dated January 28, 2022.

¹⁸¹ PB.NSC.CAN.00003273_REL.0001, Email from Sophie Blake, Fw: Sit Rep #124, dated February 13, 2022.

¹⁸² SSM.NSC.CAN.00002230_REL.0001, Email from Mike Jones, Trucker Update, dated February 13, 2022, p 3; NSG00000045, RCMP Situation Report 2022-159599, dated February 14, 2022; NSG00000092, Affidavit of Haley Crichton, sworn November 3, 2022, paras 63-73.

¹⁸³ SSM.NSC.CAN.00000242_REL.0001, NSIA Remarks – Full Cabinet, dated February 13, 2022, p 7.

¹⁸⁴ WTS.00000073, Interview Summary – Minister LeBlanc, p 9.

¹⁸⁵ ALB00001776, Email from PSIO-Intelligence, PSIO Sitrep Update #14, dated February 11, 2022, p 5.

¹⁸⁶ NSG00000086, Email from Chris Verge (NS), Re: Apparent bridges threat, dated February 9, 2022.

BSOs had to lockdown the facility for twelve hours to keep the protesters out of the secure area.¹⁸⁷

109. The next day, the CBSA intercepted and arrested two American citizens at the Peace Bridge POE, after the discovering and seizing two undeclared firearms and pepper spray. These individuals disclosed that they were travelling to attend an anti-mandate protest in Buffalo, New York and had accidentally crossed the border. They were returned to the United States and US Customs and Border Protection was informed of the interaction.¹⁸⁸
110. As OPP Commissioner Carrique explained, these multiple simultaneous protests, and eventually counter-protests, taking place at POEs in Ontario were an increasing safety concern.¹⁸⁹
111. As an organization, the CBSA experienced many significant operational impacts. During the convoy emergency, the CBSA issued multiple Border Alerts for service disruptions at POEs. At the RCMP's request, the CBSA also issued one Border Alert for a service suspension at the Coutts POE.¹⁹⁰
112. Many POEs also experienced limited accessibility, including longer than usual border wait times as a result of increased traffic, due to blockades of other POEs. While these events did not always result in the issuance of Border Alerts, they significantly affected POEs and the CBSA's operational activities. Throughout the convoy emergency, over 20 POEs experienced varying degrees of disruption due to protests or blockades.¹⁹¹
113. The CBSA shifted resources from affected POEs to other nearby crossings to continue to facilitate the ongoing arrival of people and goods into Canada. The CBSA also worked with police of jurisdiction to identify accessible emergency routes for first responders.¹⁹²
114. The constantly shifting and fluid nature of the convoy emergency affected the CBSA's ability to plan and respond. The entrenched blockades of trade corridors that resulted in service disruptions at major POEs and a service suspension at the Coutts POE were significant, as was the escalating intermittent blockades of other POEs and their trade corridors. Mr. Ossowski explained:

I can't emphasize enough how unpredictable and escalating this was for us, and it was more than just the ports of entry that you're referring to, and certainly, when you look through our institutional report, this was literally from coast to coast. And obviously, some suffered more severe disruptions than others, but it really kept us on our toes in terms of trying to anticipate

¹⁸⁷ DOJ.IR.00000006, Institutional Report – CBSA, p 42; TRN00000024, Evidence of John Ossowski, pp 46-47.

¹⁸⁸ DOJ.IR.00000006, Institutional Report – CBSA, p 42-43; WTS.00000046, Interview Summary – CBSA, p 8.

¹⁸⁹ TRN00000011, Evidence of Thomas Carrique, pp 171, 174; TRN00000018, Evidence of Jason Crowley, p 244.

¹⁹⁰ DOJ.IR.00000006, Institutional Report – CBSA, pp 31-33; TRN00000024, Evidence of John Ossowski, pp 10-11.

¹⁹¹ TRN00000024, Evidence of John Ossowski, pp 94-95.

¹⁹² DOJ.IR.00000006, Institutional Report – CBSA, p 23.

and work with our American colleagues and the local police of jurisdiction to make sure that we continue to manage the border effectively.¹⁹³

... So – I mean I think it’s – I can’t overstate sort of how tied together these – all these events are, and that when one slows down, people – we would send out a border alert or people would go to our app to see where the border wait times are the shortest and they would reroute themselves. And so if there was a disruption or a planned disruption, then we would try and reallocate officers or provide situational awareness to our American counterparts to make sure that we could manage whatever flows might materialize. So it was a very dynamic time for us.¹⁹⁴

115. The CBSA’s ability to effectively manage the flow of people and goods was especially affected in cases where commercial traffic was redirected to POEs that were not equipped to process large volumes of commercial conveyances.¹⁹⁵ In addition, some commercial conveyances could not use alternative access routes to POEs where the alternative routes had load limits that precluded large commercial vehicles¹⁹⁶ and, while some traffic could be redirected, it was very difficult to relocate the functions of some specialized locations. As a result, redirection to other POEs was never a complete solution.¹⁹⁷ These challenges were compounded as POEs to which traffic might be redirected were experiencing their own disruptions due to protests and blockades.¹⁹⁸ Additionally, redirecting commercial traffic caused truckers to exceed their allowable driving hours, which is critical to their safety.¹⁹⁹
116. At the Emerson, Manitoba POE, where slow roll activity had begun on January 17, disruptions took place over several weeks. On February 10, the CBSA issued a formal Border Alert for a service disruption as a result of a blockade 1.5 kilometers north of the POE.²⁰⁰ On February 11, the Manitoba Premier Heather Stefanson wrote to the Prime Minister requesting federal action.²⁰¹ Service at the Emerson POE only resumed on February 16.²⁰²
117. The Emerson POE is supported by a Canada Food Inspection Agency (“CFIA”) veterinarian because of its significance to the agricultural sector.²⁰³ During the blockade, commercial conveyances had to be partially redirected to three other POEs, only one of which was

¹⁹³ TRN00000024, Evidence of John Ossowski, p 26; SSM.NSC.CAN.00000050_REL.0001, CBSA Situational Report COVID-19 Mandate Protests Operational Impact, dated February 12, 2022.

¹⁹⁴ TRN00000024, Evidence of John Ossowski, p 72.

¹⁹⁵ DOJ.IR.00000006, Institutional Report – CBSA, p 31.

¹⁹⁶ TRN00000024, Evidence of John Ossowski, p 95.

¹⁹⁷ SSM.NSC.CAN.00000212_REL.0001, Read-out of DMOC, dated February 11, 2022; TRN00000024, Evidence of John Ossowski, pp 13, 106-107.

¹⁹⁸ TRN00000024, Evidence of John Ossowski, p 107.

¹⁹⁹ TRN00000024, Evidence of Michael Keenan, p 163.

²⁰⁰ DOJ.IR.00000006, Institutional Report – CBSA, pp 32, 36; WTS.00000043, Interview Summary – Brad Wozny, p 2.

²⁰¹ WTS.00000066, Interview Summary – Public Safety Canada, p 17.

²⁰² DOJ.IR.00000006, Institutional Report – CBSA, p 32.

²⁰³ DOJ.IR.00000006, Institutional Report – CBSA, p 13.

equipped to conduct CFIA inspections.²⁰⁴ The Emerson crossing is also responsible for over 20% of Canada's pharmaceutical exports as a result of Winnipeg being a life sciences hub.²⁰⁵

118. The escalating situation at two key affected POEs is described further below.

d. Coutts, Alberta

119. On January 25, the CBSA received information that protest organizers were encouraging those who could not go to Ottawa to block the Coutts border,²⁰⁶ and that blockade action was planned to start on January 29.²⁰⁷ Sources indicated that the protesters' intentions were to stay as long as the larger Freedom Convoy remained in Ottawa.²⁰⁸
120. The RCMP, who are the police of jurisdiction in Alberta, engaged with the organizers in the days leading up to the planned demonstration. Organizers assured the RCMP that the event would be a slow roll and not a complete blockade.²⁰⁹ The RCMP developed a plan to respond to both slow roll demonstrations and a potential blockade.²¹⁰
121. A convoy drove up to the border on January 29.²¹¹ Members of what the RCMP understood to be a splinter group within the convoy stopped their vehicles and blockaded both lanes of Highway 4 near Coutts.²¹² This blockade severely limited access to the Coutts POE.²¹³ The RCMP, CBSA and US Customs and Border Protection coordinated the safe escort of approximately 30 semi-trucks that were stuck in a CBSA clearance lot overnight due to the blockade.²¹⁴ The blockade also trapped a number of trucks that intended to participate in a slow roll, but did not support the blockade.²¹⁵

²⁰⁴ DOJ.IR.00000006, Institutional Report – CBSA, pp 15-16, 36-37.

²⁰⁵ DOJ.IR.00000005, Institutional Report – Transport Canada, para 90.

²⁰⁶ PB.CAN.00001317_REL.0001, Email from Lynn Lamarche, AB Coutts potential roadblock by truckers, dated January 24, 2022.

²⁰⁷ PB.CAN.00001523_REL.0001, CBSA Prairie Region Intelligence Alert #7015-2022-0005, dated January 25, 2022; ALB00001677.0001, Email from Christine Bartram, Anticipated Truck Protest – Coutts Crossing, dated January 26, 2022; TRN00000023, Evidence of Curtis Zablocki, p 298.

²⁰⁸ PB.CAN.00001523_REL.0001, CBSA Prairie Region Intelligence Alert #7015-2022-0005, dated January 25, 2022.

²⁰⁹ PB.NSC.CAN.00001576_REL.0001, RCMP Briefing Notes for Premier Kenney for Trucker Convoy Blockade, dated February 1, 2022.

²¹⁰ TRN00000023, Evidence of Curtis Zablocki, pp 303-304.

²¹¹ TRN00000020, Evidence of Jimmy Willett, p 11.

²¹² PB.NSC.CAN.00001576_REL.0001, RCMP Briefing Notes for Premier Kenney for Trucker Convoy Blockade, dated February 1, 2022.

²¹³ DOJ.IR.00000006, Institutional Report – CBSA, p 34.

²¹⁴ PB.CAN.00001333_REL.0001, Email from Lisa Laurencelle-Peace, Re: Update @1100 CST POE Coutts, dated January 31, 2022; TRN00000023, Evidence of Curtis Zablocki, pp 302-303.

²¹⁵ PB.CAN.00001330_REL.0001, Email from Brad Wozny, Re: Update @1100 CST POE Coutts, dated January 30, 2022.

122. By January 30, approximately 500-700 protesters were on the highway leading to the Coutts POE, contributing to a blockage preventing vehicles from crossing the border.²¹⁶ Similarly, the blockade on Highway 4 prevented the residents of Coutts from travelling to Milk River to access essential services such as medical services, schools and grocery stores.²¹⁷ The only alternate route was through private property and the increased traffic prevented the owners from using their home.²¹⁸ As the Mayor Jim Willett of Coutts stated “people were literally physically frozen and not able to go through that blockade. And since everything is on the other side, it was a tough situation.”²¹⁹
123. The RCMP arranged for tow truck companies to assist in enforcement action on January 31,²²⁰ but decided not to enforce at that time, as it appeared a negotiated resolution was possible that afternoon.²²¹ However, those negotiations collapsed, and the RCMP planned enforcement action for February 1. On the morning of February 1, the tow truck companies unexpectedly advised they would not assist the RCMP, as they had been receiving calls and a “barrage of online negative commentary.”²²² The RCMP also received reports that one company received offers of financial incentives to withdraw their assistance,²²³ while others had been threatened, harassed, and received death threats.²²⁴ The RCMP and provincial partners contacted over 80 tow truck companies in Alberta, British Columbia, Saskatchewan, and 25 companies in the United States, but were unable to retain commercial towing services to respond to the blockade.²²⁵ Without tow trucks, the RCMP was unable to proceed with enforcement actions.
124. During the first weekend of the blockade, the RCMP attempted to establish checkpoints and conduct targeted enforcement. Blockade participants swarmed officers at checkpoints, breached barricades, and tried to ram police vehicles.²²⁶ RCMP and Alberta Sheriff Highway Patrol (“ASHP”) members reported that they received threats, and on one occasion protester vehicles pushed through barricades and collided with vehicles travelling northbound on the highway. The

²¹⁶ PB.NSC.CAN.00000710_REL.0001, Email from Lynne Lamarche, Re: Urgent Approval: Updated – DMOC BF, dated January 31, 2022, p 5.

²¹⁷ TRN00000020, Evidence of Jimmy Willett, pp 4-5.

²¹⁸ TRN00000020, Evidence of Jimmy Willett, p 6.

²¹⁹ TRN00000020, Evidence of Jimmy Willett, p 73.

²²⁰ TRN00000023, Evidence of Curtis Zablocki, p 305.

²²¹ TRN00000023, Evidence of Curtis Zablocki, pp 305-306.

²²² TRN00000023, Evidence of Curtis Zablocki, p 306; ALB00001263.0001, Email from Bill McAuley, Coutts Convoy Blockade – Leadership and Organization Analysis, dated February 1, 2022.

²²³ TRN00000023, Evidence of Curtis Zablocki, p 343.

²²⁴ PB.NSC.CAN.00002060_REL.0001, Email FW: Contract template, dated February 5, 2022;

PB.NSC.CAN.00002063_REL.0001, Email from Jen O'Donoughue, FW: Tow truck drivers, dated February 5, 2022.

²²⁵ TRN00000023, Evidence of Curtis Zablocki, p 306; DOJ.IR.00000011, Institutional Report – RCMP, paras 181-182; PB.NSC.CAN.00001729_REL.0001, List of Towing/Heavy Equipment Companies Contacted for Blockade Assistance, dated February 1, 2022; PB.NSC.CAN.00002012_REL.0001, Email from Curtis Zablocki, DOC00244 – USA Towing options, dated February 4, 2022; PB.NSC.CAN.00002403_REL.0001, Email from Marlin Degrand, RE: Tow Trucks, dated February 8, 2022; ALB00001058, Email from Peter Lemieux, RE: Confidential – Tow Truck requirement Update 4, dated February 9, 2022.

²²⁶ ALB00001227.0001, Email from Jason Delaney (AB), Sheriffs Branch Sitrep (Routine) Update #5, dated February 2, 2022.

collisions resulted in “brawls” between blockaders and other motorists that required intervention by RCMP and ASHP members.²²⁷ Support convoys bypassed or broke through police barricades to deliver food, fuel, and water to blockade participants. Videos on social media also depicted groups of agricultural machinery moving on roads or across fields towards the blockade.²²⁸

125. The Coutts blockade grew after its first weekend.²²⁹ By February 1, there were approximately 2,000 vehicles amassed along the highway leading to the Coutts POE.²³⁰ Intelligence reports indicated members of the blockade had armed themselves with firearms and displayed them to law-abiding motorists in threatening manners.²³¹ On February 2, the ASHP deployed in response to intelligence that the blockade or its supporters could target law enforcement vehicles during the night.²³²
126. On February 3, a local Member of the Legislative Assembly tried to negotiate a deal with protesters to open up one lane of traffic at the border. However, blockade supporter Pastor Artur Pawlowski traveled from Calgary that day and preached an inflammatory sermon on the notion of freedom that incited the crowd to entrench themselves further. He referred to the blockade as an “Alamo” scenario that people had to be prepared to dig in and die for,²³³ stating:

... And they took it to the streets and paralyzed the entire system. Yes thousands were arrested. Yes people were tortured and beaten, yes. There is a price attached to freedom. How do you think the second war ended? Millions had to die. How do you think the first world war ended? Millions had to die. That’s the price that we have to be willing to be pay if our children are going to have a free and democratic society.²³⁴

As a result, the lane was only open for a few hours.²³⁵ The blockade at Coutts shifted frequently with the blockade occasionally opening one lane of traffic to allow limited traffic to pass, but this lane opening was intermittent and unreliable.²³⁶

²²⁷ ALB00001620.0001, Email from Marlin Degrand, FW: More on the highway brawl, dated February 1, 2022.

²²⁸ ALB00001263.0001, Email from Bill McAuley, Coutts Convoy Blockade – Leadership and Organization Analysis, dated February 1, 2022.

²²⁹ TRN00000019, Evidence of Marco Van Huigenbos, p 238.

²³⁰ ALB00001620.0001, Email from Marlin Degrand, FW: More on the highway brawl, dated February 1, 2022.

²³¹ ALB00001620.0001, Email from Marlin Degrand, FW: More on the highway brawl, dated February 1, 2022.

²³² ALB00000988.0001, Email from Bob Andrews (AB), Fwd: Request for Sheriffs Branch Resources, dated February 2, 2022.

²³³ PB.CAN.00001835_REL.0001, Multimedia Video, dated February 3, 2022, referenced at TRN00000020, Evidence of Jimmy Willett, p 49.

²³⁴ PB.CAN.00001835_REL.0001, Multimedia Video, dated February 3, 2022, referenced at TRN00000020, Evidence of Jimmy Willett, p 49.

²³⁵ WTS.00000012, Interview Summary – Jimmy Willett, p 3.

²³⁶ TRN00000020, Evidence of Jimmy Willett, pp 20-21; ALB.IR.00000001, Institutional Report – Alberta, p 3.

127. The blockade lacked representative leadership and the fractured nature of the group made negotiation difficult.²³⁷ Attempts by the RCMP to negotiate a move to a different protest site were unsuccessful.²³⁸ However, the RCMP was able to negotiate the partial opening of one lane in each direction between February 3 and February 8. While this partial opening was intermittent, and traffic often required RCMP escorts, it did allow for limited access to the POE.²³⁹
128. On February 3, in response to the situation at Coutts, RCMP Deputy Commissioner Curtis Zablocki wrote to the Alberta Solicitor General requesting the application of emergency provisions under Article 9.1 of the Provincial and Municipal Police Service Agreements to access additional police resources to deal with the event.²⁴⁰ The Province approved the request immediately, allowing the RCMP to redeploy resources from elsewhere in the province, and from BC, to the Coutts blockade.²⁴¹
129. On February 4, Deputy Commissioner Zablocki submitted a Request for Assistance to RCMP Headquarters seeking towing assistance from the Canadian Armed Forces (“CAF”).²⁴² The RCMP made enquiries with CAF at the national level, but learned that CAF did not have equipment that would be suitable or of assistance in resolving the blockade at Coutts.²⁴³
130. On February 5, the Government of Alberta made a formal Request for Assistance to the federal government, seeking the provision of CAF equipment and personnel to remove obstructions from the highway near Coutts.²⁴⁴ While Canada did not respond to Alberta’s request in writing, it did advise that CAF did not have appropriate equipment, the province was notified that it would not be appropriate to deploy the CAF against Canadian citizens.²⁴⁵ The federal government continued to engage with Alberta on how best both levels of government could assist each other going forward.²⁴⁶
131. As these efforts to obtain towing assistance were underway, the blockade continued to pose risks to public and officer safety. On February 7, there were two incidents where large farm tractors

²³⁷ SSM.NSC.CAN.00000294_REL.0001, ADM NS OPS Read Out, dated February 6, 2022, p 7; TRN00000020, Evidence of Jimmy Willett, p 17; TRN00000023, Evidence of Curtis Zablocki, pp 304-305; TS.NSC.CAN.001.00000181_REL_0001, CSIS National Security Brief, dated February 14, 2022.

²³⁸ TRN00000023, Evidence of Curtis Zablocki, p 311.

²³⁹ TRN00000023, Evidence of Curtis Zablocki, pp 328-329; ALB00000290.0001, Confidential Update on Coutts Border Situation, dated February 16, 2022, p 3.

²⁴⁰ TRN00000023, Evidence of Curtis Zablocki, pp 316-317; ALB00001482.0001, RCMP (AB) Letter to The Honourable Sonya Savage, dated February 3, 2022.

²⁴¹ ALB00001260, Justice and Solicitor General (AB) Letter to Curtis Zablocki, dated February 3, 2022; TRN00000023, Evidence of Curtis Zablocki, pp 315-316.

²⁴² PB.NSC.CAN.00002176_REL.0001, RCMP Request for Canadian Forces Assistance, dated February 4, 2022.

²⁴³ WTS.00000069, Interview Summary – RCMP, p 18; TRN00000023, Evidence of Curtis Zablocki, pp 317-318.

²⁴⁴ PB.CAN.00000718_REL.0001, Minister of Municipal Affairs (AB) Letter to Minister Mendicino, dated February 5, 2022; WTS.00000066, Interview Summary – Public Safety Canada, p 16.

²⁴⁵ WTS.00000066, Interview Summary – Public Safety Canada, p 16; TRN00000026, Evidence of Jeffery Hutchinson, pp 87-88.

²⁴⁶ For example, Minister Alghabra spoke with Rajan Sawhney, then-Minister of Transportation for Alberta on February 5, and again on February 9. DOJ.IR.00000005, Institutional Report – Transport Canada, para 61.

breached RCMP checkpoints and blockaders at the Smuggler's Saloon assisted those drivers to evade police.²⁴⁷

132. On February 8, the Province of Alberta announced a plan for gradual easing of pandemic-related public health orders.²⁴⁸ In response to this announcement, a complete blockade of the highway leading to the Coutts POE resumed.²⁴⁹ Mayor Willett, believed this response arose from misinformation that led blockaders to expect the immediate dissolution of all provincial public health mandates, rather than the announced gradual easing.²⁵⁰
133. On February 9, the RCMP received information about a potential cache of firearms within the protest group at Coutts. In response, the RCMP undertook a covert investigation to verify the information.²⁵¹
134. On February 11, the RCMP requested that the CBSA suspend service at the Coutts POE in order to ensure that the RCMP could control access to the blockade and protest site north of the POE.²⁵² Minister of Public Safety Marco Mendicino approved this request, and the CBSA issued a Border Alert for a service suspension on February 12 and closed the Coutts POE to all traveller and commercial traffic.²⁵³ Notwithstanding the intermittent, partial opening of a single lane, the POE had effectively been inaccessible to commercial and traveller traffic since January 29, due to blockades of the trade corridor leading to the POE.²⁵⁴
135. On the night of February 13, a tractor breached the RCMP security perimeter, nearly hitting a RCMP vehicle, before fleeing to the blockade headquarters at Smuggler's Inn in Coutts.²⁵⁵ In the early morning of February 14, the RCMP executed a search warrant on three trailers associated with the ongoing blockade of the Coutts POE. The RCMP seized 13 long guns, two handguns, two sets of body armour, a machete, and a significant quantify of ammunition, including high-capacity magazines.²⁵⁶ One body armour vest seized during the investigation included patches signifying adherence to the Diagonol movement.²⁵⁷

²⁴⁷ PB.NSC.CAN.00007664_REL.0001, RCMP "K" Division Situation Report to AB Justice and Solicitor General, dated February 16, 2022, pp 29-30.

²⁴⁸ ALB.IR.00000001, Institutional Report – Alberta, para 19.

²⁴⁹ ALB.IR.00000001, Institutional Report – Alberta, para 19; TRN00000019, Evidence of Marco Van Huigenbos, p 275; TRN00000023, Evidence of Curtis Zablocki, pp 343, 345.

²⁵⁰ TRN00000020, Evidence of Jimmy Willett, p 21.

²⁵¹ TRN00000023, Evidence of Curtis Zablocki, p 321.

²⁵² DOJ.IR.00000006, Institutional Report – CBSA, pp 34-35; WTS.00000043, Interview Summary – Brad Wozny, pp 3-4; PB.NSC.CAN.00008470_REL.0001, RCMP (AB) Letter to Brad Wozny, dated February 11, 2022.

²⁵³ DOJ.IR.00000006, Institutional Report – CBSA, pp 31-33.

²⁵⁴ WTS.00000046, Interview Summary – CBSA, p 4.

²⁵⁵ COU00000453, Email from Steve Pain, Re: Information, dated February 14, 2022; TRN00000020, Evidence of Jimmy Willett, p 48.

²⁵⁶ DOJ.IR.00000006, Institutional Report – CBSA, p 42; ALB00001786.0001 RCMP News Release "Alberta RCMP make arrests at Coutts Border Blockade", dated February 14, 2022; PB.NSC.CAN.00008508_REL.0001, RCMP-GRC "K" Division Report, dated February 17, 2022; PB.NSC.CAN.00000555_REL.0001, RCMP – Request for Information: Coutts, AB Arrests and Seizures, dated February 22, 2022; TRN00000023, Evidence of Curtis Zablocki, p 323.

²⁵⁷ PB.NSC.CAN.00000536, RCMP-GRC IMCIT statement, dated February 9-16, 2022, p 7.

136. The RCMP arrested and charged thirteen individuals in relation to the investigation. Charges included mischief, uttering threats, and weapons offences. Four of the individuals were also charged with conspiracy to commit murder of police officers.²⁵⁸ The seizure and arrest in Coutts indicated the presence of elements in the protests who intended to engage in violent acts, and highlighted the potential for a small violent cell to conceal itself within the broader movement.²⁵⁹ Five of the accused were believed to have been at the Freedom Convoy protests in Ottawa before coming to Coutts.²⁶⁰
137. Following the arrests and discovery of the weapons cache, the RCMP was able to negotiate the departure of blockade participants who did not wish to be associated with the weapons seizure. Mayor Willett stated that members of the blockade were also concerned about rumours that Canada would soon invoke the *EA*.²⁶¹ On the afternoon of February 14, the remaining participants agreed to dismantle the blockade site and leave the area on February 15.²⁶² Service resumed at the POE on February 15.²⁶³
138. On February 16, the Border Information Services line reported having received phone calls in which threats against CBSA and other law enforcement officials were made as well as an increase in calls requesting information on the importation of: body armour; armour piercing ammunition; non-restricted, restricted and prohibited firearms; and, gas masks in to Canada.²⁶⁴
139. As of February 18, protesters remained in the immediate area of an RCMP checkpoint.²⁶⁵ The RCMP handed out pamphlets that referencing powers under the *EA*²⁶⁶ and encouraged the protesters to disperse or move to a designated lawful protest site, which they eventually did.²⁶⁷
140. The blockade at Coutts had significant economic impacts. The POE is one of only three Designated Commercial Offices²⁶⁸ in the prairie provinces and it is the only designated POE for commercial processing in the Province of Alberta.²⁶⁹ The POE is particularly important to the agricultural sector. The commercial transportation of livestock across the border is time-sensitive and requires specific infrastructure and processing services, such as third-party offloading services

²⁵⁸ PB.NSC.CAN.00008508_REL.0001, RCMP-GRC “K” Division Report, dated February 17, 2022; TRN00000023, Evidence of Curtis Zablocki, pp 323-324.

²⁵⁹ TS.NSC.CAN.001.00000181_REL_0001, CSIS National Security Brief, Arrests at the Coutts Blockade: Complex Motivations, dated February 14, 2022.

²⁶⁰ PB.NSC.CAN.00008508_REL.0001, RCMP-GRC “K” Division Report, dated February 17, 2022.

²⁶¹ WTS.00000012, Interview Summary – Jimmy Willett, p 3; TRN00000020, Evidence of Jimmy Willett, pp 48-49.

²⁶² TRN00000023, Evidence of Curtis Zablocki, pp 326-327.

²⁶³ DOJ.IR.00000006, Institutional Report – CBSA, pp 31-32.

²⁶⁴ SSM.NSC.CAN.00000351_REL.0001, Email from Lynne Lamarche, Covid 19 Mandate Protests Operational Impacts Sit Rep, dated February 17, 2022, p 4; DOJ.IR.00000006, Institutional Report – CBSA, p 43; TRN00000024, Evidence of John Ossowski, p 103.

²⁶⁵ TRN00000023, Evidence of Curtis Zablocki, pp 348-349.

²⁶⁶ PB.NSC.CAN.00008362_REL.0001, Alberta RCMP Notice to Lawful Protest Participants.

²⁶⁷ TRN00000023, Evidence of Curtis Zablocki, pp 348-349.

²⁶⁸ DOJ.IR.00000006, Institutional Report – CBSA, p 7; A Designated Commercial Office is a designated port of entry that provides 24 hour service, 7 days a week, for the reporting and clearing of commercial goods.

²⁶⁹ TRN00000024, Evidence of John Ossowski, p 13.

and on-site veterinarian services. These services are available at the Coutts POE²⁷⁰ and reciprocal services are available 24/7 at the Sweetgrass, Montana POE on the American side of the border.²⁷¹

141. In the event of a service disruption at the Coutts POE, commercial traffic often redirects to the North Portal or Regway POEs in Saskatchewan, or the Roosville or Kingsgate POEs in British Columbia. However, the driving distances to these POEs range from 4 to 9 hours. As a result, the closer Carway POE in Cardston, Alberta and the Del Bonita POE in Del Bonita, Alberta received the greatest volume of redirected conveyances in the region. Neither is a Designated Commercial Office open 24 hours a day, 7 days a week, and both offer limited services compared to the Coutts POE.²⁷²
142. During the service suspension at the Coutts POE, arrangements were made to have a CFIA veterinarian inspect Canada-bound shipments of commercial livestock at the POE in Sweetgrass, Montana before re-directing the shipment to Del Bonita for entry into Canada.²⁷³ The resulting additional 1-2 hours of travel time had negative impacts on travellers and commercial traffic.²⁷⁴ The extra travel distances and time caused by diverting traffic to other POEs was particularly challenging to manufacturers, and for the transportation of perishables and livestock.²⁷⁵
143. The limited accessibility at Coutts significantly reduced commercial conveyance volumes. On each of January 31, February 1 and February 2, the Coutts POE recorded no commercial conveyances, compared to the previous week when the POE averaged over 360 a day.²⁷⁶ On February 9, Coutts POE again recorded no commercial conveyances, and only 12 and 20 commercial conveyances on February 10 and 11 respectively, compared to almost 500 a day during a similar time period prior to the start of the border disruptions.²⁷⁷
144. On February 3, the Alberta Beef Producers, the Alberta Cattle Feeders' Association, and the Canadian Cattlemen's association released a joint statement addressing the impacts of the Coutts blockade on their industry. These groups reported a lack of access to critical feed supplies coming from the US, impacts on cross border movement of cattle and meat products, a slow down of processing in Canada, and a backlog at processing facilities, feedlots and farms and ranches. They

²⁷⁰ DOJ.IR.00000006, Institutional Report – CBSA, pp 35-36.

²⁷¹ DOJ.IR.00000006, Institutional Report – CBSA, p 9.

²⁷² DOJ.IR.00000006, Institutional Report – CBSA, pp 35-36.

²⁷³ DOJ.IR.00000006, Institutional Report – CBSA, pp 34-35; Evidence of John Ossowski, pp 15-16; WTS.00000043, Interview Summary – Brad Wozny, p 3.

²⁷⁴ DOJ.IR.00000006, Institutional Report – CBSA, pp 40-41; WTS.00000046, Interview Summary – CBSA, p 4; SSM.CAN.00003798_REL.0001, Email from Frank Lee, Re: Economic Impacts of Blockades at Border Crossings, dated February 14, 2022, p 3.

²⁷⁵ TRN00000024, Evidence of John Ossowski, p 95; TRN00000024, Evidence of Christian Dea, p 152; TRN00000024, Evidence of Michael Keenan, p 163; ALB00000547.0001, PSIO Sitrep – Freedom Convoy Solidarity, dated February 5, 2022.

²⁷⁶ DOJ.IR.00000006, Institutional Report – CBSA, p 35; PB.CAN.00001556_REL.0001, Commercial Conveyance Data, Jan-Feb 2022, p 80.

²⁷⁷ DOJ.IR.00000006, Institutional Report – CBSA, p 35; PB.CAN.00001556_REL.0001, Commercial Conveyance Data, Jan-Feb 2022, p 80.

stated, “every day the industry is unable to move cattle, beef or access feed puts the supply chain at risk.”²⁷⁸ Mayor Willett also testified about the economic impacts of the blockade, which he described as “choking the livelihood of all your friends and neighbours.”²⁷⁹

145. By February 5, Canadian Manufacturers & Exporters (“CME”) noted that the Coutts blockade affected about \$44 million in Canada/US trade per day. CME indicated that the blockade was negatively affecting the reputations of companies looking to build relationships with American buyers and partners.²⁸⁰

e. Windsor and the Ambassador Bridge

i. A highly-charged blockade at the Ambassador Bridge

146. The Ambassador Bridge POE is located in Windsor, Ontario, opposite the Ambassador Bridge POE in Detroit, Michigan.²⁸¹ A Canadian subsidiary of the Detroit International Bridge Company owns the bridge and the structures housing the CBSA.²⁸² To access the CBSA facility at Ambassador Bridge, vehicles must travel on Huron Church Road,²⁸³ which is a municipal road.²⁸⁴ The Windsor Police Service (“WPS”) is the police of jurisdiction in Windsor, including Huron Church Road.²⁸⁵
147. On January 23, Transport Canada began observing traffic disruptions on the roads approaching the Ambassador Bridge.²⁸⁶ Protests began as slow rolls, but by February 4 the WPS had indications that attempts would be made to blockade the bridge as of February 7 if protesters did not get what they wanted (relief from vaccine mandates).²⁸⁷
148. The CBSA issued a Border Alert for a service disruption at the Ambassador Bridge on February 7 after all exits from the POE were blocked.²⁸⁸ These blockades predominantly occurred on municipal roads, like Huron Church Road, leading to the POE. Early attempts at negotiating with protesters had been largely unsuccessful, conditions had deteriorated and protesters were uncooperative, abandoning their vehicles on the street and congregating on sidewalks.²⁸⁹ The WPS noted that protesters were discussing “being prepared to be

²⁷⁸ SSM.CAN.00000945_REL.0001, Alberta Cattle Feeders’ Association Statement, dated February 3, 2022.

²⁷⁹ TRN00000020, Evidence of Jimmy Willett, p 72.

²⁸⁰ ALB00000547.0001, PSIO Sitrep – Freedom Convoy Solidarity, dated February 5, 2022, p 6.

²⁸¹ DOJ.IR.00000006, Institutional Report – CBSA, p 17.

²⁸² DOJ.IR.00000006, Institutional Report – CBSA, p 17; PB.NSC.CAN.00009539_REL.0001, Ambassador Bridge Port Profile.

²⁸³ COM00000924, Windsor Map.

²⁸⁴ WIN.IR.00000001, Institutional Report – City of Windsor, paras 30-34.

²⁸⁵ WPS.IR.00000001, Institutional Report – Windsor Police Service, paras 3-7.

²⁸⁶ DOJ.IR.00000005, Institutional Report – Transport Canada, para 79.

²⁸⁷ TRN00000018, Evidence of Jason Crowley, pp 174-182.

²⁸⁸ DOJ.IR.00000006, Institutional Report – CBSA, pp 31-32, 38.

²⁸⁹ WIN00000098; Email from Stephen Laforet, dated February 7, 2022; WPS00000002, Freedom Convoy debrief Power Point, June 8, 2022, p 17.

arrested”.²⁹⁰ The CBSA and WPS worked together to attempt to reroute trucks trapped on the bridge and in the CBSA plaza.²⁹¹

149. The WPS planned to negotiate a resolution,²⁹² but there were significant difficulties. As Deputy Chief of WPS Jason Crowley testified:

... we were monitoring many open sources for Intelligence. We actually heard a lot of the conversation from the protesters about their conversations about the police on a Zello app, and - - so that was part of it. We could hear the infighting. So somebody would negotiate a lane open and someone else would step up and say, “no way we’re giving - - we’re not giving this to the police”, and their people would come and clog it up. And then we would hear that right on ground as well. So it was quite obvious that the leadership was not - - there was no solidarity there for sure.²⁹³

150. There were also incidents suggesting that the blockade could quickly escalate and lead to violence. On February 8, in reaction to an attempt by the WPS to tow a vehicle, protesters exited their vehicles with tire irons and threatened to assault the tow truck driver.²⁹⁴ Police also reported that protesters outnumbered and swarmed officers when they tried to approach or confront unlawful protesters.²⁹⁵ Commissionaires contracted to enforce municipal bylaws were unable to do so in the face of intimidation and threats to their safety.²⁹⁶
151. On February 9, WPS Chief Pam Mizuno wrote to Minister of Emergency Preparedness Bill Blair to request resources, including 100 police officers, marked police cars, and heavy tows to support the on-ground strategies both at the Ambassador Bridge and at the Detroit-Windsor International Tunnel. Chief Mizuno informed Minister Blair that the situation remained fluid and volatile. That same day, Deputy Chief Crowley made a similar request to the OPP.²⁹⁷ While protesters had not yet blockaded the Detroit-Windsor International Tunnel, the WPS were preparing for that possibility.²⁹⁸ The OPP and RCMP worked together to coordinate a response this request.²⁹⁹
152. The management of the blockade had an extraordinary impact on the WPS. It described a resource-intensive situation, where only a fraction of patrol officers remained to take service calls, while the majority responded to the blockade. The WPS indicated this exhausted their

²⁹⁰ WPS000000280, Windsor Police Service email, dated February 7, 2022, p 2.

²⁹¹ WPS000000368, Email between Windsor Police Service and CBSA, dated February 7, 2022.

²⁹² TRN00000018, Evidence of Jason Crowley, pp 205-206.

²⁹³ TRN00000018, Evidence of Jason Crowley, pp 195-196.

²⁹⁴ TRN00000018, Evidence of Drew Dilkens, pp 149-150; TRN00000018, Evidence of Jason Crowley, pp 197-197; WPS000000522, WPS Situation Report, dated February 8, 2022, p 1; WTS.00000017, Interview Summary – Jason Crowley, p 2.

²⁹⁵ WPS000000610, OPP Request Project Convoy 2022, p 2; TRN00000018, Evidence of Jason Crowley, pp 241-242.

²⁹⁶ WIN00001584, Commissionaires Incident Report, dated February 9, 2022.

²⁹⁷ TRN00000018, Evidence of Jason Crowley, p 206; WPS00000609, Email from Jason Crowley, dated February 9, 2022.

²⁹⁸ WTS.00000066, Interview Summary – Public Safety Canada, p 17; PB.CAN.00000728_REL.0001, Letter to Minister Blair from WPS Chief Mizuno, dated February 9, 2022.

²⁹⁹ SSM.CAN.NSC.00002677_REL.0001, Emails re: Windsor Police Request for Assistance, dated February 9-10, 2022.

patrol personnel and their ability to maintain other ordinary operations.³⁰⁰ Mayor of Windsor Drew Dilkens testified that this was the first time he had seen the WPS unable to mount a police response with their own resources.³⁰¹

153. On February 10, an OPP public order team arrived in Windsor to assist.³⁰² That day, protesters threatened to blockade the WPS Headquarters.³⁰³ While those threats did not materialize, they had to be investigated, along with threats to blockade the Windsor-Detroit Tunnel and the Windsor Airport, or to firebomb Mayor Dilkens's house.³⁰⁴
154. On February 11, the Province of Ontario declared a state of emergency.³⁰⁵ That same day, members of the community obtained an injunction from the Ontario Superior Court against the Ambassador bridge blockade.³⁰⁶ City officials were aware that the injunction might "ratchet up" the blockade and its supporters,³⁰⁷ and, in fact, the protesters did actively defy the injunction.³⁰⁸ Mayor Dilkens testified that the blockade in Windsor was a "highly charged situation" reminiscent of the blockade at Coutts.³⁰⁹ Witnesses testified there was an urgent need for this blockade to be resolved.³¹⁰
155. Police were also concerned by potential counter-protests. On February 11, OPP Superintendent Dana Earley learned that David Cassidy, the president of UNIFOR Local 444, was claiming that he was willing to bring autoworkers to the blockade site and forcibly remove protesters if the situation was not resolved before February 14.³¹¹
156. On February 11, blockade leaders advised police that they would end the blockade if they received a meeting with the Ontario Minister of Health.³¹² In response, the OPP obtained and distributed a letter signed by then Ontario Solicitor General Sylvia Jones offering a meeting with provincial officials if the protesters immediately left the blockade site.³¹³ Notwithstanding Ontario's offer, the protesters refused to leave or end the blockade.³¹⁴

³⁰⁰ WPS00000002, Freedom Convoy debrief Power Point, dated June 8, 2022, p 19.

³⁰¹ TRN00000018, Evidence of Drew Dilkens, p 141.

³⁰² TRN00000018, Evidence of Jason Crowley, pp 209-210.

³⁰³ TRN00000018, Evidence of Jason Crowley, pp 236-237.

³⁰⁴ TRN00000018, Evidence of Jason Crowley, pp 237-238.

³⁰⁵ TRN00000018, Evidence of Jason Crowley, p 217; ONT00000842, Emergency Order Approval Form, dated February 12, 2022, p 2.

³⁰⁶ WIN00000511, *Automotive Parts Manufacturers' Association v Boak et al.* (Injunction Order).

³⁰⁷ WIN00000410, Email re: confidential – Injunction & Preparations re: Blockade, dated February 11, 2022.

³⁰⁸ TRN00000019, Evidence of Dana Earley, p 60.

³⁰⁹ TRN00000018, Evidence of Drew Dilkens, p 123.

³¹⁰ TRN00000011, Evidence of Thomas Carrique, p 97.

³¹¹ TRN00000019, Evidence of Dana Earley, pp 43-44, 83-84; WTS.00000022, Interview Summary – Dana Earley, p 11; OPP00004550, Notebook 4 of Dana Earley, p 21.

³¹² WPS.IR.00000001, Institutional Report – Windsor Police Service, para 44.

³¹³ WPS000001454, Letter from Ontario Solicitor General, dated February 11, 2022.

³¹⁴ WTS.00000022, Interview Summary – Dana Earley, pp 12-14; TRN00000019, Evidence of Dana Earley, pp 51-53, 57-58; OPP.IR.00000001, Institutional Report – Ontario Provincial Police, p 29.

157. On February 12, police began their public order operation to resolve the blockade. Executing this plan required more than 700 police officers,³¹⁵ including 64 RCMP Tactical Support members and another 50 RCMP members.³¹⁶ This operational plan included coordination with the Children's Aid Society because of open-source communications that protesters would use children as human shields to resist police enforcement.³¹⁷
158. The operation was paused the afternoon of February 12 because of a swell in the number of protesters, including children, at the blockade site.³¹⁸ According to Mayor Dilkens, this swell occurred as the result of a call, put out on February 12, by a pastor asking people to join the blockade.³¹⁹ Operations resumed and carried on through February 13.³²⁰ Service at the POE resumed shortly after midnight on February 14.³²¹
159. After the removal of the blockade, police maintained a presence on Huron Church Road, approaching the Ambassador Bridge, and the surrounding streets to prevent a re-emergence of the blockade.³²² The threat of another blockade continued for several weeks, leading the City to declare an emergency³²³ and obtain an indefinite extension to its injunction against blockades.³²⁴ In extending the injunction, Chief Justice Morawetz of the Ontario Superior Court of Justice found "uncontroverted evidence" of a continued risk of blockades.³²⁵
160. Due to this continuing risk, police maintained a presence in the area for several weeks, and erected concrete barricades along the length of Huron Church Road.³²⁶ Witnesses testified that law enforcement was not certain they could keep the POE open, or what resources it might take to do so.³²⁷ As Deputy Chief Crowley explained:

... Again, open sources, we were hearing people asking other protesters from Ottawa and Toronto to come down to Windsor. We're going to come at them again. This was daily. So we would re-evaluate with our Intelligence our information every day, and then act accordingly from there. ... I know it was a major inconvenience for the citizens of Windsor, and I think the Mayor explained it well. People on the west end trying to get to the other side or the

³¹⁵ TRN00000018, Evidence of Jason Crowley, pp 219-220.

³¹⁶ TRN00000023, Evidence of Michael Duheme, pp 91-92.

³¹⁷ TRN00000018, Evidence of Jason Crowley, pp 239-241, 286; TRN00000019, Evidence of Dana Earley, pp 47, 82-83; WPS000000016, Freedom Convoy/Ambassador Bridge Protest Debrief.

³¹⁸ WTS.00000022, Interview Summary – Dana Earley, pp 14-15.

³¹⁹ TRN00000018, Evidence of Drew Dilkens, pp 65-66, 117.

³²⁰ WTS.00000022, Interview Summary – Dana Earley, p 15.

³²¹ DOJ.IR.00000006, Institutional Report – CBSA, pp 31-32, 38.

³²² WIN00000665, Email: Ambassador Bridge Protest Update, dated February 14, 2022; TRN00000019, Evidence of Dana Earley, pp 88-89; TRN00000018, Evidence of Jason Crowley, p 224.

³²³ WIN00000576, City of Windsor Declaration of Emergency, dated February 14, 2022.

³²⁴ WIN00000932, *The Corporation of the City of Windsor v Persons Unknown*, 2022 ONSC 1168; WIN00001889, *The Corporation of the City of Windsor v Persons Unknown* (injunction order).

³²⁵ WIN00000932, *The Corporation of the City of Windsor v Persons Unknown*, 2022 ONSC 1168, paras 47-49.

³²⁶ SSM.NSC.CAN.00000340_REL.0001, CBSA Deputy Minister Briefing Material, dated February 16, 2022; TRN00000024, Evidence of John Ossowski, pp 69-70; TRN00000011, Evidence of Thomas Carrique, p 251; TRN00000018, Evidence of Drew Dilkens, pp 121-122.

³²⁷ TRN00000024, Evidence of Michael Keenan, p 189.

east side of Huron Church was very difficult. I would hear it on the radio myself of our local radio stations, and you know, the frustration of the people because that was closed, or not closed, but that was – we were controlling those roadways for a considerable amount of time. So we understood the frustration, but we just – that’s why we would re-evaluate every day. We really understood the importance of maintaining the posture there by the bridge to ensure that we wouldn’t lose it again.³²⁸

161. Mayor Dilkens described the ongoing environment at Windsor as a “national security situation” that prevented the reopening access to Huron Church Road.³²⁹ These protective measures continued through the entire period where the federal emergency measures were in place.³³⁰

ii. The alarming economic impacts of the blockades at border crossings

162. The Ambassador Bridge is a vital trade corridor between Canada and the United States. As such, its blockade had an immediate impact on the Canadian economy. That impact threatened to grow exponentially the longer the blockades continued.³³¹
163. The Ambassador Bridge is Canada’s most significant land crossing from a trade perspective.³³² Christian Dea, Transport Canada’s Chief Economist, testified that 26% of the value of Canadian exports to the United States and 33% of the imports from the United States by road rely on the Ambassador Bridge.³³³
164. The Ambassador Bridge blockade had extraordinary effects on commercial conveyance volumes. On February 7, volumes were almost half of the ordinary expected volume. On Tuesday, February 8, only five commercial conveyances were able to cross at the POE, compared to almost 5,000 that day the week before. Between February 9 and 13, no commercial conveyances crossed at the Ambassador Bridge POE.³³⁴
165. Some, but not all, commercial traffic was redirected to other POEs in Ontario, including the Blue Water Bridge in Sarnia, the Peace Bridge in Fort Erie, and Queenston Lewiston POE in Niagara-on-the-Lake. None of these other POEs had the infrastructure to accept the volume of commercial traffic processed by the Ambassador Bridge, on top of the traffic they normally

³²⁸ TRN00000018, Evidence of Jason Crowley, pp 224-225.

³²⁹ WIN00000972, Windsor Threat Briefing, dated February 16, 2022.

³³⁰ TRN00000018, Evidence of Drew Dilkens, pp 120-121.

³³¹ TRN00000030, Evidence of the Deputy Prime Minister, pp 14, 17-18, 45; TRN00000025, Evidence of Michael Sabia and Rhys Mendes, pp 29-31.

³³² TRN00000024, Evidence of Christian Dea, p 113; DOJ.IR.00000005, Institutional Report – Transport Canada, paras 8, 81; DOJ.IR.00000006, Institutional Report – CBSA, p 18.

³³³ TRN00000024, Evidence of Christian Dea, p 142; PB.CAN.00000840, Backgrounder on Ambassador Bridge Blockade, dated February 11, 2022; DOJ.IR.00000005, Institutional Report – Transport Canada, para 85; PB.CAN.00000878_REL.0001, Major Land Border Crossings in Western Canada and Ontario.

³³⁴ DOJ.IR.00000006, Institutional Report – CBSA, p 38.

processed, for a sustained period.³³⁵ Mr. Ossowski testified that the other POEs could not fully absorb the traffic affected by the Ambassador Bridge blockade.³³⁶

166. Mr. Ossowski further testified that rerouting trucks imposed significant delays on drivers:

...So I think it's closer to 200 kilometres away from Ambassador Bridge to the Bluewater Bridge. The Bluewater Bridge has 7 commercial lanes compared to the Ambassador's 15. You know, given the fact that processing time takes the same, you're trying to squeeze more volume through a smaller sort of sieve, if you will. And at one point, I heard reports that the traffic lineup was 10 kilometres long at the Bluewater Bridge. So that has a significant impact.³³⁷

167. Delays due to rerouting increased the expenses due to increased driving and wait times. These delays also led drivers to be more likely to "time out" on the maximum hours they are able to drive. This prevented drivers from completing trips in a timely manner and reduced productivity.³³⁸

168. The Ambassador Bridge blockade had a significant detrimental impact on the auto manufacturing industry.³³⁹ Auto manufacturers rely on "just-in-time" inventory management practices, meaning goods are received from suppliers only as they are needed for production. This reduces the need to maintain an inventory of parts at assembly plants, but leaves the supply chain vulnerable to delays.³⁴⁰ The blockade affected manufacturing operations at plants in Canada and the US, causing slowdowns and shutdowns in a sector with a fragile supply chain that was still recovering from the COVID-19 pandemic.³⁴¹

169. For instance, on February 9, a parts shortage caused by the Ambassador Bridge blockade forced Ford to shut down its engine plant in Windsor and to run an assembly plant in Oakville, Ontario on a reduced schedule.³⁴² On the same day, General Motors announced shift cancellations at its assembly plant in Lansing Delta Township.³⁴³ The next day, Stellantis did the same.³⁴⁴ Toyota and Honda plants both also suspended production or closed temporarily.³⁴⁵

³³⁵ DOJ.IR.00000006, Institutional Report – CBSA, pp 17-21, 38-40.

³³⁶ TRN00000024, Evidence of John Ossowski, pp 18-20.

³³⁷ TRN00000024, Evidence of John Ossowski, pp 20, 25; DOJ.IR.00000006, Institutional Report – CBSA, p 40.

³³⁸ DOJ.IR.00000005, Institutional Report – Transport Canada, para 84; TRN00000024, Evidence of Christian Dea, pp 151-152, 162; TRN00000024, Evidence of Michael Keenan, p 163.

³³⁹ DOJ.IR.00000006, Institutional Report – CBSA, p 18; DOJ.IR.00000005, DOJ.IR.00000005, Institutional Report – Transport Canada, para 81.

³⁴⁰ TRN00000024, Evidence of Christian Dea, p 142; TRN00000025, Evidence of Rhys Mendes, pp 14-15, 20.

³⁴¹ DOJ.IR.00000006, Institutional Report – CBSA, pp 31, 41-42; TRN00000024, Evidence of John Ossowski, p 25; TRN00000025, Evidence of Michael Sabia, pp 7-11, 20-21.

³⁴² DOJ.IR.00000006, Institutional Report – CBSA, section IV, para 18.

³⁴³ DOJ.IR.00000006, Institutional Report – CBSA, section IV, para 18.

³⁴⁴ DOJ.IR.00000006, Institutional Report – CBSA, section IV, para 18.

³⁴⁵ DOJ.IR.00000005, Institutional Report – Transport Canada, para 91.

170. On February 14, the Anderson Economic Group published an assessment of lost wages and production because of blockades at the Ambassador and Blue Water Bridges. It estimated that Michigan and Ontario had lost direct wages of \$144.9 million, while GM, Ford, Stellantis, Honda, and Toyota experienced losses of \$155 million.³⁴⁶
171. The Ambassador Bridge blockade also affected trade in critical goods like basic medical and pharmaceutical equipment.³⁴⁷ Ontario exports approximately 70-80% of its greenhouse produce to the US and 80% of Ontario's vegetable greenhouses are in Windsor-Essex County.³⁴⁸
172. Transport Canada officials testified to the economic impacts of blockades at the Ambassador Bridge. The Transportation Economic Analysis unit has extensive experience analyzing trade shocks, including, for example, during rail blockades in 2020.³⁴⁹ Transport Canada based its assessment on rigorous economic modelling that incorporated raw data from other government departments like the CBSA and Statistics Canada, and direct information from industry participants. Transport Canada works with Finance Canada and other colleagues to challenge their modelling and ensure the best assessment possible.³⁵⁰
173. On February 11, Transport Canada produced a background report assessing the economic impacts of the blockade at the Ambassador Bridge.³⁵¹ It concluded that the loss of trade through this crossing would be exceptionally damaging to the economy and could result in a shortage of crucial medicine, food and fuel.³⁵² The cost to the Canadian economy of a shutdown of the Ambassador Bridge was estimated to be in the range of \$45-161 million per day over the first week. The range reflected three scenarios of varying degrees of mitigation efforts which depended on different industries being affected (only transport / automotive; the entire manufacturing sector; or all sectors). Where the damage fell within that range would depend on whether other crossings were available, the extent to which they could compensate for closures at the Ambassador Bridge, and the length of the blockade.³⁵³ The impact would be particularly acute for the automotive manufacturing sector, given that industry's high concentration in Southern Ontario, its high integration with the US, and the just-in-time nature of its business model. By this date, automakers on both sides of the border had already begun scaling back or cancelling production.³⁵⁴

³⁴⁶ DOJ.IR.00000006, Institutional Report – CBSA, section IV, para 19.

³⁴⁷ TRN00000024, Evidence of Christian Dea, pp 142-143; DOJ.IR.00000005, Institutional Report – Transport Canada, para 86.

³⁴⁸ WIN00000210, Remarks of Drew Dilkens, dated February 9, 2022.

³⁴⁹ TRN00000024, Evidence of Christian Dea, p 140.

³⁵⁰ TRN00000024, Evidence of Christian Dea, p 140-141, 145-147, 158-160; WTS.00000046, Interview Summary – CBSA, pp 7, 12.

³⁵¹ DOJ.IR.00000005, Institutional Report – Transport Canada, paras 82-84.

³⁵² DOJ.IR.00000005, Institutional Report – Transport Canada, para 83; PB.CAN.00000840, Backgrounder on Ambassador Bridge Blockade, dated February 11, 2022.

³⁵³ DOJ.IR.00000005, Institutional Report – Transport Canada, paras 82-84; PB.CAN.00000840, Backgrounder on Ambassador Bridge Blockade, dated February 11, 2022; TRN00000024, Evidence of Christian Dea, pp 154-157.

³⁵⁴ DOJ.IR.00000005, Institutional Report – Transport Canada, para 83.

174. Director General Christian Dea agreed that the scenarios did not directly account for potential day-to-day rerouting of some conveyances. On the other hand, he explained that the scenarios also did not capture the economic cost associated with rerouting – for example, higher expenses due to increased driving times and wait times, loss of business opportunities, loss of perishable goods (i.e. the food sector), and lost economic production and activity.³⁵⁵ Other costs of rerouting included that delays risked truckers running up against limits on how many hours they can work before being required to stop and rest.³⁵⁶
175. Mr. Dea also explained that, to some extent, mitigation measures were captured in the choice of scenario in the model. For example, scenario one (\$45 million daily impact) assumed the primary sectors affected were automobile/transportation, and that other sectors continued production with rerouting or relying on stored inputs and inventories for a period of time.³⁵⁷ The two other scenarios assumed larger impacts of a bridge closure on other industries – for example if other crossings became unavailable and the situation dragged on in length, which might be seen if the situation escalated.³⁵⁸
176. In addition, some impacts cannot be mitigated – for example, where large production plants are closed down, lost production can never be completely regained.³⁵⁹ The longer a production disruption lasts, the more difficult it becomes to recoup the lost production. There is a limit to how much lost production can be made up after a temporary shutdown given that there are a finite number of hours in a day and there is a need for downtime for maintenance and rest.³⁶⁰
177. As discussed above, the Ambassador Bridge re-opened on February 14, but remained under police protection. Although officials recognized that risks were still elevated, scenarios two and three were less reflective of the situation at that point and were therefore not useful to include in briefings on the economic impacts of the blockades.³⁶¹
178. After the end of blockades, Department of Finance estimated that the effective impact of the blockades was a 0.1-0.2% reduction in annualized real GDP growth in the first quarter of 2022, reflecting a net economic impact of up to \$56 million per day at the peak of the blockades. Deputy Minister of Finance Michael Sabia provided important context for these figures in his testimony:

I'd just like to add something here you know, we talk about 0.1, 0.2 and the impact on growth rates and this and that, and we talk about it in very antiseptic terms. But we're really talking about here is, you know, and we were already experiencing it,

³⁵⁵ TRN00000024, Evidence of Christian Dea, p 162.

³⁵⁶ TRN00000024, Evidence of Michael Keenan, p 163.

³⁵⁷ TRN00000024, Evidence of Christian Dea, p 164-165, 259.

³⁵⁸ TRN00000025, Evidence of Rhys Mendes, p 16.

³⁵⁹ TRN00000024, Evidence of Michael Keenan, p 167; TRN00000025, Evidence of Rhys Mendes, p 24.

³⁶⁰ TRN00000025, Evidence of Rhys Mendes, pp 24, 32, 40-41.

³⁶¹ SSM.CAN.00003798_REL.0001 Finance Canada email, Economic Impacts of Blockades at Border Crossings, dated February 10-14, 2022; TRN00000024, Evidence of Christian Dea, pp 165-167.

but we're really talking about what does it mean 0.1, 0.2. It's not just a number. It means layoffs. It means lower incomes for workers. It means communities less able to count on certain companies. I mean, there are real human consequences to these numbers, whether it's an auto worker, or whether it's someone in the food sector in western Canada and their ability to pay mortgages, et cetera. I mean, we had a lot of good conversation today about those who were involved in the disruptions themselves, but there's also a dimension of this about, well, what are the rights of the people who suffered the economic consequences of this kind of disruption, because they are real and they are meaningful.³⁶²

179. Moreover, these impacts were not just felt in Canada. Across the border, the blockades disrupted auto plants as far south as Kentucky because they could not get the parts they needed for their production across the Ambassador Bridge. Economic trade between the two countries is highly integrated, particularly with respect to auto manufacturing.³⁶³ As Mr. Dea explained:

... it's not a U.S. supply chain, it's not a Canadian supply chain. It's an integrated North American supply chain. So any disruption in terms of the movement of what is needed on the supply chain is affecting, you know, both sides of the country very, very quickly on that.³⁶⁴

Because of this integration, the blockades directly affected American communities by preventing the export of critical goods from Canada to their markets.³⁶⁵

180. Trade between Canada and the United States is crucial to the Canadian economy, with approximately 75% of Canadian exports going to the United States, generating approximately \$2 billion CDN in imports / exports per day and \$774 billion CDN in total trade between the two countries in 2021.³⁶⁶ A Department of Finance summary of economic disruptions explained the risks associated with potential "Buy American" policies that might emerge because of American concerns about the blockade in Windsor.³⁶⁷
181. Witnesses explained that the potential economic impacts from a loss of confidence by the United States in Canada as a reliable trade partner risked being devastating and permanent.³⁶⁸ As it was, the consensus after the blockades ended was that it had been "a near miss".³⁶⁹ While investment confidence may seem like an inchoate risk, it is a real risk to future economic prospects.³⁷⁰ The

³⁶² TRN00000025, Evidence of Michael Sabia, pp 157-158.

³⁶³ DOJ.IR.00000005, Institutional Report – Transport Canada, paras 77-78.

³⁶⁴ TRN00000024, Evidence of Christian Dea, p 144.

³⁶⁵ TRN00000024, Evidence of Christian Dea, p 144.

³⁶⁶ DOJ.IR.00000006, Institutional Report – CBSA, p 5.

³⁶⁷ SSM.CAN.00000177_REL.0001, Blockades – Recent Developments and Summary of Economic Disruptions, dated February 10, 2022; TRN00000025, Evidence of Rhys Mendes, p 18.

³⁶⁸ TRN00000024, Evidence of Michael Keenan, pp 168-170; TRN00000025, Evidence of Michael Sabia, pp 24-25, 35-36.

³⁶⁹ TRN00000024, Evidence of Michael Keenan, p 169.

³⁷⁰ TRN00000024, Evidence of Michael Keenan, p 170.

economic disruption from the blockades is something that an automaker might consider years from now when determining where to build a new plant.³⁷¹

182. Mr. Dea testified that if the blockades had escalated or continued, there would be cascading economic effects and direct impacts through other sectors, amplifying the net economic loss associated with the disruptions.³⁷² Assistant Deputy Minister Rhys Mendes elaborated:

... in a situation where the Ambassador Bridge became blocked again you'll note that the estimates that Transport Canada did were for peak impacts in the first week of a disruption. Given that inventories had been drawn down during the period of disruption, the return to a disruption at the bridge would have put us more into, like, a second week situation where, based on our own past experience and discussions with Transport Canada, you know, that could reasonably be up to, like, three-and-a-half times the size of the impacts that we were discussing for the first week.³⁷³

183. Moreover, had the Ambassador Bridge experienced another blockade, this would likely have had a significant impact on investor confidence.³⁷⁴
184. The Ambassador Bridge blockades raised intense concerns related to impacts on the integrity of supply chains and cross-border trade, and added additional strain to Canada's economy at a time when it was already affected by pandemic-related supply chain disruptions, among other issues.³⁷⁵ As the Deputy Prime Minister explained, the blockades involved a significant threat to Canada's economic security that could have led to widespread job losses and resulting social instability.³⁷⁶

f. Increasing concerns from US government, elected officials and business leaders

185. The high level of engagement between elected officials and public servants at all levels of government; both domestically and internationally, reflected the urgency of the situation.³⁷⁷
186. United States government officials and business leaders contacted federal ministers and public servants to raise significant concerns about the impacts on trade and business, and the need for a rapid resolution of the blockades. Many also voiced these concerns publicly.³⁷⁸ Several

³⁷¹ TRN00000025, Evidence of the Finance Panel, p 34; TRN00000018, Evidence of Drew Dilkens, pp 83-84, 126.

³⁷² TRN00000024, Evidence of Christian Dea, p 260; TRN00000025, Evidence of Michael Sabia, pp 30, 39-40.

³⁷³ TRN00000025, Evidence of Rhys Mendes, p 157.

³⁷⁴ TRN00000024, Evidence of Michael Keenan, p 189; TRN00000025, Evidence of Rhys Mendes, pp 125-126.

³⁷⁵ DOJ.IR.00000005, Institutional Report – Transport Canada, para 79.

³⁷⁶ TRN00000030, Evidence of the Deputy Prime Minister, p 73.

³⁷⁷ DOJ.IR.00000005, Institutional Report – Transport Canada, paras 62-67; PB.NSC.CAN.00002419_REL.0001, Key Options coming out of SSE February 9, 2022, p 4; SSM.NSC.CAN.00000214_REL.0005, IRG Minutes, dated February 12, 2022, pp 9, 17.

³⁷⁸ PB.CAN.00000023_REL.0001, Email from Stefano Maron to Christine Connell, dated February 10, 2022, pp 1-3.

American officials,³⁷⁹ including the Secretary of Transportation, Pete Buttigieg, and some members of Congress,³⁸⁰ proactively reached out to Government of Canada officials to discuss the blockades.

187. On February 10, Secretary Buttigieg spoke with Minister of Transport Omar Alhabra to register his concerns about the ongoing blockades at international bridges and their impact on the US/Canada integrated supply chain, in particular in the automobile industry. Minister Alhabra noted it was unusual for the Secretary to reach out, as the Minister is usually the one engaging with the American administration to advocate for Canada's interests. During their conversation, Secretary Buttigieg characterized the convoy emergency as an issue requiring ministerial intervention and offered his government's help.³⁸¹
188. Many other American officials echoed this message, including:
- a. On February 9, the US Ambassador to Canada raised the subject with the Minister of Innovation, Science and Industry, Minister Champagne. The Ambassador was worried about the closure of automotive plants and the resulting layoffs if the blockades were not quickly resolved.³⁸²
 - b. On February 10, the Deputy Prime Minister spoke with Brian Deese, Director of the National Economic Council, a senior economic policy advisor to the US President. The Deputy Prime Minister was struck by how quickly she was able to schedule a call with Mr. Deese and took it as a measure of how seriously the White House was treating the blockades. In fact, in her summary of their phone call, the Deputy Prime Minister wrote "They are very, very, very worried. If this is not sorted out in the next 12 hours, all of their north eastern car plants will shut down".³⁸³ The Deputy Prime Minister asked Mr. Deese to facilitate a call between the Prime Minister and the President.³⁸⁴
 - c. The US Embassy Deputy Chief of Mission Katherine Brucker contacted a senior Global Affairs Canada official to convey the Biden administration concerns;³⁸⁵

³⁷⁹ TRN00000029, Evidence of Minister Alhabra, pp 241-242; PB.NSC.CAN.00000598_REL.0001, Summary of February 10, 2022 call between Minister Alhabra and USDOT Secretary Buttigieg, p 1.

³⁸⁰ DOJ.IR.00000002, Institutional Report – Global Affairs Canada, p 17; TRN00000022, Evidence of Joseph Comartin, p 232.

³⁸¹ PB.NSC.CAN.00000598_REL.0001, Summary of February 10, 2022 call between Minister Alhabra and USDOT Secretary Buttigieg, p 1; WTS.00000075, Interview Summary – Minister Alhabra, p 6; DOJ.IR.00000013, Institutional Report – Privy Council Office, p 17; TRN00000029, Evidence of Minister Alhabra, pp 241-242.

³⁸² SSM.NSC.CAN.00002078_REL.0001, Email from Peter Opdam regarding blockages at Canada/US border, dated February 9, 2022.

³⁸³ SSM.CAN.00001255_REL.0001, Email from the Deputy Prime Minister to Leslie Church, dated February 10, 2022.

³⁸⁴ SSM.CAN.00001255_REL.0001, Email from the Deputy Prime Minister to Leslie Church, dated February 10, 2022; TRN00000030, Evidence of the Deputy Prime Minister, pp 19-22, 23; WTS.00000078, Interview Summary – The Deputy Prime Minister, pp 5-6.

³⁸⁵ PB.CAN.00000024_REL.0001, Email from Sebastien Beaulieu to Timothy MacKey regarding the Biden Administration Engagement on border blockades, dated February 10, 2022, p 1.

- d. On February 11, President Biden spoke with the Prime Minister about the detrimental impact of the blockades, flow of goods, the impact on the auto sector, the ongoing efforts of the protests to undermine democracy and the economic impact on both of their countries' economies.³⁸⁶ The Deputy Prime Minister explained that calls with the President usually take weeks to organize. The fact that this call occurred within 24 hours of her call with Mr. Deese was a further demonstration of the US Government's high level of concern.³⁸⁷
 - e. Also on February 11, the American Ambassador to Canada, Ambassador Cohen, raised the subject of the protests with Minister of Foreign Affairs Mélanie Joly;³⁸⁸
 - f. Also on February 11, Secretary of Homeland Security Mayorkas spoke with Minister Mendicino about the blockade at the Ambassador Bridge and the impact on two-way trade.³⁸⁹
 - g. On February 12, Homeland Security Advisor Dr. Liz Sherwood Randall highlighted the blockades' damaging impacts on the lives of people living in both countries during her call with the Prime Minister's National Security and Intelligence Advisor ("NSIA") Jody Thomas;³⁹⁰
 - h. In a call with Public Safety's DM Stewart and the NSIA, White House officials expressed deep concerns about the Ambassador Bridge blockade and its impact on trade and auto manufacturing sectors.³⁹¹
189. The Government of Canada, in particular the Canadian Embassy in Washington and the Canadian Mission in Detroit, also fielded numerous calls and messages from American elected officials, business leaders and associations anxious to see the blockades resolved as soon as possible.
190. These people and groups were particularly concerned for the workers of automotive manufacturing plants being laid off and losing wages as a result of the blockade at the Ambassador Bridge. They were worried about consequences for the economy, notably for the supply chains already strained by the pandemic and the rise of inflation. Some also worried about continuity of care in Detroit hospitals that rely on Canadian workers, and the welfare of commercial truck drivers who were experiencing considerable delays and hardship.³⁹²

³⁸⁶ PB.CAN.00000041_REL.0001, Email from Sebastien Beaulieu regarding material for DMA, dated February 11, 2022; PB.CAN.00000046_REL.0001, Media Monitoring by GAC, dated February 11, 2022, p 2.

³⁸⁷ WTS.00000078, Interview Summary – The Deputy Prime Minister, pp 5-6.

³⁸⁸ PB.CAN.00000057_REL.0001, Email from Sebastien Beaulieu regarding Protest: Materials for DMA, dated February 13, 2022, p 1.

³⁸⁹ TRN00000028, Evidence of Minister Mendicino, pp 92-93; DOJ.IR.00000008, Institutional Report – Public Safety Canada, p 14.

³⁹⁰ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 18.

³⁹¹ WTS.00000066, Interview Summary – Public Safety Canada, p 19.

³⁹² PB.CAN.00000046_REL.0001, Email regarding Media Monitoring by GAC, dated February 11, 2022, p 6; SSM.NSC.CAN.00000431_REL.0001, Weekly Advocacy Report, dated February 7-11, 2022;

191. Companies and industry associations also reported businesses being disrupted and losing money because of the blockades at Ambassador Bridge, Emerson, and Coutts.³⁹³
192. Many public statements from American elected officials, business leaders and associations mirrored the messages conveyed directly to Canadian officials.³⁹⁴
193. Canada took these concerns very seriously. They were indicative of how the blockades were weakening the economies of both countries and undermining Canada's international reputation as a reliable trading and investment partner and as a stable democracy based on the rule of law.³⁹⁵
194. The strength of Canada's economy depends in large part on its reputation as a good country in which to invest, on its proximity to the American domestic market, and on the integration of the US-Canada supply chain.³⁹⁶ DM Sabia characterized the effects of the blockades as a "first-tier" issue in the Canada-US relationship.³⁹⁷

PB.CAN.00000038_REL.0001, Email from Stefano Maron to Kristen Hillman, dated February 10, 2022, pp 1-2; SSM.NSC.CAN.00001605_REL.0001, Email from Holly White to MINA Department Unit regarding Teamsters, pp 1-2; PB.CAN.00000026_REL.0001, Email chain from Stefano Maron, pp 1, 3-5; PB.CAN.00000028_REL.0001, Email from Christine Connell to Joseph Comartin, dated February 10, 2022; SSM.CAN.00000465_REL.0001, Email from Philippe-Antoine Harbour to MINT Exempt and MINT Department Unit, dated February 16, 2022; PB.CAN.00000052_REL.0001, Email from Christine Connell to Sue Ford and Joseph Comartin, dated February 11, 2022; SSM.NSC.CAN.00000145_REL.0001, Email from Stefano Maron to Christine Connell, dated February 11, 2022; PB.CAN.00000056_REL.0001, Email from Christine Connell to Joseph Comartin, dated February 12, 2022; DOJ.IR.00000002, GAC's Institutional Report, p 17; TRN00000022, Evidence of Joseph Comartin, pp 239-240; PB.CAN.00000067_REL.0001, Email from Noëlla De Maina to Sebastien Beaulieu, dated February 17, 2022.

³⁹³ PB.CAN.00000033_REL.0001, Email from Bryan Wurscher to Christine Connelly, dated February 10, 2022; PB.CAN.00000034_REL.0001, Email from Jennifer Spring to GAC, dated February 10, 2022; SSM.NSC.CAN.00000431_REL.0001, DTROT-064 Weekly Advocacy Report, dated February 7-11, 2022; TRN00000022, Evidence of Cynthia Termorshuizen, p 264; TRN00000022, Evidence of Joseph Comartin, p 232.

³⁹⁴ DOJ.IR.00000002, Institutional Report – Global Affairs Canada, p 9; PB.CAN.00001840_REL.0001, Government of Michigan, Press Release, "ICYMI: Gov. Whitmer on Illegal Blockade of Ambassador Bridge", dated February 11, 2022; PB.CAN.00001837_REL.0001, CTV News Article "Michigan governor urges Canadian authorities to reopen traffic on Ambassador Bridge", dated February 10, 2022; PB.CAN.00001828_REL.0001, U.S. Chamber of Commerce News Release, "Business Leaders Urge Resolution of U.S.-Canada Border Blockade", dated February 10, 2022; PB.CAN.00001826_REL.0001, Canada-United States Business Association News Release, "Canadian, US Business Associations Call for Immediate Action to Open Ambassador Bridge", dated February 9, 2022; SSM.NSC.CAN.00000156_REL.0001, Email from Sebastien Beaulieu: GAC Update, dated February 14, 2022; SSM.NSC.CAN.00000157_REL.0001, GAC U.S. Media roll-up: "Freedom Convoy" Protest, dated February 14, 2022, pp 6-40; SSM.NSC.CAN.00000158_REL.0001, Government of Michigan, Press Release, "Governor Whitmer on Reopening of Ambassador Bridge" (14 February 2022).

³⁹⁵ TRN00000022, Evidence of Cynthia Termorshuizen, pp 234-235, 238, 249-250.

³⁹⁶ TRN00000025, Evidence of Michael Sabia, pp 8-11; TRN00000030, Evidence of the Deputy Prime Minister, pp 21-22.

³⁹⁷ TRN00000025, Evidence of Michael Sabia, p 11.

g. Reputational impacts on Canada and its economy

195. Canada's economy is heavily dependent on trade and investment. The international trade of goods and services comprises over 60% of Canada's GDP. As such, it is essential for Canada to maintain a strong and positive reputation as a reliable trading partner and destination for business investment.³⁹⁸
196. Underinvestment in Canada's economy has been identified as a significant issue affecting growth. Canada was therefore looking for ways to bolster its rate of business investment. As the Deputy Prime Minister explained: "lack of business investment ultimately translates into Canadians not having jobs and Canadians not having jobs that pay well enough to maintain a good standard of living."³⁹⁹
197. The timing of the blockades compounded their impact. They took place just as the economy was beginning to recover from the COVID-19 pandemic and the related slow downs and supply chain disruptions. At the same time, there was increasing domestic pressure in the United States to implement protectionist measures and insulate their supply chains from global disruptions.⁴⁰⁰
198. At the time, the Canadian government was actively campaigning against proposed American legislation that would have included a tax credit for persons buying electric vehicles manufactured by American factories. This would have created strong incentive for the production of electric vehicles exclusively in the United States. If passed, this measure would have had a devastating impact on the Canadian auto sector and on Canada's economy.⁴⁰¹
199. The blockades exacerbated these challenges. Loss of confidence in Canada as an economically and politically stable country had the potential to undermine Canada's attempts to convince the United States of the benefits of an integrated supply and production chain.⁴⁰²
200. Some American politicians and union officials expressed the view that, because of the blockades, the United States should stop relying on parts manufactured in and transported from Canada.
201. For example, in a string of tweets about the temporary closure of the GM Lansing-Delta auto manufacturing plant, American Congresswoman Elissa Slotkin wrote:

It doesn't matter if it's an adversary or an ally – we can't be this reliant on parts coming from foreign countries... The one thing that couldn't be more

³⁹⁸ TRN00000022, Evidence of Cynthia Termorshuizen, pp 249-250.

³⁹⁹ TRN00000030, Evidence of the Deputy Prime Minister, pp 39-40.

⁴⁰⁰ TRN00000030, Evidence of the Deputy Prime Minister, pp 4-6, 22; SSM.CAN.00000177_REL.0001, Blockades – Recent Developments and Summary of Economic Disruptions, dated February 10, 2022, p 1; TRN00000025, Evidence of Rhys Mendes, pp 17-18; TRN00000025, Evidence of Michael Sabia, p 9.

⁴⁰¹ TRN00000030, Evidence of the Deputy Prime Minister, pp 5-7; TRN00000025, Evidence of Michael Sabia, p 36.

⁴⁰² WTS.00000078, Interview Summary – The Deputy Prime Minister, p 4; TRN00000024 Evidence of Michael Keenan and Christian Dea, pp 144, 168-169; TRN00000025, Evidence of Michael Sabia, p 36.

clear is that we have to bring American manufacturing back home to states like Michigan. If we don't, it's American workers like the folks at Delta Township who are left holding the bag.⁴⁰³

202. Likewise, in an interview with CBC published on February 15, an American lawmaker stated that the blockade at the Ambassador Bridge led to questions over relying on imports from Canada, highlighting the potential long-term damage the blockades could cause to the Canada-US economic relationship and to Canadian companies exporting to the American market.⁴⁰⁴
203. Brian Deese conveyed a similar sentiment during his February 10 conversation with the Deputy Prime Minister when discussing the high level of integration of the two economies.⁴⁰⁵
204. In communications with DM Sabia and the Deputy Prime Minister, business leaders and international partners openly questioned whether Canada was a reliable trade partner and whether it would remain an attractive investment destination. The Deputy Prime Minister and DM Sabia found these messages alarming and understood that Canada was losing favour on the global markets.⁴⁰⁶
205. In addition, the convoy emergency garnered considerable international attention and inspired similar events in other countries. The Canadian flag was being flown in these copycat events and Canada was concerned that the convoy-like protests and blockades would become an unwelcome export as the protests spread elsewhere. There was a risk that the Canadian image could become associated with defiance of the rule of law.⁴⁰⁷
206. During her testimony, Global Affairs Associate Deputy Minister Cynthia Termorshuizen explained that:

We always need to ensure that we remain a country that is seen as welcoming to foreign investment, to international trade. Those are really some of the foundations of our economic prosperity. And one of the foundations of being able to have that kind of trade and investment environment is to have the rule of law.⁴⁰⁸

⁴⁰³ PB.CAN.00000028_REL.0001, DTROT Border Blockade Updated, dated February 10, 2022, p 3.

⁴⁰⁴ ALB00001809.0001, Alberta PSIO Sitrep Update #21, dated February 15, 2022.

⁴⁰⁵ SSM.CAN.00001255_REL.0001, Email from Deputy Prime Minister RE: Deese, dated February 10, 2022; TRN00000030, Evidence of the Deputy Prime Minister, p 21; WTS.00000078, Interview Summary – The Deputy Prime Minister, p 5.

⁴⁰⁶ WTS.00000059, Interview Summary – Department of Finance, pp 2-3; WTS.00000078, Interview Summary – The Deputy Prime Minister, p 6; TRN00000025, Evidence of Michael Sabia, p 53; TRN00000030, Evidence of the Deputy Prime Minister, pp 29-30, 32-33, 36-37.

⁴⁰⁷ PB.NSC.CAN.00000601_REL.0001, Email from HC Ralph Goodale, dated February 13, 2022; PB.CAN.00001802_REL.0001, Multimedia Video, “Convoy Emergency Chronological part 4 of 6”, 00:00:14 to 00:01:55; TRN00000022, Evidence of Cynthia Termorshuizen, pp 250, 252-255, 282-283; SSM.NSC.CAN.00000705_REL.0001, Illegal Blockades: GAC Updated, dated February 15, 2022, pp 4-6; WTS.00000078, Interview Summary – The Deputy Prime Minister, p 4.

⁴⁰⁸ TRN00000022, Evidence of Cynthia Termorshuizen, p 254.

207. Even after the Ambassador Bridge was reopened on February 14, there was an apprehension in the United States that a new blockade could develop, creating a lingering sense of vulnerability.⁴⁰⁹
208. Following the convoy emergency, Global Affairs Canada therefore developed a communication strategy to reassure the White House, American elected officials, and the business community that Canada would endeavour to prevent major POEs from being shut down again, and to praise the benefits of maintaining the integration of the Canada-US supply chains.⁴¹⁰
209. Loss of confidence in Canada, and in its reliability as a supplier and trading partner, could have lasting detrimental consequences on the Canadian economy – not only in the automotive industry, but also across a wide range of industries. These effects are impossible to quantify, as they take the form of unrealized business and investment opportunities going forward.⁴¹¹
210. As the Deputy Prime Minister explained, Canada had deployed considerable efforts to convince the US Government about Canada’s reliability and of the benefits of having integrated supply chains. The blockades jeopardized the gains the Canadian Government had realised to date.⁴¹²
211. The reputational risk to Canada was also increasing exponentially with the duration of the blockades. The need to end them as quickly as possible was not only essential to mitigate the immediate economic downfall, but also to convince investment partners and stakeholders that there was no need to reassess their relationship with Canada.⁴¹³

IV. The policing and security context within which the government’s decision was made

a. The policing response in Ottawa

i. Police jurisdiction in the NCR

212. RCMP members, as peace officers, have the authority to enforce federal laws, including the *Criminal Code*, throughout Canada. However, they are not the police of jurisdiction in either Ottawa or Ontario. Under the Ontario *Police Services Act* (Ontario *PSA*), municipalities are responsible for providing adequate policing services within their boundaries.⁴¹⁴ Where an Ontario municipality does not provide its own municipal police force, the OPP is responsible for providing police services to that municipality.⁴¹⁵

⁴⁰⁹ SSM.NSC.CAN.00000186_REL.0001, Congressional and State Governors reaction to trucker protest, pp 1-2; TRN00000022, Evidence of Joseph Comartin, pp 281-282.

⁴¹⁰ SSM.CAN.00000292_REL.0001, Canada-U.S. Relationship following the Illegal Blockades in Canada: High-Level Narrative.

⁴¹¹ WTS.00000059, Interview Summary – Department of Finance, pp 5-6; TRN00000025, Evidence of Michael Sabia, pp 8-10; TRN00000025, Evidence of Rhys Mendes, pp 36-37.

⁴¹² TRN00000025, Evidence of Michael Sabia, pp 9-12.

⁴¹³ TRN00000025, Evidence of Michael Sabia, p 25; TRN00000025, Evidence of Rhys Mendes, pp 39-40.

⁴¹⁴ *Police Services Act*, RSO 1990, c P 15, s 5 (Ontario *PSA*).

⁴¹⁵ Ontario *PSA*, s. 19; OPP.IR.00000001, Institutional Report – Ontario Provincial Police, p 10.

213. With the exception of matters that fall under the RCMP's federal policing mandate, the OPS is responsible for day-to-day policing in Ottawa as the police of jurisdiction and is the primary entity that investigates and responds to criminal complaints in Ottawa.⁴¹⁶ This includes responsibility for the police response to large public events within Ottawa.⁴¹⁷ The OPS reports to the Ottawa Police Services Board.⁴¹⁸
214. The OPP maintains a detachment in Ottawa, which is responsible for traffic safety on provincial highways running throughout Ottawa and policing duties in Fitzroy Provincial Park.⁴¹⁹ Notwithstanding the existence of an OPP detachment in Ottawa, the OPS remains the police of jurisdiction in Ottawa.⁴²⁰
215. During the convoy emergency, the National Division of the RCMP was responsible for the RCMP's federal policing mandate.⁴²¹ The RCMP's federal mandate applies nationwide, including Ottawa, and incorporates:
- a. the provision of protective policing services for designated protected persons, dignitaries, foreign missions, and at designated events at protected locations;⁴²² and
 - b. the investigation of Transnational Serious and Organized Crime, Cybercrime, and National Security matters.⁴²³
216. Federal policing involves different personnel, skills, and experience than regular frontline policing. As such, most RCMP members stationed in the NCR have a different skillset than those who conduct frontline policing.⁴²⁴
217. The RCMP maintains a part-time Tactical Support Group in the NCR. It assists the RCMP's federal policing mandate, including assisting with public order events that focus on protected locations and persons, and provides support to police of jurisdiction.⁴²⁵ It does not include frontline policing.⁴²⁶

⁴¹⁶ Ontario PSA, s. 4; OPS.IR.00000001, Institutional Report – Ottawa Police Service, paras 4-9.

⁴¹⁷ DOJ.IR.00000011, Institutional Report – RCMP, paras 28-29; OPS.IR.00000001, Institutional Report – Ottawa Police Service, paras 28-33.

⁴¹⁸ OPS.IR.00000001, Institutional Report – Ottawa Police Service, paras 6-7.

⁴¹⁹ OPP.IR.00000001, Institutional Report – Ontario Provincial Police, pp 6-7.

⁴²⁰ OPP.IR.00000001, Institutional Report – Ontario Provincial Police, pp 6-7.

⁴²¹ DOJ.IR.00000011, Institutional Report – RCMP, paras 18-20.

⁴²² DOJ.IR.00000011, Institutional Report – RCMP, paras 6-7.

⁴²³ DOJ.IR.00000011, Institutional Report – RCMP, para 8.

⁴²⁴ WTS.00000068, Interview Summary – RCMP Deputy Commissioner Michael Duheme, p 6.

⁴²⁵ DOJ.IR.00000011, Institutional Report – RCMP, paras 23-25.

⁴²⁶ WTS.00000068, Interview Summary – Michael Duheme, p 5.

ii. Challenges faced by the OPS

218. As the police of jurisdiction in the national capital, the OPS has extensive experience in managing large-scale public events, including large demonstrations.⁴²⁷ However, in January 2022, the OPS faced a number of institutional challenges. The organization was strained after almost two years of the COVID-19 pandemic. Ottawa had not experienced any major public events during that time and a number of subject matter experts in managing public events had retired.⁴²⁸ The OPS was further strained as a result of responding to a fatal explosion in mid-January.⁴²⁹
219. The OPS was overwhelmed by the arrival of the Freedom Convoy.⁴³⁰ Multiple witnesses agreed that the event was unprecedented in nature.⁴³¹ Thousands of protesters and vehicles, including heavy trucks, arrived in the downtown core.⁴³² The numbers vastly exceeded what the OPS had contemplated in planning for the event and many more protesters stayed after the weekend than was anticipated.⁴³³
220. Ottawa had previously seen protests involving convoys of heavy trucks where participants departed after a single weekend.⁴³⁴ The use of heavy trucks to sustain a long-term occupation of a city represented a paradigm shift in protest tactics.⁴³⁵ The protest was also novel in that it deliberately targeted the citizens of Ottawa. As Interim Chief Bell explained, the protesters sought to use the residents of Ottawa as a “leverage point” to achieve their objective.⁴³⁶ While Mr. Barber and Ms. Lich denied this was their objective, they acknowledged that on January 30, 2022, Ms. Lich texted Mr. Barber that the “command centre” was discussing a strategy to “gridlock” downtown Ottawa, which did occur during the occupation.⁴³⁷
221. The level of sophistication and planning in the protest was unique. The protesters included ex-military members and ex-police officers. They developed logistics strategies to support the protests, including supply lines for diesel fuel, and had an understanding of police tactics.⁴³⁸
222. Traditional policing techniques proved ineffective in responding to the situation. The protesters engaged in widespread violation of city by-laws, including illegal parking on

⁴²⁷ TRN00000003, Evidence of Steve Kanellakos, p 14.

⁴²⁸ TRN00000006, Evidence of Patricia Ferguson, pp 29-30, 83.

⁴²⁹ TRN00000013, Evidence of Peter Sloly, p 280.

⁴³⁰ TRN00000012, Evidence of Peter Sloly, p 55; TRN00000013, Evidence of Peter Sloly, p 280.

⁴³¹ TRN00000008, Evidence of Steve Bell, p 17; TRN00000012, Evidence of Peter Sloly, p 54.

⁴³² OPS.IR.00000001, Institutional Report – Ottawa Police Service, p 10.

⁴³³ WTS.00000024, Interview Summary – Russell Lucas, p 8.

⁴³⁴ COM.OR.00000003, Overview Report: Early Protest Activities and Legal Challenges Relating to Public Health Measures, pp 5-6.

⁴³⁵ WTS.00000040, Interview Summary – Peter Sloly, p 18.

⁴³⁶ TRN00000008, Evidence of Steve Bell, pp 13, 135.

⁴³⁷ COM00000902, The Canadian Press Article “Freedom Convoy organizers discussed playing ‘race card’ with Métis heritage”, dated July 9, 2022; TRN00000014, Evidence of Christopher Barber, pp 107-109; TRN00000017, Evidence of Tamara Lich, pp 4-5.

⁴³⁸ TRN00000008, Evidence of Steve Bell, pp 121-122.

roadways, noise violations, open fires, and use of fireworks.⁴³⁹ However, police and by-law enforcement officers were unable to issue tickets for many of these infractions due to officer safety concerns. When officers attempted to issue tickets to protesters (or attempted to intercept jerry cans of fuel) they were swarmed by hundreds of protesters, forcing them to retreat.⁴⁴⁰ Even where officers did issue tickets, the prospect of financial penalties had a limited deterrent effect because the protesters' crowdfunding campaigns had raised millions of dollars. The OPS understood that Freedom Convoy organizers vowed to compensate truckers with three times the value of any tickets received.⁴⁴¹

223. Similarly, police were unable to tow the vehicles away. Some protesters had deliberately immobilized their trucks, including by chaining them together and removing wheels to make them difficult to tow.⁴⁴² Tow truck operators were reluctant to assist police due to safety concerns for their drivers and concern over retaliation.⁴⁴³ In any event, the heavy trucks could only safely be cleared as part of a broader police operation that secured the perimeter. Mr. Kanellakos described the problem as follows:

...but the reality is, until -- and you saw it on the last weekend when police moved in and started clearing the red zone, you need to secure the area where the actual physical truck is, protect it before you can bring the tow truck in and be able to move it out. You can't safely tow a heavy vehicle like that that's end-to-end, bumper to bumper with a whole bunch of other trucks, and civilian people and protesters are all around that truck, and you're trying to bring in a heavy truck, and police haven't been able to secure the scene.⁴⁴⁴

224. Police liaison team ("PLT") efforts also faced challenges, given the fractured nature of leadership within the occupation, the disparate objectives of the participants, and the fluid composition of the crowd.⁴⁴⁵ These matters are discussed further below.
225. Resourcing presented a significant challenge for the OPS. The Public Order Unit ("POU") operation that ultimately cleared the occupation of Ottawa was the largest POU operation in

⁴³⁹ OTT00010005, Affidavit of Kim Ayotte, sworn February 13, 2022.

⁴⁴⁰ TRN00000006, Evidence of Patricia Ferguson, p 196; TRN00000007, Evidence of Craig Abrams, p 90; TRN00000013, Evidence of Peter Sloly, p 293.

⁴⁴¹ OPS00012285, OPS Officer Briefing email, dated February 17, 2022; TRN00000009, Evidence of Russell Lucas, pp 73-74.

⁴⁴² TRN00000006, Evidence of Craig Abrams, p 270; TRN00000025, Evidence of Jody Thomas, p 185; OPS00006649, POU Notes, dated February 3, 2022, p 4.

⁴⁴³ TRN00000008, Evidence of Steve Bell, pp 193-194; TRN00000010, Evidence of Robert Bernier, p 118; TRN00000011, Evidence of Thomas Carrique, pp 135-143; TRN00000013, Evidence of Peter Sloly, pp 118-122; PB.CAN.00001804_REL, Globe and Mail Article "Ottawa will see pushback if tow trucks are forced to clear blockades, towing industry says", dated February 15, 2022; OPP00001187, OPP Operational Intelligence Report, dated February 11, 2022, p 19; OTT00010455, WhatsApp messages, dated February 4, 2022, p 14.

⁴⁴⁴ TRN00000003, Evidence of Steve Kanellakos, p 37.

⁴⁴⁵ TRN00000008, Evidence of Steve Bell, pp 91, 188; TRN00000010, Evidence of Robert Drummond, pp 282-287.

Canadian history.⁴⁴⁶ Implementing the plan required the mobilization of over 2,200 police officers.⁴⁴⁷ The OPS could not have addressed this challenge without outside assistance. Even if it had been able to clear a particular protest site (such as the Rideau-Sussex intersection) through enforcement action, the OPS lacked the resources to hold the area and prevent protesters from returning.⁴⁴⁸

iii. Historical readiness of the RCMP to support the OPS

226. The Parliamentary Protective Service (“PPS”) has provided physical security operations on Parliament Hill and within the Parliamentary Precinct in Ottawa since June 2015. The PPS is not responsible for law enforcement and PPS officers must call the OPS, as the police of jurisdiction, to respond when necessary.⁴⁴⁹ The Director of Service of the PPS is a member of the RCMP and oversees PPS’s physical security operations under the joint general policy direction of the Speakers of the House of Commons and the Senate.⁴⁵⁰ The PPS Director does not report to the RCMP chain of command on operational matters.⁴⁵¹
227. Prior to the formation of the PPS in June 2015, the RCMP provided security services on Parliament Hill and maintained in excess of 120 members for that purpose.⁴⁵² As a result of that role, the OPS and RCMP would often jointly plan for large events like Canada Day. Since the creation of the PPS, the RCMP has reduced its presence in the NCR to account for its more limited mandate in the region.⁴⁵³ By 2020, the RCMP were no longer actively involved in PPS actions on the grounds of Parliament Hill.⁴⁵⁴
228. RCMP Deputy Commissioner Duheme explained that the legacy of the RCMP maintaining a larger presence in the NCR pre-2015 has meant the OPS continues to turn to the RCMP for policing assistance. In other words, OPS practice had not adapted to the new operational reality.⁴⁵⁵

iv. Process for requesting assistance of police services in Ontario

229. The Ontario *Services Act* (“Ontario PSA”) describes several avenues by which the OPP may be requested to assist a municipal police service. Two of these avenues are particularly relevant here. First, a police services board may request that the OPP provide assistance to a municipal police service. Second, where a municipal chief of police is of the opinion that an

⁴⁴⁶ TRN00000009, Evidence of Marcel Beaudin, p 162; TRN00000010, Evidence of Robert Bernier, p 107; OPP00000780, Chiefs Meeting Agenda, dated February 16, 2022, p 3; TRN00000031, Evidence of the Prime Minister, p 119.

⁴⁴⁷ OPS.IR.00000001, Institutional Report – Ottawa Police Service, para 55.

⁴⁴⁸ WTS.00000030, Interview Summary – Robert Bernier, p 10.

⁴⁴⁹ PPS.IR.00000001, Institutional Report – Parliamentary Protective Service, p 4.

⁴⁵⁰ PPS.IR.00000001, Institutional Report – Parliamentary Protective Service, pp 5-6.

⁴⁵¹ WTS.00000069, Interview Summary – RCMP, p 3.

⁴⁵² TRN00000023, Evidence of Michael Duheme, p 21.

⁴⁵³ TRN00000023, Evidence of Michael Duheme, pp 20-22, 25, 27; TRN00000023, Evidence of Brenda Lucki, pp 26-27.

⁴⁵⁴ WTS.00000069, Interview Summary – RCMP, p 7.

⁴⁵⁵ WTS.00000068, Interview Summary – Michael Duheme, pp 5-6.

emergency exists, the municipal chief of police may request OPP assistance. If the OPP receives a request for assistance, the OPP Commissioner must give “such temporary or emergency assistance” as they consider necessary.⁴⁵⁶

230. The *PSA* also sets out a statutory process by which Ontario may request federal policing assistance. In an emergency, the Ontario Solicitor General may make an agreement with the Government of Canada or the government of another province to provide police services.⁴⁵⁷ Unlike the OPP, the RCMP is not under a legal duty to provide assistance.
231. The Ontario *Interprovincial Policing Act* (“Ontario *IPA*”) complements the *PSA*, in that it provides a statutory authority for municipal police services in Ontario to access resources outside the province.⁴⁵⁸ Under the Ontario *IPA*, an extra-provincial police officer may be appointed as a police officer in Ontario;⁴⁵⁹ however, an RCMP member is not an “extra-provincial police officer” as defined in the Ontario *IPA*.⁴⁶⁰ As such, the process of authorizing an RCMP member to enforce provincial legislation and municipal bylaws in Ontario requires an appointment by a police board or the OPP Commissioner, and the approval of the Ontario Solicitor General.⁴⁶¹
232. Further to the Ontario Provincial Emergency Response Plan, a request from the Government of Ontario to the federal government for emergency support “shall be formalized through a request for assistance” from the Ontario Solicitor General to the federal Minister of Public Safety.⁴⁶² Prior to making such a request, the Ontario Provincial Emergency Operations Centre “must confirm that no other suitable resources are available.”⁴⁶³
233. Similarly, the Emergency Management Framework for Canada states “Provincial and territorial governments have responsibility for emergency management within their respective jurisdictions”.⁴⁶⁴ This Framework relies on provincial and territorial governments to engage first with local authorities before making a request for federal assistance.⁴⁶⁵
234. Accordingly, the preponderance of provincial legislation and policy indicates that municipal police services in Ontario must first seek assistance from within the province prior to making a request to the RCMP. In practice, the RCMP is able to respond to small requests for resources made by the OPS. However, larger requests for resources should only be made where assistance from the OPP has been exhausted. Large requests for assistance require the

⁴⁵⁶ Ontario *PSA*, s 9(8).

⁴⁵⁷ Ontario *PSA*, s 55(1).

⁴⁵⁸ *Interprovincial Policing Act*, 2009, SO 2009, c 30 (Ontario *IPA*).

⁴⁵⁹ Ontario *IPA*, ss 3(1), 11, 33.

⁴⁶⁰ Ontario *IPA*, s 1 “extra-provincial police officer”.

⁴⁶¹ Ontario *PSA*, s 53.

⁴⁶² PB.CAN.NSC.00002016_REL, Email from Ches Parsons to Deputy Commissioner Duheme, dated February 5, 2022.

⁴⁶³ Ministry of the Ontario Solicitor General, *Provincial Emergency Response Plan 2019* (December 29, 2020), para 6.7.2; PB.CAN.NSC.00002016_REL, Email from Ches Parsons to Deputy Commissioner Duheme, dated February 5, 2022.

⁴⁶⁴ WIN00002230, An Emergency Management Framework for Canada, p 9.

⁴⁶⁵ TRN00000022, Evidence of Robert Stewart, pp 188-189.

RCMP to draw on resources from across the country, which presents significant logistical challenges.⁴⁶⁶

v. Initial planning with the OPS

235. Since the beginning of the COVID-19 pandemic, the RCMP has issued a number of intelligence assessments relating to anti-lockdown or anti-mask protests, blockade events, misinformation, and criminal threats toward front-line workers and public officials.⁴⁶⁷ The IMCIT reported on these issues as part of its regular National Threat Landscape Strategic Assessments.⁴⁶⁸ The RCMP has also been an active participant in Project Hendon since its inception in 2020.⁴⁶⁹
236. On January 15, the RCMP became aware of the GoFundMe page created to finance the “Freedom Convoy 2022” planning to travel to Ottawa.⁴⁷⁰ On January 24, the RCMP’s Protective Intelligence Unit briefed RCMP National Division’s executive management with respect to the pending arrival of the Freedom Convoy in Ottawa.⁴⁷¹ While the RCMP began assessing the potential impact of the Freedom Convoy on its protective policing mandate, Deputy Commissioner Duheme reached out to the OPS, who indicated they were actively communicating with convoy organizers. Based on those communications, Deputy Commissioner Duheme understood that the OPS had “things well in hand” as the Freedom Convoy began to arrive.⁴⁷²
237. On January 26, the RCMP began to stand up a Combined Intelligence Group with other law enforcement partners like the OPS, Service de Police de la Ville de Gatineau, the OPP, and others.⁴⁷³ On January 28, the Combined Intelligence Group became active and served as a forum to process collected information into intelligence reports relevant to the Freedom Convoy and related demonstrations.⁴⁷⁴
238. Also on January 28, the NCRCC, a hub for multi-agency coordination, was activated in response to the Freedom Convoy.⁴⁷⁵ Until February 8, the RCMP’s National Division coordinated its assistance to the OPS through the NCRCC. On January 30, former Chief Sloly

⁴⁶⁶ TRN00000023, Evidence of Brenda Lucki, pp 32-35.

⁴⁶⁷ DOJ.IR.00000011, Institutional Report – RCMP, para 128.

⁴⁶⁸ PB.NSC.CAN.00000513_REL, RCMP IMCIT National Threat Landscape Strategic Assessment, dated October 27, 2021, pp 5-7; PB.NSC.CAN.00000515_REL, RCMP IMCIT National Threat Landscape Strategic Assessment, dated December 23, 2021, pp 5-8.

⁴⁶⁹ WTS.00000067, Interview Summary – RCMP Intelligence Panel, p 4.

⁴⁷⁰ PB.NSC.CAN.00008056_REL, Genesis of Freedom Convoy 2022 Executive Summary, p 1.

⁴⁷¹ PB.NSC.CAN.00008056_REL, Genesis of Freedom Convoy 2022 Executive Summary, p 2.

⁴⁷² TRN00000023, Evidence of Michael Duheme, p 24.

⁴⁷³ WTS.00000067, Interview Summary – RCMP Intelligence Panel, pp 4-5; DOJ.IR.00000011, Institutional Report – RCMP, paras 73-79.

⁴⁷⁴ DOJ.IR.00000011, Institutional Report – RCMP, paras 119-122.

⁴⁷⁵ WTS.00000069, Interview Summary – RCMP Panel, p 7.

wrote to the Commissioners of the RCMP and the OPP to thank them for their respective “on the ground” assistance over that first weekend.⁴⁷⁶

vi. RCMP assistance to the OPS: February 2-6

239. On February 2, former Chief Sloly wrote to Commissioner Lucki requesting 50 uniform members for frontline and traffic duties and three POUs. Commissioner Lucki responded that same date, indicating that the RCMP’s National Division POUs were already deployed to its protective mandate,⁴⁷⁷ but that the RCMP agreed to “explore the possibility of providing some or all of the other 50 resources you requested.” The RCMP requested the OPS enter into a memorandum of agreement (“MOA”) to formalize the request and that the OPS arrange to have RCMP members sworn in to enforce provincial legislation and municipal by-laws in Ontario.⁴⁷⁸
240. On February 2 and 3, the RCMP began the process of finding available resources and confirming logistics necessary to respond to the OPS request.⁴⁷⁹ On February 4, the RCMP began deploying members to assist the OPS.⁴⁸⁰ By February 5, the RCMP was providing the OPS with approximately 50 members each day.⁴⁸¹ The RCMP provided this initial support of 50 officers per day by reassigning members normally assigned to federal and protective policing roles.⁴⁸² This initial pool of 250 officers covered the RCMP’s commitment to assist the OPS and its own protective policing mandate, including a Tactical Support Group. It did not provide 250 officers assigned solely to the OPS at that time.⁴⁸³

vii. RCMP assistance to the OPS: February 7-14

241. On February 7, Mayor Watson and Chair Deans publicly wrote to the Prime Minister and Minister Mendicino, requesting “on an urgent basis” 1,800 officers, and “all supporting resources.”⁴⁸⁴ Ontario Premier Doug Ford and then Solicitor General Jones received a similar request.⁴⁸⁵ The RCMP began work internally to manage logistics and respond to requests for additional RCMP resources for deployment in Ottawa,⁴⁸⁶ which included consulting with the OPP.⁴⁸⁷

⁴⁷⁶ PB.NSC.CAN.00001396_REL, Email from Peter Sloly, dated January 30, 2022.

⁴⁷⁷ WTS.00000069, Interview Summary – RCMP Panel, p 9.

⁴⁷⁸ PB.NSC.CAN.00001743_REL, Email from Brenda Lucki to Peter Sloly, dated February 2, 2022, p 2.

⁴⁷⁹ PB.NSC.CAN.00001871_REL, Request from Ottawa Police Service, dated February 2-3, 2022.

⁴⁸⁰ PB.CAN.00000751_REL, Truckers Convoy and Protective Services TPs Feb 5 11am call, p 1; OPB00001014, Ottawa Truck Demonstration 2022 – Deployments, dated February 13, 2022.

⁴⁸¹ OPB00001014, Ottawa Truck Demonstration 2022 – Deployments, dated February 13, 2022.

⁴⁸² TRN00000023, Evidence of Michael Duheme, pp 28-29.

⁴⁸³ PB.NSC.CAN.00002204_REL.0001, Email from Mike O’Beirne, dated February 6, 2022.

⁴⁸⁴ SSM.CAN.00008433_REL.0001, Letter to Prime Minister and Minister Mendicino, dated February 7, 2022.

⁴⁸⁵ ONT00002343, Letter to Premier Ford and Minister Jones, dated February 7, 2022.

⁴⁸⁶ WTS.00000069, Interview Summary – RCMP, pp 9-10.

⁴⁸⁷ TRN00000023, Evidence of Brenda Lucki, pp 32-33.

242. The RCMP had general discussions with the OPS about increasing resources for enforcement, but were not provided a specific number until receiving Mayor Watson's letter.⁴⁸⁸ Although the RCMP was able to resource the OPS's February 2 request for resources within the National Division, meeting the much larger February 7 request would require the RCMP to redeploy resources from other divisions where the RCMP provides police services pursuant to Police Services Agreements with various provincial governments.⁴⁸⁹
243. On February 7, then OPS Deputy Chief Bell advised Deputy Commissioner Duheme that the new request may have been inflated to double what the operation would require.⁴⁹⁰ While this turned out not to be the case, the information the RCMP received from then Deputy Chief Bell at that time made it more difficult for the RCMP to determine the types and numbers of resources the OPS actually required.⁴⁹¹
244. To assist in resourcing this request, the RCMP needed the OPS to clarify the specific kinds of resources and skill sets needed, how those resources would be used and rotated, and which organization (RCMP, OPP, or another partner) was expected to fulfill which portions of the request.⁴⁹² This follows the principle that policing plans dictate the allocation of resources, rather than a request for resources dictating an operational plan.⁴⁹³
245. The RCMP frequently responds to requests for assistance without a detailed understanding of the proposed operational plan. For example, the initial mobilization of 50 officers to the OPS was done without a detailed understanding of the operational plan. However, given the scale of the new request by the OPS, it was important that the RCMP understand the operational plan to ensure that it was mobilizing the appropriate resources and that the deployment was properly timed to avoid unnecessarily depriving other communities of frontline police officers prior to the date of the anticipated enforcement action in Ottawa.⁴⁹⁴
246. Accordingly, on February 8, the RCMP established the "Assist OPS" command to take on the responsibility of coordinating and responding to the OPS's requests for assistance.⁴⁹⁵ At the same time, the RCMP sent subject matter experts to work with the OPS and OPP to develop an operational plan to be resourced by the OPS, RCMP, OPP and other policing partners.⁴⁹⁶ This Integrated Planning Cell ("IPC") eventually operated under the Integrated Command Centre, established February 12, to coordinate the finalization and implementation of an operational plan.⁴⁹⁷

⁴⁸⁸ TRN00000023, Evidence of Brenda Lucki, pp 33-34.

⁴⁸⁹ DOJ.IR.00000011, Institutional Report – RCMP, paras 3-5.

⁴⁹⁰ WTS.00000068, Interview Summary – Michael Duheme, pp 9-10.

⁴⁹¹ TRN00000023, Evidence of Michael Duheme, p 57.

⁴⁹² TRN00000023, Evidence of Brenda Lucki, pp 33-34, 181.

⁴⁹³ TRN00000006, Evidence of Patricia Ferguson, p 104; TRN00000006, Evidence of Craig Abrams, p 249; TRN00000007, Evidence of Craig Abrams, p 64; TRN00000007, Evidence of Carson Pardy, pp 134-136; TRN00000011, Evidence of Thomas Carrique, pp 70-71; TRN00000023, Evidence of Brenda Lucki, pp 33-34.

⁴⁹⁴ TRN00000023, Evidence of Brenda Lucki, pp 26-27.

⁴⁹⁵ DOJ.IR.00000011, Institutional Report – RCMP, para 79.

⁴⁹⁶ TRN00000023, Evidence of Michael Duheme, pp 57-58; WTS.00000068, Interview Summary – Michael Duheme, p 10.

⁴⁹⁷ DOJ.IR.00000011, Institutional Report – RCMP, paras 80-84.

247. On February 10, the OPS, OPS Board and the RCMP finalized the MOA that the RCMP had requested on February 2.⁴⁹⁸ The RCMP agreed to deploy “up to 250 members” consisting of “Incident Commanders, scribes, officers, and any Support Teams” to report to the OPS pursuant to an operational plan.⁴⁹⁹ The OPS agreed to provide a copy of an operational plan to the RCMP and coordinate the swearing in of RCMP members.⁵⁰⁰ As such, the MOA contemplated that RCMP resources would be deployed according to an acceptable operational plan. This MOA was subsequently amended to extend its duration beyond February 14⁵⁰¹ and to allow the provision of additional RCMP resources by agreement between the OPS and the RCMP.⁵⁰²
248. Around this time, the RCMP shared concerns with other policing partners that the existing operational plan was not “intelligence led”, contained no communication strategy, was unclear and vague on command and control of the operation, lacked logistical details, and could not effect a resolution to the occupation.⁵⁰³ As such, the RCMP could not make a specific resource commitment until the work of the IPC was complete,⁵⁰⁴ but continued to provide increasing resources to assist the OPS as the IPC developed a plan.⁵⁰⁵
249. Also on February 10, in response to a request from the WPS, the RCMP redeployed a POU unit and Emergency Response Team (“ERT”) resources that had been stationed in Ottawa to Windsor to assist in clearing the Ambassador Bridge blockade. Following the successful completion of this operation, the POU unit and ERT were returned to Ottawa.⁵⁰⁶ This did not reflect a “prioritization” of Windsor over Ottawa by the RCMP, because the RCMP understood that there was no plan ready to be actioned in Ottawa.⁵⁰⁷
250. The IPC’s work on the operational plan continued during the weekend of February 12-13. The strategic framework and structure of the plan was established by February 12, and the detailed operational plan was finalized on February 17.⁵⁰⁸
251. Commissioner Lucki, through meetings and emails, including the IRG meeting on February 12, kept senior officials, ministers, and DMOC informed of the status of the plan as it then

⁴⁹⁸ PB.CAN.00000752_REL, Memorandum of Agreement between OPSB, OPS, and the RCMP, dated February 10, 2022.

⁴⁹⁹ PB.CAN.00000752_REL, Memorandum of Agreement between OPSB, OPS, and the RCMP, dated February 10, 2022, pp 3-4.

⁵⁰⁰ PB.CAN.00000752_REL, Memorandum of Agreement between OPSB, OPS, and the RCMP, dated February 10, 2022, pp 4-5.

⁵⁰¹ PB.CAN.00000762_REL, Amendment 1 to OPS RCMP Memorandum of Agreement.

⁵⁰² PB.CAN.00000763_REL, Amendment 2 to OPS RCMP Memorandum of Agreement.

⁵⁰³ OPP00004283, Demobilization Plan, pp 3-4; WTS.00000068, Interview Summary – Michael Duheme, p 15.

⁵⁰⁴ PB.NSC.CAN.00002937_REL.0001, Truckers Convoy and Protective Services TPs, dated February 12, 2022, p 5.

⁵⁰⁵ PB.NSC.CAN.00003118_REL.0001, Email from Mark Flynn, dated February 12, 2022; OPB00001014, Ottawa Truck Demonstration 2022 – Deployments, dated February 13, 2022.

⁵⁰⁶ WTS.00000069, Interview Summary – RCMP, pp 15-16.

⁵⁰⁷ TRN00000023, Evidence of Michael Duheme, pp 92-94; WTS.00000068, Interview Summary – Michael Duheme, p 14.

⁵⁰⁸ WTS.00000030, Interview Summary – Robert Bernier, pp 20-21.

stood.⁵⁰⁹ At the February 12 IRG meeting, she informed the attendees that former Chief Sloly had just accepted the IPC plan.⁵¹⁰

252. Although the operational plan had not been finalized as of February 13, the Commissioner briefed DMOC, and Ministers Blair and Mendicino, prior to the IRG meeting, and provided an overview of the plan as it then existed, including the phased approach to reduce the footprint and potential actions required to remove protesters.⁵¹¹
253. Following the IRG meeting on February 13, and prior to the Cabinet meeting that night, Commissioner Lucki sent the NSIA and Minister Mendicino talking points, which included an overview of the plan as it then existed.⁵¹²
254. The final plan, with complete operational and tactical details, was completed on February 17 and put into action. As Deputy Commissioner Duheme noted in his testimony, the results of the plan spoke for themselves – there were no significant injuries, and it was executed in a coordinated and professional manner.⁵¹³

b. Ideologically Motivated Violent Extremism

i. Defining IMVE

255. CSIS is an international leader in investigating and assessing IMVE, having led international efforts to define the concept of IMVE in 2018-2019. Adherents of IMVE are driven by a range of grievances, and a selection of ideas from across the traditional left and right wing ideological spectrum.⁵¹⁴ The motivations behind IMVE are complex. Unlike other terrorist actors or violent extremists, IMVE actors are not influenced by a singular and definable belief system, but rather by a range of very personal and diverse grievances, which are often fueled by conspiracy theories. The resulting worldview often consists of personalized narratives that centre on the willingness to incite, enable, or mobilize to violence.
256. There are four categories of IMVE:
- a. *Xenophobic violence*: racially-motivated violence and ethno-nationalist violence, which can include ideologies such as white supremacy, neo-Nazism and ethno-nationalism;
 - b. *Anti-authority violence*: anti-government/law enforcement violence, anarchist violence. Anti-authority violence is almost exclusively targeted at governments

⁵⁰⁹ SSM.NSC.CAN.00000214_REL.0001, IRG Minutes, dated February 12, 2022.

⁵¹⁰ TRN00000023, Evidence of Brenda Lucki, p 65.

⁵¹¹ PB.NSC.CAN.00003212_REL.0001, Brenda Lucki DMOC Speaking Points, dated February 13, 2022.

⁵¹² PB.NSC.CAN.00003245_REL.0001, Email from Brenda Lucki to NSIA and Minister Mendicino, dated February 13, 2022.

⁵¹³ TRN00000023, Evidence of Michael Duheme, p 273.

⁵¹⁴ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 8.

and law enforcement, and shares accelerationist beliefs with xenophobic narratives;

- c. *Gender-driven violence*: violent misogyny, including Incel (involuntary celibacy); and anti-LGTBQ violence. The Incel community is a growing and concerning area of gender-driven violence. Incels belong to a misogynistic community of males who associate primarily through online platforms. Though they use a unified terminology, they are not an organized group and have no centralized structure or planning; and
- d. *Other grievance-driven and ideologically-motivated violence*: IMVE is a fluid environment and threat actors can be driven by a range of grievances that may shift over time. Examples of other grievance-driven IMVE include the Animal Liberation Front, anti-abortion driven movements, and direct-action environmentalist groups.

257. The xenophobic and gender-driven violence categories represent the majority of IMVE attacks carried out in Canada to date.⁵¹⁵
258. IMVE adherents may be motivated to commit acts of violence against others, or to incite violence to achieve societal change.⁵¹⁶ Moreover, threat actors may be motivated by more than one grievance or shift from one to another.
259. Not all online rhetoric translates into real-world IMVE threats that would engage CSIS's mandate. CSIS can only investigate when it has reasonable grounds to suspect that activities rise to the threshold established in the *Canadian Security Intelligence Service Act* ("CSIS Act") – namely, they must be directed toward, or in support of the threat, or use acts of serious violence to achieve a political, religious, or ideological objective.⁵¹⁷ Only a fraction of individuals who adhere to IMVE narratives go beyond chatrooms to mobilize to actual violence.⁵¹⁸
260. CSIS witnesses used the image of a funnel to describe the point at which CSIS's mandate is triggered. The broad top end of the funnel captures online rhetoric that can be racist, misogynistic, and disturbing, but is not illegal – it is in the domain of "awful but lawful".⁵¹⁹ This stage is where individuals can build conspiracy theories and shared narratives through social media platforms, which allow users to search for content, and where algorithms redirect

⁵¹⁵ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, pp 8, 9.

⁵¹⁶ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 8.

⁵¹⁷ *Canadian Security Intelligence Service Act*, RSO 1985, c C-23, s 12, s 2 definition of "threats to the security of Canada" (CSIS Act); WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3.

⁵¹⁸ TS.CAN.001.00000001_REL_0001, Understanding Ideologically Motivated Threats to the Fabric of Society; TRN00000027, Evidence of Michelle Tessier and Marie-Helene Chayer, p 31.

⁵¹⁹ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3; WTS.00000060, Unclassified Interview Summary – CSIS, p 4; TRN00000027, Evidence of David Vigneault, p 100.

users to such content. This phenomenon is referred to as “amplification”⁵²⁰ and can lead to the process of radicalization.

261. The middle of the funnel captures actions or content that could fall under the *Criminal Code* definition of hate speech, and which might engage police intervention.
262. The bottom third, very narrow part of the funnel, is where online content might engage CSIS’s mandate as defined by the *CSIS Act*. CSIS interprets its investigative mandate under section 2(c) of the *CSIS Act* to be triggered where a person or group has (1) a willingness to commit serious violence or to threaten or inspire others to commit serious violence, (2) a desire to effect societal change (not just a personal grievance), and (3) an ideological influence.⁵²¹ These are the individuals who are taking their ideological beliefs and saying “we need to do something about it, we’ll organize ourselves, we’ll start doing training, we’ll come up with plans, we’ll talk about acquiring weapons.”⁵²² This bottom part of the funnel is where we see people mobilizing to violence, or potentially mobilizing to violence.
263. CSIS has increased its resources dedicated to investigating and analyzing IMVE threats. Almost half of CSIS’s counter-terrorism resources are now dedicated to IMVE and the need for additional resources continues to grow.⁵²³ Still, it is difficult to predict accurately what triggers or motivates an individual to move through the “funnel” from the top or middle tiers to the bottom. Individuals can mobilize from the top tier to the bottom tier very quickly without much warning. Online platforms can serve as echo chambers of hate. IMVE adherents are able to connect and communicate anonymously online and can mobilize to violence very quickly.⁵²⁴

ii. IMVE landscape in Canada

264. Canada is not immune to grievance driven and ideologically motivated violence. For example, numerous mass-casualty attackers over the past decade were motivated by xenophobic views. These events can have cascading effects, as past attackers inspire or motivate new extremists. In 2017, Alexandre Bissonnette, motivated by ethno-nationalism and rage over Syrian refugees in Canada, shot and killed six members of an Islamic Cultural Centre in Quebec City, and wounded 19 others. More recently, in 2020, Nathaniel Veltman killed four members of a Muslim family and injured a child in London, Ontario. He was motivated by xenophobia and inspired by a similar xenophobic attack in Christchurch, New Zealand.⁵²⁵
265. In Canada, the traditional IMVE groups, with more structured leadership and defined objectives, have been largely supplanted by loosely networked “movements” with amorphous goals.⁵²⁶ The IMVE landscape is predominantly comprised of individuals and small groups

⁵²⁰ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3.

⁵²¹ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3.

⁵²² WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 16.

⁵²³ WTS.00000060, Unclassified Interview Summary – CSIS, p 4.

⁵²⁴ TRN00000027, Evidence of CSIS panel, pp 89, 92, 148, 158.

⁵²⁵ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 8.

⁵²⁶ TS.NSC.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, p 2.

interconnected through online forums, gaming platforms and social media. Extremists adhere to a mix of individual, overlapping ideologies, anchored by personal grievances. They are influenced heavily by social and political events, disinformation campaigns, and conspiracy theories.⁵²⁷

266. A movement within the IMVE space is a loosely organized collection of threat actors who are linked by dense informal networks, both online and offline, and who share a distinct collective identity. While a movement may collectively hold or espouse extreme views, only a small portion of adherents may be willing to engage in serious violence.⁵²⁸ Examples of these movements include:
- a. the Incel movement, a predominantly online movement of male adherents who define themselves by their inability to engage in sexual activities with women; and,
 - b. QAnon, a movement representing an amalgamation of virtually every popular conspiracy theory under a single interpretive frame.⁵²⁹

Both of these movements have seen online rhetoric become real-world violence.⁵³⁰

267. The Incel ideology has inspired a number of adherents to engage in acts of mass violence as a result of their beliefs. This was certainly the case for Alek Minassian, whose perceptions and beliefs of Incel ideology were the root cause of his deliberately running down pedestrians with his van, killing 11 and injuring 15 in Toronto. Similarly, a minor who was “inspired by the Incel movement” carried out an attack at a spa in Toronto in 2020, stabbing two women, killing one and injuring the other.⁵³¹
268. The anti-public health measures movement is another example of a movement with extensive online presence. It is best described as a large transnational movement that exists primarily online, but manifests itself as real-world protests that oppose a range of government restrictions related to the COVID-19 pandemic. This movement is not homogenous and while the vast majority of online content relates to personal grievances stemming from impacts of the pandemic restrictions, some more extreme content and real-world activities often occur under the guise of personal freedoms.⁵³² Like the QAnon movement, aspects of the anti-public health measures movement are intrinsically linked to a range of conspiracy theories. The Freedom Convoy is part of the broader anti-public health measures movement.⁵³³

⁵²⁷ TS.NSC.CAN.001.00000178_REL_0001, IMVE Landscape in 2022, p 1.

⁵²⁸ TS.NSC.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, p 2.

⁵²⁹ TS.NSC.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, p 12.

⁵³⁰ TS.NSC.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, pp 12, 15.

⁵³¹ TS.NSC.CAN.001.00000034_REL_0001, Incel Ideology and Terrorism, p 2; TS.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, p 15.

⁵³² TS.CAN.001.00000164_REL_0001, Defining Movements in the IMVE Space, p 13.

⁵³³ TS.NSC.CAN.001.00000182_REL_0001, Diagonal Participation in the Freedom Convoy 2022 and Beyond, p 1.

269. During the *in camera* hearing, David Vigneault⁵³⁴, Michelle Tessier⁵³⁵ and Marie-Hélène Chayer⁵³⁶ were referred to several CSIS and ITAC assessments drafted between 2020 and the period the convoy emergency ended, describing threats to journalists and politicians. The panel agreed that since 2020, there has been an increase in IMVE online rhetoric and threats to authority figures, including law enforcement, public and elected officials. Executive Director Chayer explained that this rhetoric was mostly targeted towards politicians, including against provincial officials and the Prime Minister. Executive Director Chayer explained that the use of violent and graphic images, such as a noose, or the use of direct threats do not necessarily convey an intention to act.⁵³⁷ However, the potential is there. As noted, it is very difficult for the intelligence community to predict when an individual may mobilize from extremist rhetoric to actual violence.
270. IMVE adherents will capitalize on complex social issues to radicalize vulnerable people's grievances into conspiracies and extremism.⁵³⁸ The online space is a fertile ground for IMVE actors to interact with each other, attract like-minded individuals and promote their views. In that context, CSIS has observed a rise in violent online rhetoric since the pandemic.⁵³⁹
271. Both CSIS and the RCMP noted the challenges associated with online rhetoric.⁵⁴⁰ Violent rhetoric is easily disseminated using both mainstream and alternative media and social media platforms. Many of these platforms are anonymous and leverage encryption technologies. This protection enables threat actors to conceal their identity and evade detection by law enforcement and security agencies, while spreading their message, inciting violence, and recruiting like-minded individuals. This same technology, and the nature of the decentralized IMVE space, enables users to exaggerate or fabricate their capabilities, further challenging the detection of serious threat actors.⁵⁴¹

iii. Lone wolf actors and other serious violence

272. Not all extremists are willing to engage in acts of serious violence but their impact on the threat landscape can still be dangerous and concerning. For example, many extremists strive to inspire, encourage, or facilitate others to engage in acts of serious violence. Some of CSIS's subjects of investigation ("SOIs") use online space to spur radicalization and spread extremist messaging.⁵⁴²
273. Director Vigneault explained that ideologues or influencers associated with extremist networks are not necessarily the individuals who will engage in extremist activity, but they

⁵³⁴ The Director of CSIS.

⁵³⁵ The Deputy Director of Operations.

⁵³⁶ The Executive Director of ITAC.

⁵³⁷ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 8.

⁵³⁸ TS.NSC.CAN.001.00000178_REL_0001, IMVE Landscape in 2022, p 1.

⁵³⁹ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 11.

⁵⁴⁰ PB.NSC.CAN.00000531_REL.0001, RCMP Special Threat Advisory – Update 2, dated January 27, 2022, pp 3-4; PB.NSC.CAN.00000516_REL.0001, RCMP Strategic Intelligence Assessment, pp 9-11.

⁵⁴¹ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 11.

⁵⁴² WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 4.

have the ability to influence others to action. Executive Director Chayer added that it is also very difficult to assess the intent and impact of online violent rhetoric for both the speaker and the receiver of such rhetoric.⁵⁴³ A further complication is that what triggers an individual to actually conduct an act of terrorism is different for everybody - the triggers to violence are typically based on an individual's specific beliefs or personal grievances.⁵⁴⁴

274. In an assessment dated February 9, CSIS indicated that the most likely scenarios for IMVE terrorism in Canada could arise from a lone wolf actor with a mix of extremist beliefs, mobilizing quickly after a personal trigger or event (for instance, personal grievances against the government, inspired by COVID-19 conspiracy theories or QAnon). The assessment further noted a lone wolf actor is often undetectable and their target is likely to be random and opportunistic.⁵⁴⁵
275. The greatest risk of actual violence often comes from those who consume violent rhetoric online, rather than those who produce it.⁵⁴⁶ Director Vigneault testified that a number of people who were not on the radar of law enforcement or intelligence agencies committed acts of terrorism or extreme violence after consuming violent and extreme rhetoric online. People can seize opportunities to engage in acts of violence either because they had previous beliefs, or because they read and consume information or participate in events or activities that may radicalize them extremely quickly.⁵⁴⁷ People can very quickly move from being a recipient and consumer of information to someone who would carry out violence.⁵⁴⁸

iv. Conspiracy theories during the pandemic

276. The COVID-19 pandemic has only amplified the IMVE threat. The combination of the COVID-19 pandemic, the ever-increasing influence of social media, and the spread of conspiracy theories has created an uncertain environment ripe for exploitation. Such an environment has the potential to inspire individuals to engage in violent extremist activities and move their message into the mainstream of society.⁵⁴⁹ CSIS has observed that COVID-19 public health measures have intensified xenophobic and anti-authority narratives as well as conspiracy theories, some of which rationalize violence.⁵⁵⁰ CSIS observed these narratives play out during the vaccine roll-out.⁵⁵¹
277. There was a significant amount of misinformation and disinformation circulating on the internet regarding COVID-19 and the pandemic. Misinformation consists of the repackaging of truth and facts in a misleading way to further a particular narrative, whereas disinformation

⁵⁴³ WTS.00000060, Unclassified Interview Summary – CSIS, p 5.

⁵⁴⁴ WTS.00000079, Public Summary – CSIS *in camera, ex parte* Hearing, p 4.

⁵⁴⁵ TS.NSC.CAN.001.00000178_REL_0001, IMVE Landscape in 2022, p 1.

⁵⁴⁶ WTS.00000060, Unclassified Interview Summary – CSIS, p 6.

⁵⁴⁷ TRN0000027, Evidence David Vigneault, p 41.

⁵⁴⁸ TRN0000027, Evidence of David Vigneault and Michelle Tessier, pp 24, 87, 158.

⁵⁴⁹ TS.CAN.001.00000173_REL_0001, CSIS Strategic Context: IMVE, p 1.

⁵⁵⁰ WTS.00000079, Public Summary – CSIS *in camera, ex parte* Hearing, p 3.

⁵⁵¹ TS.NSC.CAN.001.00000191_REL_0001, Standing Committee on Public Safety and National Security-Study on IMVE in Canada, p 2.

consists of a deliberate attempt to create alternative or false realities.⁵⁵² Online and social media platforms allow people to access content and connect globally to facilitate the circulation of ideas, including conspiracy theories, misinformation, and IMVE theories.⁵⁵³

278. Two years of COVID-19 disruption and isolation left many exposed to online disinformation, fostering distrust of public health measures and distrust of government. Social unrest related to pandemic restrictions, widespread conspiracy theories, and a distrust in the democratic process have created a fertile ground for ideological grievances. This confluence of events has led to a volatile threat environment in Canada.⁵⁵⁴
279. On July 2, 2020, Corey Hurren gained access to the grounds of Rideau Hall. He was in possession of firearms and allegedly threatened the Prime Minister. Hurren wrote a letter in which he stated Canada required a “wake up call.” He referenced the lack of parliamentary sittings (during COVID-19 lockdowns) and the federal firearm legislation as grievances. Hurren had posted messages referencing conspiracy theories, some of which included QAnon hashtags.⁵⁵⁵
280. CSIS noted that the Rideau Hall incident resonated with individuals online. Social media posts described Hurren as a hero for trying to kill the Prime Minister, portrayed the Prime Minister as a dictator, and lamented Hurren’s lack of success. One post proclaimed the hope that the next incident will bring the “great awakening”, a QAnon vernacular term for abolishing the existing political and economic system.⁵⁵⁶ Another recent example is found in Germany where a man who was influenced by anti-government conspiracy theories overlapping with the QAnon narrative killed nine people on February 19, 2020.⁵⁵⁷
281. While aspects of conspiracy theory rhetoric are often legitimate exercises of free expression, online rhetoric and activities that encourage violence have been of increasing concern.⁵⁵⁸ The spread of violent rhetoric, and the manipulation and propagation of misinformation or disinformation, can erode confidence in our democratic values and institutions, polarize communities, and undermine trust in our democratically elected governments. It also normalizes the use of violent rhetoric and threats of actual violence as a means to express dissent, which negatively affects societal resilience.⁵⁵⁹
282. CSIS observed that adherents of IMVE and others use the COVID-19 pandemic to promote disinformation and alternative narratives about both the cause of the pandemic and its

⁵⁵² WTS.00000060, Unclassified Interview Summary – CSIS, p 5; TRN00000009, Evidence of Russell Lucas, p 70.

⁵⁵³ WTS.00000060, Unclassified Interview Summary – CSIS, p 5.

⁵⁵⁴ TS.NSC.CAN.001.00000140_REL_0001, The impact of COVID-19 vaccination mandates within the IMVE milieu, p 2.

⁵⁵⁵ QAnon is a meta-conspiracy theory. Adherents believe, among other things, that the COVID-19 pandemic is a myth created primarily to harm Trump’s re-election campaign. See TS.NSC.CAN.001.00000047_REL_0001, QAnon: An Online Conspiracy Theory with Real-World Implications, p 1.

⁵⁵⁶ TS.NSC.CAN.001.00000047_REL_0001, QAnon: An Online Conspiracy Theory with Real-World Implications, p 2.

⁵⁵⁷ TS.NSC.CAN.001.00000047_REL_0001, QAnon: An Online Conspiracy Theory with Real-World Implications, p 2.

⁵⁵⁸ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 9.

⁵⁵⁹ TS.NSC.CAN.001.00000173_REL.0001, CSIS Strategic Context: IMVE, p 1.

potential societal outcomes. Individuals and groups, particularly those with anti-government views, adopt or promote those conspiracies that best suit their personalized worldviews and grievances.⁵⁶⁰ These narratives undermine trust in the integrity of government and the confidence in scientific expertise.⁵⁶¹

283. CSIS identified key anti-vaccination conspiracy narratives during the pandemic, including:

- a. *Threat to liberty and freedom*: this narrative suggests that mass vaccinations constitute government overreach and pose an increasing threat to individual rights. It asserts that vaccination will be mandatory and the government will establish “internment camps” for those who do not adhere to government rules. Adherents to this narrative believe vaccination programs are the next step towards the “New World Order”⁵⁶²;
- b. *Vaccine development, provision and access*: this narrative suggests that vaccines have only been tested on animals and that the vaccine programs constitute human testing. Adherents to this narrative claim that Russian and Chinese vaccines are safer and more effective;
- c. *Safety and Necessity*: this narrative rejects the very existence of the pandemic, the severity of COVID-19, and the safety of vaccination. Adherents to this narrative claim that the vaccine is unnecessary, that it contains government microchips, or otherwise causes health issues, such as autism or sterility;
- d. *Political and economic*: this narrative emphasizes a lack of confidence in government and scientific evidence. Adherents to this narrative believe governments are corrupt or puppets of big business. They may also assert the pandemic was “man-made” to enrich politicians and international corporations.⁵⁶³

284. Online conspiracy theories can manifest themselves in real-world impacts. For example, on December 9, 2021, then British Columbia Premier Joe Horgan and two senior ministers were hanged in effigy outside the province’s legislature at a rally organized by COVID-19 vaccine mandate opponents, reflecting a troubling trend of continued discontent with and distrust of senior government officials.⁵⁶⁴

285. This phenomenon is not unique to Canada. On December 15, 2021, German authorities raided five properties after online threats were made by members of an group called “Dresden offline network.” The group threatened local government members. Authorities believed that these IMVE adherents, who opposed vaccinations and the public health measures in place at that time in Germany, were preparing to carry out violent acts. Some group members had posted

⁵⁶⁰ SSM.NSC.CAN.00001573_REL.0001, Canadian Vaccine Rollout: Implications for Possible IMVE, p 2

⁵⁶¹ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 9.

⁵⁶² The “New World Order” hypothesizes a secretly emerging totalitarian world government. The common theme regarding a New World Order is that a secretive power elite with a globalist agenda is conspiring to eventually rule the world through an authoritarian world government – which will replace sovereign nation states.

⁵⁶³ SSM.NSC.CAN.00001573_REL.0001, Canadian Vaccine Rollout: Implications for Possible IMVE, p 2; TRN00000028, Evidence of Minister Mendocino, pp 209-212; TRN00000030, Evidence of Katie Telford, p 301; TRN00000028, Evidence of Minister Mendocino, p 210.

⁵⁶⁴ TS.NSC.CAN.001.00000175_REL_0001, ITAC Weekly Threat Review, dated December 9-15, 2022, p 2.

messages urging people to use armed force to oppose policy measures. ITAC assessed that the raids in Germany show that some individuals do have intent, and that a lone actor could be incited to conduct an unsophisticated attack in Canada against a public official with little warning.⁵⁶⁵

286. Anti-government beliefs continue to be predominant in the IMVE landscape in 2022, and increasing violent threats to government and public officials have become a recurring trend.⁵⁶⁶

v. Conspiracy theories, misinformation, disinformation and the convoy

287. CSIS assessed that the Freedom Convoy and related demonstrations provided an opportunity for those with disparate grievances to unify against a perceived common foe. The majority of the participants likely had little to no connection to the trucking industry, but viewed the convoy emergency as an opportunity to voice their own personal and ideological grievances.⁵⁶⁷ The fluid nature of the convoy emergency, and the lack of common goals or triggers amongst its supporters, made it difficult for CSIS or law enforcement to predict any mobilization to violence by groups or individuals. As such, an organization like CSIS saying there is no risk of a serious threat materializing does not mean there is no threat; rather, CSIS (or others) simply may not be aware of it.⁵⁶⁸
288. While there was no evidence that foreign state actors or foreign governments were conducting any disinformation campaign against Canada in relation to the convoy emergency, multiple messages in support of the Freedom Convoy emanated from individuals believed to be located outside of Canada.⁵⁶⁹ Certain sectors of the American political sphere amplified elements of the convoy emergency. A significant number of Americans sympathetic to the convoy emergency or otherwise opposed to public health policies (or Canadian policies generally) also contributed money and support for the convoy emergency.⁵⁷⁰
289. The City of Ottawa's Emergency Operations Centre reported evidence of external influence, including the Ottawa Hospital receiving disturbing calls, mostly from the United States, which were reported to the OPS. Additionally, the City's Facebook and Instagram feeds were spammed with hateful or toxic comments (including racist comments), misinformation and rumours.⁵⁷¹
290. OPS Inspector Russell Lucas provided some examples in his testimony of the misinformation and disinformation circulating during the convoy emergency. He explained that it was

⁵⁶⁵ TS.NSC.CAN.001.00000175_REL_0001, ITAC Weekly Threat Review, dated December 9-15, 2021, p 2.

⁵⁶⁶ TS.NSC.CAN.001.00000178_REL_0001, IMVE Landscape in 2022, p 1.

⁵⁶⁷ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 9.

⁵⁶⁸ TRN00000027, Evidence of David Vigneault, p 42.

⁵⁶⁹ TS.NSC.CAN.001.00000171_REL_0001, IRG Talking Points for the Minister of Public Safety, dated February 13, 2022, p 1.

⁵⁷⁰ TRN00000031, Evidence of the Prime Minister, pp 37-38.

⁵⁷¹ OTT00006781.0001, Email from Kim Ayotte, EOCCG Update 15: Planned Truck Demonstration, dated February 11, 2022; TRN00000031, Evidence of the Prime Minister, pp 37-38.

challenging to stay ahead of these narratives. These included the theory circulating that the wooden construction fence erected around Parliament Hill was an effort to “fortify” Parliament in advance of the Freedom Convoy’s arrival, and the claims that police supported or backed the Freedom Convoy.⁵⁷²

291. The Commission heard evidence of misinformation and disinformation during this inquiry, including a conspiracy theory, advanced persistently by counsel for Freedom Corp., that an individual photographed with a Nazi flag in Ottawa was actually an agent provocateur planted by the federal government.⁵⁷³ This theory also alleged that the person who photographed this supposed ‘agent’ was the Prime Minister’s official photographer.⁵⁷⁴ The Prime Minister’s actual photographer was in isolation at that time for COVID. He has since received death threats because of this bizarre conspiracy theory.⁵⁷⁵

vi. Freedom Convoy participants

292. The Freedom Convoy originally centered on vaccine mandates and other complaints related to public health responses to the COVID-19 pandemic.⁵⁷⁶ However, these complaints soon encompassed a variety of anti-government and anti-authority complaints, messages and sentiments.
293. The participants and supporters of the convoy emergency were not a cohesive group and included a number of participants with different goals and views. Open-source information indicated that key individuals within Canada’s anti-vaccine and anti-government conspiracy theory groups were making their way to Ottawa to support the protests.⁵⁷⁷ Mr. Wilson testified that within the group and the leadership, there were many diverse factions.⁵⁷⁸ Freedom Convoy organizer Daniel Bulford also agreed that there were a number of “different factions and elements” present in Ottawa, some of which had more aggressive or extreme views.⁵⁷⁹
294. Elements of the demonstration supported a pseudo-legal “memorandum of understanding” that called on the forced resignation of various government officials if their demands were not met.⁵⁸⁰ Freedom Convoy organizer Mr. King posted to Telegram stating “WE WILL BE THE NEW GOVERNMENT. We will just take the power and share it together”⁵⁸¹ and stated the Prime Minister would “catch a bullet one day” due to public health mandates.⁵⁸² Social media posts in

⁵⁷² OPS00002961, Email from Patricia Ferguson, Trucker Convoy and Social Media Scan, dated January 24, 2022; TRN00000009, Evidence of Russell Lucas, pp 70-71.

⁵⁷³ TRN00000027, Evidence of CSIS panel, pp 119-123.

⁵⁷⁴ TRN00000028, Evidence of Minister Mendicino, pp 186-194; TRN00000030, Evidence of Katie Telford, p 301.

⁵⁷⁵ TRN00000030, Evidence of Katie Telford, p 301.

⁵⁷⁶ TS.NSC.CAN.001.00000159_REL_0001, Freedom Convoy 2022.

⁵⁷⁷ TS.NSC.CAN.001.00000177_REL_0001, ITAC Report, Canada: IMVE threats in the context of public protests, p 1.

⁵⁷⁸ TRN00000015, Evidence of Keith Wilson, p 61

⁵⁷⁹ TRN00000017, Evidence of Daniel Bulford, pp 289-293.

⁵⁸⁰ COM00000866, Canada Unity Memorandum of Understanding, p 1; TRN00000016, Evidence of James Bauder, pp 204-205.

⁵⁸¹ OPS00010125, OPS Daily Intelligence Advisory Convoy 2022, p 1.

⁵⁸² COM00000898, Multimedia Video with Transcript at OPS00007967, p 2.

support of the Freedom Convoy discussed financial rewards for the ‘arrest’ of the Prime Minister and Governor General, as well as the formation of new government.⁵⁸³

295. Open-source reporting further identified IMVE actors among those present at the protests in Ottawa. IMVE and other hate symbolism was in the crowds, including the Nazi swastika, the Three Percenters (3%) flag, and the Confederate flag.⁵⁸⁴ Reports indicated some Freedom Convoy organizers had a history of white nationalism and racist views.⁵⁸⁵
296. Christopher Barber was one of the original Freedom Convoy organizers and one of the “faces” of Freedom Convoy.⁵⁸⁶ While Mr. Barber testified he wanted to protest the cross-border vaccine mandates, he admitted that there were a number of factions or groups involved with different motives and that he could not control all of the factions.⁵⁸⁷ Mr. Barber further admitted to being an internet troll with a large following who posted racist and anti-Muslim content.⁵⁸⁸
297. Steeve Charland was a “Farfadaa” spokesperson during the convoy. He learned about the Freedom Convoy 2022 through social networks, and joined the demonstration on January 29, 2022. He described Farfadaa as a peaceful movement, not a group, which is mostly based in Quebec, but includes some American citizens.⁵⁸⁹ His specific goal was to participate in the biggest Convoy in Canada and to be heard as a people and to tell “elected officials that it’s the end of it”.
298. However, his social media posts suggest otherwise with posts such as: we “will fight to the end until total freedom” and he would “only leave when we recover freedom or die trying”, among others. Mr. Charland further testified that he did not know what every person who associated themselves with Farfadaa was doing and did not control them all.⁵⁹⁰
299. Some protest organizers were similarly active on-line, sending messages to their significant followers that could reasonably incite participation in violence, racism and continued lawless behaviour.⁵⁹¹
300. Extremist views encouraging unlawful protests were posted on social media.⁵⁹² A protester conveyed that this was a cause they were “willing to die for” and open chat forums spoke

⁵⁸³ PB.NSC.CAN.000000071.REL.0001, RCMP Update #65, dated February 2, 2022, p 1;

PB.NSC.CAN.00000138.REL.0001, RCMP Update #131, dated February 11, 2022, p 1.

⁵⁸⁴ TS.NSC.CAN.001.00000177_REL_0001, ITAC Report, CANADA: IMVE threats in the context of public protests, p 1.

⁵⁸⁵ JCF00000061, Affidavit of Rebecca Coleman, sworn April 4, 2022, p 9.

⁵⁸⁶ TRN00000014, Evidence of Christopher Barber, pp 5, 86.

⁵⁸⁷ TRN00000014, Evidence of Christopher Barber, pp 78, 91, 93.

⁵⁸⁸ TRN00000014, Evidence of Christopher Barber, p 82.

⁵⁸⁹ TRN00000014, Evidence of Steeve Charland, pp 154-155.

⁵⁹⁰ TRN00000014, Evidence of Steeve Charland, p 156.

⁵⁹¹ TRN00000015, Evidence of Patrick King at p 244; COM00000898, Multimedia Video with Transcript at OPS00007967; HRF00000274 Multimedia Video, referenced at TRN00000015, Evidence of Keith Wilson, p 51.

⁵⁹² TRN00000011, Evidence of Thomas Carrique, p 148.

about using children as human shields.⁵⁹³ Another protester, who had been positioned in front of the Fairmont Chateau Laurier in downtown Ottawa since the beginning of the protests, published an on-line video about using a truck as a weapon.⁵⁹⁴

301. Diagonon is a network, created in January 2021 by online influencer, Jeremy Mackenzie, to inspire unity among like-minded individuals. It represents a symbol of defiance against the government's COVID-19 restrictions and mandated vaccinations. Diagonon has been described as a "militia-like network with members that are armed and preparing for violence", with supporters who express sentiments akin to accelerationism,⁵⁹⁵ viewing a coming collapse or civil war "as necessary to right the course of the country."⁵⁹⁶ Throughout 2021, Diagonon expanded from an online community espousing a variety of grievances, including anti-government and anti-health measures, to a real-world group that conducts in-person meetings across the country. The Freedom Convoy attracted a number of Diagonon members to congregate in Ottawa and meet in person for the first time.⁵⁹⁷
302. Mr. Mackenzie, in discussing protests against COVID-19, spread messages such as: "This is the good guys versus the bad guys [Canadian government]. The shutdown has finally f***g begun and it has begun in Canada...you could go be a part of the story now."⁵⁹⁸
303. Diagonon members also spread disinformation during the convoy emergency. During the first weekend of the protest in Ottawa, the Diagonon membership suggested that the federal government might use the demonstration as a means to create a "false flag"⁵⁹⁹ event and may even hire actors in an attempt to instigate protesters, thereby allowing the government to bring in the military or arrest participants to discredit the entire demonstration. This paranoia resulted in Mr. Mackenzie and others conducting online live streams and interviews from their hotel.⁶⁰⁰
304. While originally there were calls for peaceful protest, including among Diagonon members, the tone of the messaging had changed to overt calls for members to travel to Ottawa to "hold the line" as the convoy emergency progressed. Key figures within Diagonon claimed the RCMP was intentionally cutting off truckers from essential supplies such as food, water and medicine and shared directories including the names of all members of the OPS.⁶⁰¹

⁵⁹³ TRN00000018, Evidence of Drew Dilkens, p 43; TRN00000018, Evidence of Jason Crowley, p 280.

⁵⁹⁴ OPP00001819, OPP Operational Intelligence Report, dated February 14, 2022, p 2.

⁵⁹⁵ Accelerationism, which is a common belief across many CSIS SOIs, is grounded in the idea that Western governments are irreparably corrupt and that multiculturalism and democracy will fail. Accelerationalists often encourage violence to escalate the pace of social collapse; See DOJ.IR.000000001, Unclassified CSIS-ITAC's Institutional Report, p 8.

⁵⁹⁶ TRN00000017, Evidence of Jeremy MacKenzie, pp 155-156, 204-205; OPP00000835, Project Hendon Report, dated January 24, 2022 p 1.

⁵⁹⁷ TS.NSC.CAN.001.00000182_REL_0001, Diagonon Participation in the Freedom Convoy 2022 and Beyond, p 1; TRN00000017, Evidence of Jeremy MacKenzie, p 160.

⁵⁹⁸ TS.NSC.CAN.001.00000182_REL_0001, Diagonon Participation in the Freedom Convoy 2022 and Beyond, p 2.

⁵⁹⁹ A "false flag" is a popular term among conspiracy theorists that refers to covert plans and actions by various governments to hide the actual source of responsibility by blaming another party. See TS.NSC.CAN.001.00000182_REL_0001, Diagonon Participation in the Freedom Convoy 2022 and Beyond, p 3.

⁶⁰⁰ TS.NSC.CAN.001.00000182_REL_0001, Diagonon Participation in the Freedom Convoy 2022 and Beyond, p 3.

⁶⁰¹ TS.NSC.CAN.001.00000182_REL_0001, Diagonon Participation in the Freedom Convoy 2022 and Beyond, p 4.

vii. Assessing IMVE in relation to the convoy

305. Many officials, including CSIS, ITAC, police intelligence groups, and the NSIA, were concerned that the convoy emergency offered opportunities for lone wolf actors to carry out violence. CSIS engaged with other law enforcement partners at the federal, provincial and municipal levels across the country to understand how the protest could influence or radicalize individuals to commit threat-related activity.⁶⁰²
306. The intelligence community was attuned to the possibility that the IMVE adherents were using the Freedom Convoy as a vehicle for recruitment. The CSIS witnesses explained that the COVID-19 pandemic exacerbated xenophobic and anti-authority narratives leading to the rise of conspiracy theories, misinformation and disinformation online.⁶⁰³ Deputy Director Tessier testified that there was a significant increase in CSIS's investigative activity due to the rise of IMVE and the effects of the pandemic.⁶⁰⁴ Violent rhetoric was increasing rapidly and exponentially, and the number of threats against public figures were increasing during this time.⁶⁰⁵
307. In early January, 2022, an escalation in the tone of these threats appeared to have been in response to the implementation of vaccine mandates for employment.⁶⁰⁶ While the majority of these threats were indirect, the IMCIT observed an increase in the severity. The IMCIT shared the same concern as CSIS and ITAC that lone wolf individuals may be motivated to engage in acts of violence in retaliation against government-imposed restrictions.⁶⁰⁷
308. Open-source monitoring identified posts advocating violence and the potential for anti-government groups to join the demonstrations with violent intentions. Online posts associated with the convoy emergency continued to feed conspiracy narratives with misinformation and disinformation raising tensions with protesters.⁶⁰⁸

viii. Ottawa police

309. In a January 25, 2022 Intelligence Assessment, the OPS noted that lone actor concerns increased as the event became larger. There were a variety of people from fringe groups who advised others to use violence if encountering police barricades. The bulletin also described

⁶⁰² TRN00000027, Evidence of David Vigneault, p 127; TRN00000005, Evidence of Patrick Morris, pp 219-220, 265, 280; TRN00000022, Evidence of Dominic Rochon, pp 54, 212; TRN00000022, Evidence of Robert Stewart, p 217; TRN00000025, Evidence of Jody Thomas, p 319; TRN00000026, Evidence of Jacqueline Bogden, p 100; TRN00000028, Evidence of Minister Mendicino, pp 8-9; PB.NSC.CAN.00000992_REL.0001, Ministerial Briefing: Truckers and Threats to Security, dated January 26, 2022, pp 5-6.

⁶⁰³ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3.

⁶⁰⁴ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 3.

⁶⁰⁵ TRN00000025, Evidence of Jody Thomas, p 319.

⁶⁰⁶ PB.NSC.CAN.00009284_REL.0001, Anti-Public Health Order: Escalation in Online Violent Rhetoric, p 1.

⁶⁰⁷ PB.NSC.CAN.00009284_REL.0001, Anti-Public Health Order: Escalation in Online Violent Rhetoric, p 1.

⁶⁰⁸ PB.NSC.CAN.00000992_REL.0001, Ministerial Briefing: Truckers and Threats to Security, dated January 26, 2022, p 6.

criminal and terrorist threats – “the open nature of this event coupled with the high concentration of attendees may further add to the potential appeal among certain individuals who may embrace extremist ideologies.”⁶⁰⁹

310. Former Chief Sloly testified that Ottawa was a “tinderbox waiting to explode.”⁶¹⁰ Even Freedom Convoy organizer, Mr. Bulford, testified that he was concerned with a lone wolf or small cell that could potentially try and leverage the crowd for their own agenda, as well as aggressive groups counter protesting.⁶¹¹

ix. CSIS assessments and mandate

311. During the convoy emergency, CSIS focused on its pre-existing subjects of interest. The involvement of SOIs in the convoy emergency was only a part of their activities under investigation. CSIS monitored SOIs to see to what extent they could engage in violent activities.⁶¹² Deputy Director Tessier explained that the convoy emergency was a very fluid, volatile environment, and CSIS was continually re-look at their information to ensure their assessments were up-to-date.⁶¹³
312. IMVE adherents are adept at using social and political events to recruit and inspire like-minded individuals.⁶¹⁴ CSIS assessed that IMVE actors could use support for the Freedom Convoy to recruit new members, bolster their online presence, and further promote their anti-public health grievances.⁶¹⁵ In fact, CSIS noted that there was an escalation in anti-law enforcement and anti-government rhetoric online throughout the convoy emergency. CSIS assessed that some IMVE actors may be inspired to commit acts of violence should COVID-19 mandates and restrictions not be removed.⁶¹⁶
313. CSIS’s core mandate is to investigate threats to the security of Canada and advise the Government of Canada on such threats. The *CSIS Act* identifies the specific activities that the Service may investigate as well as the threshold that must be met for CSIS to engage in its investigative activities. CSIS’s statutory authority to collect information and intelligence on s. 2(c) threats is predicated on CSIS meeting its threshold of “reasonable grounds to suspect” that activities constitute s. 2(c) threats, and restricting that intelligence collection to what is “strictly necessary.”⁶¹⁷
314. Director Vigneault stated that CSIS did not assess that the illegal protests and blockades of the convoy emergency constituted a threat to the security of Canada as defined by section 2

⁶⁰⁹ OPS00003086, OPS Freedom Convoy Intelligence Assessment, dated January 25, 2022, pp 5-6.

⁶¹⁰ TRN00000012, Evidence of Peter Sloly, p 225; TRN00000031, Evidence of the Prime Minister, p 155.

⁶¹¹ TRN00000017, Evidence of Daniel Bulford, p 241; HRF00001289, Affidavit of Daniel Bulford, sworn February 6, 2022, para 9.

⁶¹² WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 4.

⁶¹³ TRN00000027, Evidence of David Vigneault and Michelle Tessier, p 47.

⁶¹⁴ TS.NSC.CAN.001.00000178_REL_0001, IMVE Landscape in 2022, p 1.

⁶¹⁵ TS.NSC.CAN.001.00000182_REL_0001, Diagonal Participation in the Freedom Convoy 2022 and Beyond, p 1.

⁶¹⁶ TS.NSC.CAN.001.00000182_REL_0001, Diagonal Participation in the Freedom Convoy 2022 and Beyond, p 2.

⁶¹⁷ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 5.

of the *CSIS Act*.⁶¹⁸ That said, Director Vigneault explained that, although s. 16 of the *EA* references the definition of a “threat to the security of Canada” as set out in the *CSIS Act*, the two statutes are concerned with distinct issues.⁶¹⁹ Director Vigneault further explained that the *EA* cannot be read in a manner that gives CSIS the exclusive authority to determine whether there exists a public order emergency, as this is the responsibility of the federal government.⁶²⁰

315. CSIS’s mandate and assessment of threats should not be interpreted as definitional of or comprising all national security concerns. CSIS’s assessment of threats is based on, and confined by, its mandate and specific role in the broader national security apparatus of the Government of Canada.⁶²¹
316. Director Vigneault testified that he made it very clear that when CSIS was providing advice and information to Cabinet, it was based on the *CSIS Act* definition in the context of the *CSIS Act* and CSIS’s mandate. Director Vigneault also testified that at that February 13 IRG meeting, based on his opinion of everything he had seen to that point and as a member of the intelligence community and a national security advisor to the government, he advised the Prime Minister that he personally supported invoking the *EA* because he believed its invocation was required.⁶²²

x. ITAC assessments and the National Terrorism Threat level

317. CSIS and ITAC provide assessments and briefings on the IMVE threat landscape to the federal government and law enforcement partners.⁶²³
318. The Director of CSIS sets the national terrorism threat level on the recommendation of ITAC. ITAC fulfils this role by conducting independent analyses of the information that is available from CSIS as well as other intelligence partners.⁶²⁴ ITAC evaluates the likelihood of a terrorism incident through an assessment of information and intelligence regarding the intent, capability and opportunity of potential threat actors to conduct acts of terrorism.⁶²⁵
319. CSIS and ITAC produced a number of assessments in relation to the convoy emergency before, during and after the invocation of the *EA*. These reports were disseminated to government and non-government stakeholders. The Executive Director of ITAC is a member

⁶¹⁸ WTS.00000060, Unclassified Interview Summary – CSIS, p 5.

⁶¹⁹ WTS.00000060, Unclassified Interview Summary – CSIS, p 9.

⁶²⁰ WTS.00000060, Unclassified Interview Summary – CSIS, pp 8-9.

⁶²¹ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 11; TRN00000027, Evidence of David Vigneault, p 161.

⁶²² WTS.00000079, Public Summary – CSIS *in camera, ex parte* Hearing, p 8; TRN00000027, Evidence of David Vigneault, p 59.

⁶²³ TRN00000028, Evidence of Minister Mendicino, p 212.

⁶²⁴ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, p 4; WTS.00000079, Public Summary – CSIS *in camera, ex parte* Hearing, p 2.

⁶²⁵ WTS.00000079, Public Summary – CSIS *in camera, ex parte* Hearing, p 2.

of ADMNSOPS,⁶²⁶ which met regularly during the convoy emergency. The Executive Director provided updates to the committee on threat assessments as required.

320. ITAC repeatedly re-evaluated the threat level during the events. Ultimately, based on available information and intelligence on threat actors' intent, capability and opportunity to conduct an act of terrorism, and given known security mitigation measures in place, the threat level remained at MEDIUM throughout the period of the convoy emergency. However, Executive Director Chayer explained that the threat level fluctuated within the MEDIUM band.⁶²⁷
321. While ITAC assessed that a coordinated, complex terrorist attack, or a planned storming of Parliament or other federal locations was unlikely, ITAC did assess that an IMVE-related scenario involving an inspired lone actor using available weapons and resources such as knives and guns, homemade explosives, and vehicles in public places, against soft targets was possible.⁶²⁸
322. An ITAC assessment dated February 3, 2022, assessed that opportunistic, low-level violence was possible in the NCR between February 3 and February 7, 2022 based on the potential presence of IMVE adherents, frustration from some protesters that the protest was not achieving their desired outcomes and citizen's potential aggravation with the situation.
323. Moreover, ITAC noted the presence of key anti-government conspiracy theorists who could inflame tensions through their rhetoric or interactions with police and trigger lone actors to harm others in the name of a variety of violent ideologies.⁶²⁹
324. According to ITAC, there are individuals both in Canada and abroad who advocate violence and aspire to carry out an act of terrorism domestically. ITAC noted that these inspired individuals typically act alone or in relatively small groups, and that planning can progress quickly, and may go undetected.⁶³⁰
325. A January 27, 2022, ITAC threat assessment advised that violent extremists may attempt to seize the opportunity of public protest. While organizers declared it was going to be peaceful protest, some IMVE followers in Canada advocated for their own ideological objectives. The assessment advised that extremists and other individuals supporting COVID-19 conspiracy theories and violent anti-authority/anti-government views had expressed intent to participate in the Freedom Convoy and to attend the protests in Ottawa.⁶³¹

⁶²⁶ ADMNSOPS is a committee where Assistant Deputy Ministers and Assistant Deputy Minister-equivalent officials across several federal Government of Canada departments and agencies meet on a recurring basis to discuss issues of operational significance within the national security space.

⁶²⁷ TRN00000027, Evidence of David Vigneault, Michelle Tessier, Marie-Helene Chayer, pp 55-56, 80, 85; WTS.00000079, Public Summary: CSIS *in camera, ex parte* Hearing, p 10.

⁶²⁸ TS.NSC.CAN.001.00000177_REL_0001, Canada: IMVE Threats in the Context of Public Protests, p 2.

⁶²⁹ TS.NSC.CAN.001.00000177_REL_0001, Canada: IMVE Threats in the Context of Public Protests, p 2.

⁶³⁰ PB.NSC.CAN.00001223_REL.0001, Canada: Extremists may attempt to seize the opportunity of public protest, p 2.

⁶³¹ PB.NSC.CAN.00001223_REL.0001, Canada: Extremists may attempt to seize the opportunity of public protest, p 1.

During a news interview with a Freedom Convoy supporter in Saskatoon on January 26, 2022, a supporter advocated for civil-war and noted he and others had guns; and

Online supporters of the Freedom Convoy were calling for it and the associated demonstrations to be used as Canada's "January 6" opportunity.

326. As of January 27, ITAC warned that it was possible that Canadian IMVE actors could insinuate themselves within protest actions in Ottawa and that as a result, opportunistic, low-level violence was possible. A small number of IMVE adherents could leverage an emotional crowd to spur on violence and destruction of government property through mob-mentality dynamics, with the most likely target being law enforcement or government officials near prominent federal buildings.⁶³²
327. In this threat assessment, ITAC further noted:
- a. It was possible that protesters, including IMVE adherents, could use rudimentary capabilities such as trucks, cargo, and fuel to cause disruption to infrastructure and destruction of property; and
 - b. The convergence of people in Ottawa represented an opportunity for other individuals or small groups inspired by religiously motivated violent extremism to capitalize on a potentially chaotic environment to conduct an unsophisticated attack.
328. However, due to the level of involvement of law enforcement and the mitigation measures in place, ITAC assessed that the national terrorism threat level remained at medium. This level meant that a violent act of terrorism could occur.⁶³³

xi. RCMP/IMCIT evidence on threats of IMVE

329. As part of its national security and protective policing mandates, the RCMP was aware of demonstrations and sentiments opposed to public health measures, vaccines, or masking during the ongoing COVID-19 pandemic. The IMCIT, part of the RCMP's Federal Policing National Intelligence group, produced several "special threat advisories" during the pandemic. These special threat advisories provided situational awareness of threats to public order, public safety, and the security of public officials arising from violent online rhetoric opposing new and ongoing public health restrictions.
330. The IMCIT observed an escalation in threatening rhetoric against public officials, including references to assassination, holding "Nuremberg Trials 2.0", and conducting civilian arrests of those perceived to be involved in imposing public health rules.⁶³⁴ Throughout 2021, the

⁶³² PB.NSC.CAN.00001223_REL.0001, Canada: Extremists may attempt to seize the opportunity of public protest, p 1.

⁶³³ WTS.00000060, Unclassified Interview Summary – CSIS, p 6; TS.NSC.CAN.001.0000156_REL_0001, Possibility of IMVE-driven opportunistic violence on the margins of truck convoy protest, p 2.

⁶³⁴ PB.NSC.CAN.00000527_REL.0001, RCMP Special Threat Advisory-Anti-public Health Order: Escalation in Online Violent Rhetoric, p 1.

RCMP gathered and reported information with respect to possible security risks arising from protests and demonstrations related to the government's response to the COVID-19 pandemic. These reports indicated that these protests were generally peaceful in nature, but contained a number of possible risks including emboldening ethno-nationalists⁶³⁵ and other ideologically motivated elements, vandalism,⁶³⁶ disruption to political events,⁶³⁷ and conflict between protesters and counter-protesters.⁶³⁸

331. In September 2021, the RCMP noted security concerns relating to the growing presence of conspiracy theorists, extremist groups, and militia presence at anti-health mandate and anti-vaccine events.⁶³⁹ These elements created a developing risk to public safety and officer safety.⁶⁴⁰ In late 2021, the RCMP reported growing concern about the risk of violence during protest events, particularly with respect to demonstrations targeting politicians, members of the media, vaccine clinics, airports, or special events.⁶⁴¹
332. They also noted that public order events outside personal residences of public officials were likely to continue, especially in response to new or enhanced public health restrictions.⁶⁴² Demonstrations had already occurred outside of the residences of public officials including, among many others:

- on December 13 and 15, 2021, then Ontario Minister of Health, Christine Elliott;
- on December 20, 2021, Premier Ford;
- on January 9, 2022, the Mayor of Calgary Jyoti Gondek; and,
- on January 10, 2022, Ontario Minister of Education Stephen Lecce.⁶⁴³

⁶³⁵ PB.NSC.CAN.00000509_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated June 30, 2021, p 2; PB.NSC.CAN.00000510_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated July 30, 2021, pp 3-4; PB.NSC.CAN.00000511_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated August 27, 2021, pp 5-6.

⁶³⁶ PB.NSC.CAN.00000509_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated June 30, 2021, p 2; PB.NSC.CAN.00000510_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated July 30, 2021, pp 3-4; PB.NSC.CAN.00000511_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated August 27, 2021, pp 5-6.

⁶³⁷ PB.NSC.CAN.00000500_REL.0001, RCMP Strategic Intelligence Brief, dated September 13, 2021, pp 2-3.

⁶³⁸ PB.NSC.CAN.00000501_REL.0001, RCMP Strategic Intelligence Brief, dated September 14, 2021, p 2.

⁶³⁹ PB.NSC.CAN.00000502_REL.0001, RCMP Strategic Intelligence Brief, dated September 15, 2021; PB.NSC.CAN.00000503_REL.0001, RCMP Strategic Intelligence Brief, dated September 16, 2021; PB.NSC.CAN.00000504_REL.0001, RCMP Strategic Intelligence Brief, dated September 17, 2021; PB.NSC.CAN.00000505_REL.0001, RCMP Strategic Intelligence Brief, dated September 20, 2021; PB.NSC.CAN.00000507_REL.0001, RCMP Strategic Intelligence Brief, dated September 2, 2021

⁶⁴⁰ PB.NSC.CAN.00000512_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated September 29, 2021, p 4; PB.NSC.CAN.00000513_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated October 27, 2021, p 5.

⁶⁴¹ PB.NSC.CAN.00000514_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated November 24, 2021, pp 6-7; PB.NSC.CAN.00000515_REL.0001, RCMP National Threat Landscape Strategic Assessment, dated December 23, 2021, pp 5-8.

⁶⁴² PB.NSC.CAN.00009284_REL.0001, RCMP Update # 200: Freedom Convoy 2022, p 2.

⁶⁴³ PB.NSC.CAN.00009284_REL.0001, RCMP Update # 200: Freedom Convoy 2022, p 2; PB.NSC.CAN.00000527_REL.0001, RCMP Special Threat Advisory-Anti-public Health Order: Escalation in Online Violent Rhetoric, p 2.

As a result, the RCMP updated its ministerial security plans with respect to its protective policing mandate.⁶⁴⁴

333. The RCMP observed threats against public officials were observed on both mainstream and fringe online spaces. The IMCIT also noted that much of the violent rhetoric routinely occurs on platforms that offer user anonymity, which posed challenges for law enforcement's ability to positively identify users' identities. The IMCIT assessed that there was an increase in online narratives supportive of the convoy among both ideologically motivated networks, as well as in general public discourse. In addition, a significant amount of financial support had also been raised at that time through increasing donations to the Freedom Convoy.⁶⁴⁵
334. Over the weekend of January 22 and 23, 2022, the RCMP's Protective Operations Coordination Centre reported a strong resentment on public social media platforms targeting the Prime Minister, Minister Alghabra, and politicians in general.⁶⁴⁶ Most appeared to be linked to the "Truck Demonstration."⁶⁴⁷
335. In an ADMNSOPS meeting on January 25, 2022, the RCMP noted that the convoy emergency was attracting individuals who were not aligned with any specific ideology or group, but who had experienced personal hardships (such as job loss) due to COVID-19 and were upset with provincial or federal government responses.⁶⁴⁸
336. On January 25, the IMCIT issued a special threat advisory regarding an escalation in online rhetoric opposing public health restrictions. The report warned against growing opposition to public health orders and a risk of protest actions designed to pressure federal and provincial governments to reverse public health measures.⁶⁴⁹ The IMCIT updated this report the following day, indicating that opposition to vaccine mandates was continuing to grow in intensity and could become a potential flash point for acts of violence. The advisory warned that while some online comments within networks promoting the Freedom Convoy indicated a willingness for peaceful, lawful protest, in other cases anti-authority narratives were observed including rhetoric that called for disruptive or violent responses to police enforcement.⁶⁵⁰ Narratives referencing the January 6 US Capitol riots were also noted in relation to the events in Ottawa.⁶⁵¹

⁶⁴⁴ PB.NSC.CAN.00000577_REL.0001, RCMP Update, dated January 27, 2022.

⁶⁴⁵ PB.NSC.CAN.00000529_REL.0001, RCMP Special Threat Advisory-Freedom Convoy 2022 Converging in Ottawa January 28/29, 2022, p 1; OPP00001024, Project Hendon Report, dated January 20, 2022, p 3.

⁶⁴⁶ PB.NSC.CAN.00008069_REL.0001, ADM NS Operations Tuesday, January 25, 2022, p 1

⁶⁴⁷ PB.NSC.CAN.00008069_REL.0001, ADM NS Operations Tuesday, January 25, 2022, p 1;
PB.NSC.CAN.00000995_REL.0001, Ministerial Briefing – Truckers and Threats to Security, p 2.

⁶⁴⁸ PB.NSC.CAN.00008069_REL.0001, ADM NS Operations Tuesday, January 25, 2022, p 2.

⁶⁴⁹ PB.NSC.CAN.00000527_REL.0001, RCMP Special Threat Advisory-Anti-public Health Order: Escalation in Online Violent Rhetoric.

⁶⁵⁰ PB.NSC.CAN.00000532_REL.0001, RCMP Special Threat Advisory Update 3 – Freedom Convoy 2022 Converging in Ottawa January 28/29, 2022, p 3.

⁶⁵¹ PB.NSC.CAN.00000532_REL.0001, RCMP Special Threat Advisory Update 3 – Freedom Convoy 2022 Converging in Ottawa January 28/29, 2022, p 4; TRN00000028, Evidence of Minister Mendicino, pp 216-217.

337. A similar IMCIT advisory on January 31 indicated that opposition to vaccine mandates was continuing to grow in intensity and could become a potential flash point for acts of violence. The advisory also warned that the potential for violence by a lone actor or fringe group could not be discounted.⁶⁵²
338. There was also heightened awareness regarding anti-police narratives that were circulating on social media along with posts about police resources being stretched due to the ongoing demonstrations. The IMCIT advisory warned that narratives like this could give protesters the perception that law enforcement is vulnerable. The OPP Hendon Report of January 20 also noted similar concerns about police of jurisdiction resources being stretched, including OPP resources.⁶⁵³ Additionally, there was concern that protest events associated with the Freedom Convoy could be exploited by individuals who engage in or promote actions that pose a risk to public and police officer safety.⁶⁵⁴
339. The RCMP reported that ideologically motivated individuals who have promoted controversial views were present in Ottawa. Convoy vehicles and participants displayed symbolism associated with anti-government and conspiratorial grievances.⁶⁵⁵ The January 31, 2022 IMCIT special advisory⁶⁵⁶ noted certain incidents that generated “significant” chatter online including:
- Photos of flags with swastikas at various locations;
 - Confederate flags
 - Pro-Trump flags;
 - Harassment of various mainstream media.
340. In fact, as crowds began to grow in size, concerns for potential violence by lone actors or fringe groups continued. An IMCIT dated January 28, 2022 noted that while no formal organized plot of violence was identified, the increasing number of protesters could galvanize larger portions of the protesters towards violence. This, coupled with the influence of ideologically motivated actors or “charismatic” speakers, could increase the temperature of the crowd.⁶⁵⁷

⁶⁵² PB.NSC.CAN.00000524_REL.0001, RCMP Special Threat Advisory Update 4 – Freedom Convoy 2022 Ongoing in Ottawa since January 28/29, 2022, pp 1, 3.

⁶⁵³ TRN00000011, Evidence of Thomas Carrique, pp 13, 72.

⁶⁵⁴ PB.NSC.CAN.00000524_REL.0001, RCMP Special Threat Advisory Update 4 – Freedom Convoy 2022 Ongoing in Ottawa since January 28/29, 2022, p 4.

⁶⁵⁵ PB.NSC.CAN.00000532_REL.0001, RCMP Special Threat Advisory Update 3 – Freedom Convoy 2022 Converging in Ottawa January 28/29, 2022, p 4; PB.NSC.CAN.00000524_REL.0001, RCMP Special Threat Advisory Update 4 – Freedom Convoy 2022 Ongoing in Ottawa since January 28/29, 2022, p 5.

⁶⁵⁶ PB.NSC.CAN.00000524_REL.0001, RCMP Special Threat Advisory Update 4 – Freedom Convoy 2022 Ongoing in Ottawa since January 28/29, 2022, p 5.

⁶⁵⁷ PB.NSC.CAN.00000532_REL.0001, RCMP Special Threat Advisory Update 3 – Freedom Convoy 2022 Converging in Ottawa January 28/29, 2022, p 3.

341. Through open-source information, the RCMP identified numerous posts from extremist groups including Plaid Army, Diagonol and Canada First, advising that they would be present in Ottawa as part of the Freedom Convoy.⁶⁵⁸

xii. Escalating threats to Ministers and public officials

342. There had been a noticeable increase in threatening behaviour towards members of Parliament and incidents at constituency offices since the beginning of the convoy emergency, including reports of arson and a few minor physical alterations with staff.⁶⁵⁹ Federal parliamentarians were advised to stay clear of the protests for their own safety amid a flurry of online threats and incitements to violence directed towards elected officials in Canada. Violent rhetoric continued to be directed predominantly at the Prime Minister, who was often portrayed by IMVE adherents as a criminal, traitor and a key figure in a global liberal conspiracy.⁶⁶⁰
343. In late January 2022, parliamentarians were also made aware of the potential for doxing (identifying and revealing personal information with malicious intent) during the lead-up to the Ottawa protest.⁶⁶¹ The Prime Minister and his family relocated due to security concerns.⁶⁶²
344. The Deputy Prime Minister testified that the situation across Canada, and in Ottawa in particular, was a powder keg and that violent physical confrontation could erupt at any point. She indicated that she didn't normally have RCMP security, but the RCMP judged it to be necessary for her personal security at the end of January.⁶⁶³
345. Threats were also made against Minister of Justice David Lametti. A Facebook message read: "Time to die David Lametti for peace and security of mankind...Your death date is overdue...with bullet to your head, rope around your neck, guts cut open and bled out on the ground".⁶⁶⁴ He testified about having to change his living arrangements in Ottawa because he did not feel safe; he also spent time in Montreal in order to escape the occupation.⁶⁶⁵ He testified that he has received threats before, but these threats were more serious in that they described wanting to kill him and the manner in which people would like to kill him.⁶⁶⁶ His

⁶⁵⁸ PB.NSC.CAN.00001094_REL.0001, Truckers Convoy and Protective Services – Themes, dated January 25, 2022, p 5.

⁶⁵⁹ TS.NSC.CAN.001.00000183_REL_0001, ITAC Report, dated February 2, 2022; TRN00000029, Evidence of Minister Lametti, pp 167-168; TRN00000028, Evidence of Minister Mendocino, pp 8-12.

⁶⁶⁰ TS.NSC.CAN.001.00000183_REL_0001, ITAC Report, dated February 2, 2022, p 2.

⁶⁶¹ SSM.CAN.00008683_REL.0001, House of Commons Open Source Intelligence Report, dated January 24, 2022, p 1.

⁶⁶² TS.NSC.CAN.001.00000183_REL_0001, ITAC Report, dated February 2, 2022, p 2.

⁶⁶³ TRN00000030, Evidence of the Deputy Prime Minister, p 75.

⁶⁶⁴ SSM.CAN.00007900_REL.0001, Facebook message and threat to Minister Lametti; SSM.CAN.00007898_REL.0001, Instagram message and threat to Minister Lametti; TRN00000029, Evidence of Minister Lametti, pp 165-166.

⁶⁶⁵ TRN000000029, Evidence of Minister Lametti, pp 60-61.

⁶⁶⁶ TRN000000029, Evidence of Minister Lametti, pp 166-167.

staff, particularly female staff, were also threatened on their way to and from work.⁶⁶⁷ Minister Mendicino and his family also received death threats.⁶⁶⁸

346. Minister of National Defence Anita Anand noted that she was very concerned about her own safety and the safety of her staff during the occupation of Ottawa.⁶⁶⁹ Many of the employees of the Department of National Defence were working from home at the time due to the COVID-19 pandemic, and the Department advised employees to continue working from home during the course of the occupation of Ottawa.⁶⁷⁰ In her view, the aggressive language on social media and posts about killing the Prime Minister or Deputy Prime Minister gave reason to be more concerned than an intelligence analyst may report.⁶⁷¹
347. It was not just federal politicians receiving threats. The declaration of an emergency by the Province of Ontario resulted in a significant increase in violent rhetoric towards Premier Ford, and other senior elected officials.⁶⁷² Some witnesses before the Commission also reported receiving threats.⁶⁷³
348. Other threatening behaviour was also occurring. Residents of Ottawa had been monitoring the occupiers' radio channel. A resident sent Ottawa City Councillor Catherine McKenney an email on February 3, 2022 indicating their concern regarding a "change in tone" they overheard on the channel. Someone on the channel said "if peaceful protest doesn't work, burn the city down." Councillor McKenney and their family also received an exceptional amount of hateful and threatening messages, which escalated as the convoy emergency continued.⁶⁷⁴
349. Mr. Ayotte testified about the Children's Hospital of Eastern Ontario receiving disturbing phone calls originating from a caller in the United States.⁶⁷⁵ The OPS was required to deploy officers to a school downtown to respond to reports of protesters harassing children.⁶⁷⁶
350. Around the same time, the OPS became aware of a credible threat made against the Mayor Watson.⁶⁷⁷ Following this, the City of Ottawa asked the OPS to reassess the level of security provided to Mayor Watson, taking into account the scale of the protests themselves, the

⁶⁶⁷ TRN000000029, Evidence of Minister Lametti, p 104; SSM.CAN.00007840_REL.0001, Text exchange between Minister Lametti and Minister Anand.

⁶⁶⁸ TRN000000028, Evidence of Minister Mendicino, p 101.

⁶⁶⁹ TRN000000029, Evidence of Minister Anand, pp 224-226; TS.NSC.CAN.001.00000183_REL_0001, ITAC Report, dated February 2, 2022.

⁶⁷⁰ WTS.000000076, Interview Summary – Minister Anand, p 5.

⁶⁷¹ TRN000000025, Evidence of Jody Thomas, pp 244, 217; TS.NSC.CAN.001.00000159_REL_0001, Freedom Convoy 2022.

⁶⁷² TS.NSC.CAN.001.00000171_REL_0001, IRG Talking Points for the Minister of Public Safety, February 13, 2022, p 1.

⁶⁷³ TRN000000002, Evidence of Catherine McKenney, pp 233-234.

⁶⁷⁴ TRN000000002, Evidence of Catherine McKenney, pp 233-234.

⁶⁷⁵ OTT00006781.0001, Email from Kim Ayotte, EOCCG Update 15: Planned Truck Demonstration, dated February 11, 2022; TRN000000004, Evidence of Kim Ayotte, pp 265-266.

⁶⁷⁶ OTT00024988.0001, Email from Kelly Cochrane Re: Demonstration: Updates, dated February 12, 2022, p 3.

⁶⁷⁷ OTT00003861.0001, Threat Evaluation and Offender Management Advice Report, dated February 3, 2022.

proximity to City Hall, the increased negative commentary towards Mayor Watson on various social media platforms, and the specific threat made, for which charges were ultimately laid.⁶⁷⁸

351. Former Chief Sloly also received a death threat similar to the one Mayor Watson received. The writer threatened to “blast a bullet in his head.” This threat was communicated to the RCMP.⁶⁷⁹ According to a “Threat Evaluation and Offender Management Advice Report,”⁶⁸⁰ the OPS investigators tentatively identified the sender on the email as a resident of Brooklyn, New York, who has previously sent emails in the US espousing COVID-related conspiracy theories and had attempted to enter Canada on several occasions.⁶⁸¹
352. Threats were also made to the mayors of Coutts, Alberta and Windsor, Ontario. Coutts Mayor Willet testified that he received a death threat online that was serious enough for the RCMP to investigate it.⁶⁸² Windsor Mayor Dilkens testified that supporters of the Ambassador Bridge blockade threatened to bomb his house, requiring him to have enhanced police protection.⁶⁸³ Mayor Dilkens testified he had never seen anything like it in Windsor before – he felt that the posture and the language of people on the streets was almost as if they wanted a brawl to take place.⁶⁸⁴

xiii. Counter-protests

353. All this contributed to the overall public order environment leading into the critical third weekend of the convoy emergency on February 12-13, 2022.
354. Numerous witnesses emphasized the increasing risk of counter-protest and the dramatic escalation in the potential for violence erupting from unpredictable directions. For several days leading to February 13, the OPP worked to prevent a blockade from establishing at the Cornwall POE. Commissioner Carrique and his command team were particularly concerned about the prospect of the Akwesasne community calling for Warrior intervention from neighbouring Mohawk communities in Kahnawake and Kahnésatake. Violence between convoy participants and angry community residents was particularly worrisome in this jurisdictionally complex territory, involving overlapping United States., Ontario and Quebec as well as First Nations authorities.⁶⁸⁵
355. At the same time, in Windsor and Essex County, calls for counter-protest were observed on social media from automotive and manufacturing workers, experiencing loss of shifts, facility

⁶⁷⁸ OTT00003394.0001, Email from Kim Ayotte regarding Mayor’s Security, dated February 3, 2022; TRN00000004, Evidence of Jim Watson, pp 176-177, 199.

⁶⁷⁹ OTT00003861.0001, Threat Evaluation and Offender Management Advice Report, pp 1-2.

⁶⁸⁰ OTT00003861.0001, Threat Evaluation and Offender Management Advice Report.

⁶⁸¹ OTT00003861.0001, Threat Evaluation and Offender Management Advice Report, p 2

⁶⁸² TRN00000020, Evidence of Jimmy Willett, p 30.

⁶⁸³ TRN00000018, Evidence of Drew Dilkens, p 46.

⁶⁸⁴ TRN00000018, Evidence of Drew Dilkens, p 46.

⁶⁸⁵ TRN00000011, Evidence of Thomas Carrique, pp 167-170; OPP00004580, Text messages between Di Tommaso and Carrique, dated February 12, 2022, pp 99-101; OPP00004584, Text messages between Carrique and McDonnell, pp 57-59.

shutdowns, and loss of income because of the Ambassador Bridge blockade.⁶⁸⁶ There was economic harm to these workers – potentially for the long-term if the blockade resulted in disrupting foreign investment in these sectors or igniting a “rehoming” trend in American manufacturing.⁶⁸⁷

356. The Alberta Assistant Deputy Minister of Public Safety Marlin Degrand, testified that frustrated community members in Edmonton organized a significant counter-protest that required police to come between convoy protesters and community members on February 12. He acknowledged the high risk of violence erupting should opposing protest come into contact with one another, as well as the risk of violence against police caught in the middle of the two groups.⁶⁸⁸
357. On February 15, a counter-protest in Ottawa, which came to be known as the “Battle of Billings Bridge”, successfully turned around a convoy attempting to access the downtown core. Ottawa residents chanted for the participants to depart and go home, and physically blocked their vehicles from continuing, with small numbers of police attempting to mediate the two groups. In some cases, counter-protesters required convoy vehicles bearing Canadian flags to remove them before being permitted egress. Chair Deans observed that the Ottawa Police Services Board was seeing growing evidence of the frustration of the citizens of Ottawa with law enforcement, as fuel for citizens taking the law into their own hands.⁶⁸⁹
358. The manifestation of counter-protests contributed an increased risk of violence.⁶⁹⁰ It was apparent to Commissioner Carrique that OPP resources were stretched to the point where it would be impossible to mount public order operations in both Windsor and Ottawa at the same time. OPP and municipal resources were reallocated to these sites, at the same time as smaller convoy events continued to convene at locations across the Province from Fort Frances to Huntsville, Stratford, Bracebridge, and Iroquois Falls, and required police resources to ensure public order.⁶⁹¹ Witnesses explained that the same stretching of police resources posed a challenge to the RCMP, particularly in those Provinces where the RCMP serves as police of local jurisdiction.⁶⁹² Alberta had already called on the “emergency” provisions under Article 9.1 of its policing contract, requiring the deployment of officers from British Columbia.⁶⁹³

⁶⁸⁶ TRN00000018, Evidence of Drew Dilkens, pp 53-54; TRN00000019, Evidence of Dana Earley, pp 83-84; OPP00004550, Notebook 4 of Dana Earley, dated February 11, 2022, p 21.

⁶⁸⁷ TRN00000022, Evidence of Cynthia Termorshuizen, pp 234-237, 239; TRN00000024, Evidence of Michael Keenan, pp 168-169.

⁶⁸⁸ TRN00000021, Evidence of Marlin Degrand, pp 91-92.

⁶⁸⁹ TRN00000005, Evidence of Diane Deans, p 172; TRN00000002, Evidence of Catherine McKenney, pp 188-192; COM00000741, Multimedia Video, referenced at TRN00000002, Evidence of Catherine McKenney, pp 190-191.

⁶⁹⁰ TRN00000011, Evidence of Thomas Carrique, pp 170; TRN00000019, Evidence of Dana Earley, pp 44, 83-84.

⁶⁹¹ TRN00000011, Evidence of Thomas Carrique, p 158.

⁶⁹² TRN00000027, Evidence of David Vigneault and Minister Blair, pp 149, 214.

⁶⁹³ SSM.CAN.00006002_REL.0001, Letter from Brenda Lucki to Minister Mendicino approving temporary redeployment of RCMP to Alberta, dated February 8, 2022.

359. Where citizens reasonably perceive that the police have lost the ability to maintain the rule of law, Minister Blair acknowledged that the reasonable expectation is that they will be more likely to take the law into their own hands.⁶⁹⁴ Such was the situation, in many communities across Canada by February 13.⁶⁹⁵ Efforts by police to prevent violence between hostile individuals or groups, in the absence of sufficient resources, increased the risk of serious violence towards police and convoy participants, as well as those directly in conflict. As such, the practical inability to identify specific persons or groups of interest as being those most likely to manifest threats into real acts of violence heightened concerns regarding safety and security of Canadians as a whole.
360. The overall public order environment in cities and towns, and at POEs, across the country on February 13, with no change foreseeable at the national level, was fundamental to the assessment of the Governor in Council of whether a public order emergency existed and if special temporary measures were necessary to deal with the emergency. While individual sites – such as Windsor and Coutts – were the subject of important police enforcement actions on February 13 and 14, the national picture was not experiencing a fundamental change.
361. The pattern of escalation was such that the volume of protest activity was expected to moderate on Sunday evening as the third weekend ended (February 13-14), but was equally expected to re-escalate as the upcoming fourth weekend approached.⁶⁹⁶ The prolonged strain, and the impact of exhaustion on police services, could not continue forever without risking a fundamental rupture in the capacity of officers to perform their duties at multiple locations.⁶⁹⁷ A public sense of lawlessness could, in that scenario, quickly turn into a general reality and a complete failure of public order.⁶⁹⁸ Such a failure is what the *EA* was intended, in its recognition of “public order emergencies”, to redress or prevent.

V. Canada’s methodical consideration of options in response to the convoy emergency

362. On February 3, the Cabinet Committee on Safety, Security and Emergencies (“SSE”) discussed the Freedom Convoy for the first time.⁶⁹⁹ The SSE is a standing Cabinet committee whose purpose is to consider threats and risks to the safety and security of Canada, and manage ongoing emergencies in part through ensuring ministers have a common understanding of the relevant

⁶⁹⁴ TRN00000027, Evidence of Minister Blair, pp 343-344.

⁶⁹⁵ TRN00000005, Evidence of Diane Deans, p 172; TRN00000002, Evidence of Catherine McKenney, pp 188-192; COM00000741, Multimedia Video, referenced at TRN00000002, Evidence of Catherine McKenney, pp 190-191; TRN00000011, Evidence of Commissioner Thomas Carrique, pp 170; TRN00000019, Evidence of Dana Earley, pp 44, 83-84.

⁶⁹⁶ TRN00000026, Evidence of Nathalie Drouin, pp 289-290; TRN00000031, Evidence of the Prime Minister, pp 209-210; TRN00000028, Evidence of Minister Mendicino, p 30; TRN00000025 Evidence of Jody Thomas and Anne Tardif, p 253; TRN00000008, Evidence of Steve Bell, pp 64-65.

⁶⁹⁷ TRN00000011, Evidence of Thomas Carrique, p 72; TRN00000012, Evidence of Peter Sloly, pp 70, 146, 193, 197-198; TRN00000026 Evidence of Janice Charette, pp 193-194.

⁶⁹⁸ TRN00000027, Evidence of Minister Blair, pp 342-344; TRN00000013, Evidence of Peter Sloly, pp 160-161.

⁶⁹⁹ COM.OR.00000004, Overview Report: Timeline of Key Events, p 6; SSM.NSC.CAN.00000292_REL.0001, SSE Minutes, dated February 3, 2022.

facts, and is chaired by the Minister of Emergency Preparedness.⁷⁰⁰ At the meeting, DM Stewart reported that the OPS believed it could not safely end the protest without federal assistance. Minister Mendicino advised that Canada may also soon receive a request for assistance from Alberta to deal with the protest at Coutts, Alberta.⁷⁰¹

363. The SSE met to discuss possible federal options to accelerate resolution of the protests. To stimulate a conversation, officials had provided initial thoughts on possible federal assistance measures ranging from convening other partners or engaging with protesters, to discussing direct supports like funding or requests for assistance.⁷⁰²
364. That weekend (February 4-6), there was an increase in protest activity and the federal government observed the activities spread into BC, Manitoba, Toronto, and Quebec City.⁷⁰³ On February 5, Canada received Alberta's Request for Assistance.⁷⁰⁴
365. In the second week of the convoy emergency, there was an active commitment across the government to have every department think about ways in which they could help bring the convoy emergency to an end within existing authorities.⁷⁰⁵
366. On February 6, the City of Ottawa declared a state of emergency, citing the "serious danger and threat to the safety and security of residents posed by the ongoing demonstrations".⁷⁰⁶ This did not give law enforcement, Mayor Watson, or by-law officers any additional authorities, but signalled, from the City's perspective, the seriousness of the situation, and that it did not have the necessary resources to handle the emergency.⁷⁰⁷ At a meeting of the SSE on that same day, it was agreed to bring together representatives from Ontario, Canada and the City of Ottawa.⁷⁰⁸ These meetings would move from providing awareness to a forum for discussion of what various levels of governments could do to put pressure on protesters to leave.⁷⁰⁹ "Tri-partite" meetings with federal ministers and officials, the City and OPS ultimately took place on February 7, 8 and 10. Although invited, Ontario did not participate in these meetings.⁷¹⁰ Federal ministers actively worked to encourage Ontario's participation.⁷¹¹

⁷⁰⁰ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 7; TRN00000026, Evidence of Jacqueline Bogden, pp 15-16.

⁷⁰¹ SSM.NSC.CAN.00000292_REL.0001, SSE Minutes, dated February 3, 2022.

⁷⁰² SSM.NSC.CAN.00000292_REL.0001, SSE Minutes, dated February 3, 2022; TRN00000026, Evidence of Jacqueline Bogden, pp 16-18.

⁷⁰³ TRN00000026, Evidence of Jacqueline Bogden, p 19.

⁷⁰⁴ SSM.CAN.00000082, Minister McIver Letter to Minister Mendicino and Minister Blair, dated February 5, 2022.

⁷⁰⁵ TRN00000025, Evidence of Michael Sabia, p 44; TRN00000026, Evidence of Jacqueline Bogden, p 18.

⁷⁰⁶ OTT00004231.0001, Ottawa State of Emergency, dated February 6, 2022.

⁷⁰⁷ WTS.00000001, Interview Summary – Steve Kanellakos, at pp 6-7.

⁷⁰⁸ TRN00000026, Evidence of Jacqueline Bogden, p 23.

⁷⁰⁹ WTS.00000001, Interview Summary – Steve Kanellakos, at p 5; TRN00000026, Evidence of Janice Charette, p 132.

⁷¹⁰ WTS.00000001, Interview Summary – Steve Kanellakos, at p 5; TRN00000027, Evidence of Minister Blair, pp 187-188; TRN00000026, Evidence of Jacqueline Bogden, pp 23-24; SSM.CAN.NSC.00002676_REL.0001, Tripartite read-out, dated February 10, 2022, p 3.

⁷¹¹ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, p 5; TRN00000026, Evidence of Jacqueline Bogden at pp 39-40; SSM.CAN.00000094_REL.0001, Call with Premier Ford, dated February

367. By the time of the next SSE meeting on February 8, the blockade at the Ambassador Bridge had commenced, demonstrations were persisting in Winnipeg and at Coutts and other POEs. Law enforcement were feeling resource pressures, and the assessment was that the Ambassador Bridge blockade was designed to divide the attention of the OPP and stretch police resources.⁷¹² The situation was getting worse, not better, and there did not appear to be a clear path to a quick resolution. The conversation moved to increasing federal Government efforts to help resolve the crisis.⁷¹³
368. The next day, the Clerk of the Privy Council tasked the PCO Deputy Ministers and Deputy Secretaries to put together, in a written form that could be provided to ministers, a comprehensive inventory and preliminary assessment of all of the options available to the federal government to resolve the situation.⁷¹⁴
369. Since the beginning of the convoy emergency, the federal government had an awareness that the *EA* was an available last resort option, since it had been discussed at the beginning of the pandemic when premiers raised it.⁷¹⁵ Around February 9, ministers started to consider the *EA* as part of a contingency plan, while pursuing their first priority of looking for existing federal authorities that could be exercised.⁷¹⁶ As Deputy Secretary to the Cabinet for Emergency Preparedness, Jacqueline Bogden explained:

... Plan A is provide resources, you know, whatever's needed to help resolve, and you know, if that's not successful, what else do we need to be thinking about? And that's always the world we're in is what can we do within existing resources. And when that doesn't work or the situation escalates, or deteriorates, however you want to characterize it, you need to be thinking about what is Plan B, you know, what other—you can call it Plan B or you could call it Track 2, but you need to be thinking about what other options that you might need to be thinking about. And again, I'll just say this is part of what we do in government is to be thinking ahead, to make sure that we're ready if the government looks to us and says, what are our options, how can we proceed. We've actually done the homework and we've pulled that information together. We don't wait until we're asked.⁷¹⁷

10, 2022; SSM.CAN.NSC.00002832_REL.0001, Readout call with Premier Ford and Minister Mendicino, dated February 9, 2022.

⁷¹² SSM.NSC.CAN.00000295_REL.0001, SSE Minutes, dated February 8, 2022, p 10.

⁷¹³ SSM.NSC.CAN.00000295_REL.0001, SSE Minutes, dated February 8, 2022; TRN00000026, Evidence of Jacqueline Bogden, pp 26-27.

⁷¹⁴ PB.NSC.CAN.00002418_REL.0001, Elements of Federal Response to Protests, dated February 9, 2022; TRN00000026, Evidence of Jacqueline Bogden, pp 27-31; TRN00000026, Evidence of Janice Charette at pp 126-128.

⁷¹⁵ TRN00000031, Evidence of the Prime Minister, pp 42-43.

⁷¹⁶ TRN00000024, Evidence of Michael Keenan, p 172; TRN00000026, Evidence of Jacqueline Bogden, pp 85-86.

⁷¹⁷ TRN00000026, Evidence of Jacqueline Bogden, pp 43-44, 97.

370. On February 10, the Prime Minister convened the first meeting of the IRG on the recommendation of the Clerk of the Privy Council.⁷¹⁸ The IRG is chaired by the Prime Minister, and its purpose is to manage ongoing crises or national emergencies. It does not have a permanent membership, and it involves active participation by government officials to allow ministers to hear directly from Departments and agencies in order to quickly make informed decisions.⁷¹⁹ The Clerk testified that her reason for recommending this particular Cabinet committee structure was to facilitate the careful deliberation that needed to take place on all available options, including the *EA*:

... That certainly, as it came to be February the 9th and we were looking at what could we do, the potential of the *Emergency Act* [sic], which I'll underline had not been used since 1988 – also contributed to when I thought about my advice to the Prime Minister, Ministers were actually going to consider options put before them by officials, including the possibility of triggering the *Emergency Act* [sic]. That required an Incident Response Group. Now, you would – I think you've been hearing in the testimony, you know, this is kind of a careful build up of all the deliberations, but when we were starting to talk about this as one of the potentials, I thought that the Prime Minister and Ministers needed to be sitting in a structured Incident Response Group to understand, to be briefed on and to deliberate on that serious a matter.⁷²⁰

371. At the February 10 IRG meeting, both the NSIA and Commissioner Lucki provided an overview of the current situation across the country: an integrated planning cell was being developed for Ottawa with a preference for negotiations before enforcement; weapons were onsite at Coutts, where tow truck operators had been refusing to assist in enforcement; and behaviour at the Ambassador Bridge was becoming more aggressive.⁷²¹

372. A two-track model was proposed to guide the federal government's efforts in the short term. Track 1 would involve exploring actions under existing authorities. Track 2 would involve asking what could be done under new authorities, including invoking the *EA*.⁷²²

373. At the DMOC meeting on February 11, the then-Interim Clerk of the Privy Council had nevertheless urged federal DMs to “be the most creative, and proactive thinking selves they can – explore what can be done, fully assessed against the risks” in identifying authorities that may be necessary and useful.⁷²³

⁷¹⁸ TRN00000026, Evidence of Janice Charette, pp 128-129.

⁷¹⁹ TRN00000031, Evidence of the Prime Minister, pp 38-41; TRN00000026, Evidence of Jacqueline Bogden, p 45; TRN00000026, Evidence of Janice Charette, pp 133-134.

⁷²⁰ TRN00000026, Evidence of Janice Charette, pp 144-145.

⁷²¹ SSM.NSC.CAN.00000209_REL.0001, IRG Minutes, dated February 10, 2022.

⁷²² SSM.NSC.CAN.00000209_REL.0001, IRG Minutes, dated February 10, 2022; TRN00000031, Evidence of the Prime Minister, pp 41-45.

⁷²³ SSM.NSC.CAN.00000212_REL.0001, Read-out of DMOC, dated February 11, 2022.

374. On the same day, the Province of Ontario declared a province-wide state of emergency pursuant to the *Emergency Management and Civil Protection Act* (“*EMCPA*”),⁷²⁴ in response to the interference with transportation and other critical infrastructure throughout the province. Measures implemented under Ontario’s emergency declaration included penalties of \$100,000 and up to one year of imprisonment for non-compliance for protesters refusing to leave. The next day, the Ontario Government also enacted regulations under the *EMCPA*, making it illegal and punishable to block and impede the movement of goods, people and services along critical infrastructure.⁷²⁵ It also included things like the ability to suspend the commercial vehicle operator’s registration of a truck that is involved in an illegal activity.⁷²⁶ While it was a welcome development, it was not sufficient to resolve the crisis.⁷²⁷
375. Officials presented information on both Track 1 and Track 2 options at the IRG meeting on February 12.⁷²⁸ The options considered from February 9 to February 13 were loosely categorized into four themes: enforcement, engagement, Ontario-specific engagement and financial levers.⁷²⁹

a. Enforcement

376. In the area of enforcement, the government considered the OPS’s request for 1,800 additional police officers.⁷³⁰ Moving forward with this idea required receiving specific details, in order to know what those resources would be used for, in order not to compromise officer safety.⁷³¹ The development of this issue is considered elsewhere in these submissions.
377. Proposed ideas to have CBSA use border and immigration measures or changes to existing measures like the Trusted Traveller Program to support resolving the convoy emergency were considered, but eventually dismissed.⁷³² With respect to the former, BSOs did not have the authority under the *Immigration and Refugee Protection Act*, SC 2001 c 27 (“*IRPA*”)⁷³³ to deny entry to foreign nationals solely on the basis that they wished to participate in the protests. The *IRPA* is not designed to prevent a foreign national from entering Canada to join an unlawful protest, if the individual otherwise satisfies entry requirements.⁷³⁴ With respect

⁷²⁴ *Emergency Management and Civil Protection Act*, RSO 1990, c E 9 (*EMCPA*) and O Reg 69/22.

⁷²⁵ Pursuant to subsection 7.0.3(4) of the *EMCPA*, see emergency order “Critical Infrastructure and Highways” O Reg 71/22; ONT.IR.00000001, Institutional Report of Ontario, p 3.

⁷²⁶ TRN00000024, Evidence of Michael Keenan, p 173.

⁷²⁷ TRN00000024, Evidence of Michael Keenan, p 193.

⁷²⁸ SSM.NSC.CAN.00000214_REL.0001, IRG Minutes, dated February 12, 2022, p 14; TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 135-137.

⁷²⁹ SSM.NSC.CAN.00000214_REL.0001, IRG Minutes, dated February 12, 2022, pp 14-20.

⁷³⁰ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, p 1.

⁷³¹ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, p 1; TRN00000026, Evidence of Jacqueline Bogden, pp 32-33; TRN00000031, Evidence of the Prime Minister, pp 26-28.

⁷³² SSM.NSC.CAN.00002093_REL.0001, CBSA Enforcement Options, dated February 9, 2022.

⁷³³ *Immigration and Refugee Protection Act*, SC 2001, c 27.

⁷³⁴ TRN00000024, Evidence of John Ossowski, pp 97-99; WTS.00000046, Interview Summary – CBSA, p 12.

to the latter, changes to the program likely would not be expeditious enough to address the convoy emergency.⁷³⁵

378. An idea to consider whether a “designated international trade corridor” could provide law enforcement with the necessary tools to ensure the safe flow of goods and conveyances was not viable because trade corridors to and from ports-of-entry do not fall within federal jurisdiction, unless defined as critical infrastructure within a legislative instrument.⁷³⁶
379. Another option in the enforcement tools considered by Transport Canada was to consider how to make the consequences of their illegal conduct better known to protesters, and how to encourage law enforcement and provinces to exercise their full authorities.⁷³⁷ Transport Canada identified that it had no legislative or regulatory levers that it could directly apply in the context of the convoy emergency.⁷³⁸
380. During the hearing, there was a suggestion that Transport Canada could have used the *International Bridges and Tunnels Act*⁷³⁹ to clear some blockades, but chose not to. To the contrary, Transport Canada was aware that this legislation gives certain authorities to the Minister of Transport in the event of an immediate threat to the security or safety of any international bridge or tunnel, but this power is limited to the structures themselves. It provides no authorities to address safety or security threats on municipal roads leading to international bridges and tunnels, or to resolve the obstruction of traffic on those roads.⁷⁴⁰
381. However, Transport Canada also recognized that the *Criminal Code* and provincial legislative authorities existed that could be used to assist police or serve as best practices. For example, enforcement through provincial highway traffic legislation could impact motor carrier profiles and affect license and insurance eligibility, thereby providing a needed incentive to comply with the law. Transport Canada developed the Strategic Enforcement Strategy, which recommended a national coordinated strategy for all three levels of government to use all available tools to deal with the escalating national situation.⁷⁴¹ The strategy also called for clearly communicating to convoy and blockade participants when their actions were illegal, and the consequences of those actions.⁷⁴² It hoped to leverage Transport Canada’s expertise in compliance promotion to offer methods of reducing the sheer scale of unlawful activities

⁷³⁵ TRN00000024, Evidence of John Ossowski, pp 39-40.

⁷³⁶ TRN00000024, Evidence of John Ossowski, p 40; SSM.CAN.00000374_REL.0001, Trade Corridor Email, dated February 10, 2022; TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 141-142.

⁷³⁷ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, pp 1-2; TRN00000026, Evidence of Jacqueline Bogden, p 34.

⁷³⁸ DOJ.IR.00000005, Institutional Report – Transport Canada, p 11.

⁷³⁹ *International Bridges and Tunnels Act*, SC 2007, c 1.

⁷⁴⁰ DOJ.IR.00000005, Institutional Report – Transport Canada, p 4; TRN00000024, Evidence of Michael Keenan, pp 175-176; SSM.CAN.00000374_REL.0001, Email from Michael Keenan, Trade Corridor, dated February 10, 2022.

⁷⁴¹ WTS.00000066, Interview Summary – Public Safety Canada, pp 18-19; PB.CAN.00000860, Strategic Enforcement Strategy, dated February 13, 2022; DOJ.IR.00000005, Institutional Report – Transport Canada, pp 11-12.

⁷⁴² WTS.00000066, Interview Summary – Public Safety Canada, pp 18-19.

the police were dealing with, and to deter those who to this point were ignoring fines or other measures.⁷⁴³

382. Canada consulted extensively with its provincial partners on this strategy from February 4 to 13, some of whom were more receptive than others.⁷⁴⁴ Particularly in the initial consultations, many jurisdictions indicated that they viewed the response to the blockades and demonstrations to be primarily a policing matter.⁷⁴⁵ The federal government's view on the other hand was that this was an unprecedented national problem and focusing on police resources alone was insufficient. As noted by the DM of Transport Michael Keenan:

I would say this, that there was a national [problem]... Ottawa was a really big part of the problem, but it was a national problem and there was a national scale of blockades and occupations and unlawful behaviour that was going to require a coordinated – it was unprecedented, was eclipsing the capacity of police, clearly in Ottawa, but not just in Ottawa, and was going to require a coordinated strategic approach to overcome.⁷⁴⁶

383. Transport Canada also developed a Tow Truck Strategy in response to the fact that a number of governments and police authorities had identified the lack of heavy tow truck willing to assist as an issue affecting the prompt resolution of the blockades and protests.⁷⁴⁷ In many locations, the tow truck industry was declining to provide service to police.⁷⁴⁸ This was particularly true of the types of tow vehicles with the mechanical capacity and driver skill to remove the large commercial vehicles involved.⁷⁴⁹ Tow truck companies were not assisting with towing large rigs because they were concerned about their vehicles, their safety, and impacts on their business. In Ottawa, although OC Transpo had two heavy tow trucks, the drivers were reluctant to be involved and felt it was not safe to try to tow big rigs as the area was not secure.⁷⁵⁰
384. Transport Canada also considered the possibility of driving vehicles away if tow trucks could not be obtained, but that raised the issue of finding suitable operators and some protesters were taking deliberate steps to disable their vehicles so they could not be driven away.⁷⁵¹

⁷⁴³ TRN00000024, Evidence of Michael Keenan, pp 123-126.

⁷⁴⁴ TRN00000024, Evidence of Michael Keenan, pp 131-139; SSM.CAN.00000363_REL.0001, DM – FPT Discussions, dated February 7, 2022; PB.CAN.00000820_REL.0001, Email from Jimmy Brackenridge, Ottawa Protest, dated February 9, 2022; PB.CAN.00000821_REL.0001, Letter to DM Keenan (TC) from DM LeBlanc (ON MTO), dated February 8, 2022; DOJ.IR.00000005, Institutional Report – Transport Canada, at pp 12, 16-17.

⁷⁴⁵ DOJ.IR.00000005, Institutional Report – Transport Canada, p 16.

⁷⁴⁶ TRN00000024, Evidence of Michael Keenan, pp 249, 266-267.

⁷⁴⁷ TRN00000024, Evidence of Michael Keenan, pp 126-128; PB.CAN.00000866_REL.0001, Tow Truck/Vehicle Removal Strategy Working Draft, dated February 13, 2022.

⁷⁴⁸ TRN00000024, Evidence of Michael Keenan, p 126; DOJ.IR.00000005, Institutional Report – Transport Canada, p 13.

⁷⁴⁹ TRN00000024, Evidence of Michael Keenan, p 127.

⁷⁵⁰ TRN00000003, Evidence of Steve Kanellakos, pp 33-34, 36-37; TRN00000004, Evidence of Jim Watson, p 197; TRN00000004, Evidence of Kim Ayotte, p 258.

⁷⁵¹ TRN00000024, Evidence of Michael Keenan, p 275.

385. The Tow Truck Strategy was an options analysis document that examined the feasibility of a wide range of escalating potential options for the federal government to support the removal of vehicles from blockades. Possible strategies considered included for the federal government to contract tow services, provide trained personnel or provide support for vehicle storage.⁷⁵² Transport Canada did not consider purchasing tow trucks to resolve the protests because they were aware that Alberta ran into problems finding skilled tow truck operators after purchasing tow trucks.⁷⁵³ Over the course of approximately 9 days, the Tow Truck Strategy was consulted on with a number of provincial partners.⁷⁵⁴ By the final iteration of the strategy on February 13, it had been determined that this would not be a viable solution to the crisis.⁷⁵⁵

b. Engagement

386. The document that came to be known as the “Engagement Proposal” was first conceived on February 9 as a potential Track 1 option.⁷⁵⁶ However, the wider “engagement” category within Track 1 encompassed much more than the Engagement Proposal. It included ministerial engagement through the tripartite table and with municipal leaders in Windsor, and included government engagement with industry and with US Government counterparts.⁷⁵⁷
387. With respect to the participants in the Freedom Convoy, the federal government considered whether to engage with the organizers and tried to define what this might look like.⁷⁵⁸ The initial view was that the City of Ottawa should manage any engagement with participants, but that any attempt at engagement would likely be stifled by a lack of cohesion within the Freedom Convoy leadership, and what the outcome of any engagement might look like.⁷⁵⁹
388. However, by February 9, DM Stewart had revived the notion of engagement with Freedom Convoy participants through the Track 1 option process. In part, DM Stewart stated that the perception of “engagement” had shifted within the federal government from one of negotiated resolution to a stepping-stone and de-escalation process prior to inevitable police enforcement.⁷⁶⁰ To move the idea forward, DM Stewart met with OPP Inspector Marcel Beaudin of the OPP to discuss the principles and goals of police liaison work.⁷⁶¹
389. Through Insp. Beaudin, DM Stewart came to understand that the philosophy underpinning police liaison work presupposes that the majority of protesters have a weak connection to the

⁷⁵² DOJ.IR.00000005, Institutional Report – Transport Canada, pp 13-14.

⁷⁵³ TRN00000024, Evidence of Michael Keenan, p 194.

⁷⁵⁴ TRN00000024, Evidence of Michael Keenan, pp 129, 252-253; SSM.NSC.CAN.00000741_REL.0001, Email from Kevin Brosseau, PS-IRG table inputs, dated February 12, 2022.

⁷⁵⁵ TRN00000024, Evidence of Michael Keenan, pp 129-130, 236-237.

⁷⁵⁶ SSM.CAN.00008758_REL.0001, Elements of Response to Unlawful Protests, p 2.

⁷⁵⁷ SSM.CAN.00008758_REL.0001, Elements of Response to Unlawful Protests, p 2.

⁷⁵⁸ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, p 4; TRN00000026, Evidence of Jacqueline Bogden, pp 36-37.

⁷⁵⁹ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, p 4; TRN00000022, Evidence of Robert Stewart, p 83.

⁷⁶⁰ TRN00000022, Evidence of Robert Stewart, p 84.

⁷⁶¹ OPP00000143, Email from Robert Stewart, Urgent Consultation, dated February 10, 2022.

cause and simply wish to feel that they have been heard. On this basis, DM Stewart created a draft Engagement Proposal with the aim to engage protesters to a threshold sufficient to convince the majority to leave, thereby decreasing the public safety risk of any future police enforcement action.⁷⁶²

390. DM Stewart wrote the draft Engagement Proposal, and Insp. Beaudin reviewed and edited it in conjunction with input from both Commissioner Carrique and Commissioner Lucki. DM Stewart disseminated the Engagement Proposal to Minister Mendicino and officials at PCO. The Clerk of the Privy Council approved the Engagement Proposal for discussion at the February 12 IRG meeting.⁷⁶³ Ultimately, the Engagement Proposal did not advance beyond the February 12 IRG due to questions regarding the identity of the main leaders or organizers of the Freedom Convoy, and whether negotiations could ever succeed in disbanding the occupation.⁷⁶⁴ The Engagement Proposal was rejected because it was unworkable.
391. Outside of the federal government, others were also considering engagement strategies. WPS's experience with negotiation with participants in the Ambassador Bridge blockade is recounted earlier in these submissions. In Ottawa, the evidence had been that within the OPS, OPS PLTs experienced difficulties engaging with protesters, particularly at Coventry Road, an overflow parking area that had turned into an encampment.⁷⁶⁵ When discussions with the PLT broke down, the City of Ottawa made efforts between February 8 and 14 to negotiate to have trucks removed from residential areas.⁷⁶⁶
392. These discussions ultimately resulted in the removal of an estimated 40 heavy trucks and a number of light trucks and vehicles from residential areas to Wellington Street,⁷⁶⁷ but had limited, if any, beneficial impact on the resolution of the overall occupation, or on resolving what was occurring across the country. It was never certain the City's efforts would succeed given the lack of unity and alignment among participants in the Freedom Convoy. This was illustrated by the fact that some organisers immediately disavowed the deal,⁷⁶⁸ and by the protest negotiators' admission that they did not control the Coventry encampment or more aggressive groups like the Farfadaas.⁷⁶⁹ It was also never intended to be a long-term solution, but a way to give residents some temporary relief.⁷⁷⁰

⁷⁶² TRN00000022, Evidence of Robert Stewart, pp 84-85.

⁷⁶³ TRN00000026, Evidence of Janice Charette, p 275; SSM.CAN.NSC.00002859_REL.0001, Email from Janice Charette, Engagement Proposal, dated February 11, 2022.

⁷⁶⁴ WTS.00000066, Interview Summary – Public Safety Canada, pp 14-15; TRN00000026, Evidence of Jeffery Hutchinson, pp 46-49; SSM.CAN.00008759_REL.0001, Email from Robert Stewart, Engagement, dated February 10, 2022; TRN00000028, Evidence of Minister Mendicino, p 110.

⁷⁶⁵ TRN00000003, Evidence of Steve Kanellakos, pp 28-29.

⁷⁶⁶ TRN00000003, Evidence of Steve Kanellakos, pp 73-95; WTS.00000001, Interview Summary – Steve Kanellakos, pp 7-8; OTT00006991.0001, Letter from Mayor Jim Watson to Tamara Lich, dated February 12, 2022.

⁷⁶⁷ TRN00000003, Evidence of Steve Kanellakos, pp 92-93; WTS.00000001, Interview Summary – Steve Kanellakos, p 8.

⁷⁶⁸ COM00000881, Multimedia Video, referenced in TRN00000015, Evidence of Patrick King, pp 232-233; TRN00000016, Evidence of Tamara Lich, pp 342-344.

⁷⁶⁹ TRN00000003, Evidence of Steve Kanellakos, pp 174-175; WTS.00000050, Interview Summary – Robert Drummond, p 7.

⁷⁷⁰ TRN00000003, Evidence of Steve Kanellakos, pp 174-175.

393. Ultimately, the preponderance of the evidence before the Commission was that negotiation with participants in the Freedom Convoy, or related demonstrations and blockades, was unlikely to meet with any success given impossible objectives on their part⁷⁷¹ and the fractured nature of the leadership associated with various demonstrations and blockades.⁷⁷² It was also important to consider whether negotiating with those who intended to be obeyed, as opposed to heard, would only embolden them.⁷⁷³

c. Financial levers

394. Following media reports that the Freedom Convoy organizers had raised millions of dollars using crowdfunding platforms, and later reports on foreign sources of funding,⁷⁷⁴ the Department of Finance began to explore the use of financial levers to protect the integrity of the financial sector and limit the ability of organizers to rely on crowdfunding to continue the unlawful protests.⁷⁷⁵

395. The Department of Finance undertook an examination of existing authorities to prevent the misuse of Canada's financial system to fund illegal activities.⁷⁷⁶ The Department considered authorities under the *Bank Act*⁷⁷⁷ and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("*PCMLTFA*"),⁷⁷⁸ which governs the Financial Transactions and Reports Analysis Centre of Canada ("*FINTRAC*").⁷⁷⁹ The Department of Finance ultimately concluded that the tools under existing statutory provisions were limited.⁷⁸⁰

396. The crowdfunding of the Freedom Convoy highlighted the dangers of crowdfunding platforms and payment services providers, which were not reporting entities under *PCMLTFA* and could be used to finance illegal protests.⁷⁸¹ The gap in the *PCMLTFA* framework meant that *FINTRAC* would not receive financial transaction reports related to money laundering or terrorist financing from these platforms and providers.⁷⁸² The Department of Finance had been aware of these risks, but the Freedom Convoy exposed the need for action.⁷⁸³ The

⁷⁷¹ For example, some individuals and groups were seeking an end to all federal COVID-19 mandates and the removal of the current government, see OPP00003427, OPP Intelligence Bulletin, dated February 14, 2022, p 38.

⁷⁷² WTS.00000029, Interview Summary – Steve Bell, p 6; SSM.NSC.CAN.00000242_REL.0001, NSIA Remarks – Full Cabinet, dated February 13, 2022, p 1.

⁷⁷³ TRN00000031, Evidence of the Prime Minister, pp 75-76.

⁷⁷⁴ PB.CAN.00001755_REL.0001, CBC Article "Convoy protest received hundreds of donations that appear to be from abroad", dated February 10, 2022; PB.CAN.00001756_REL.0001, CBC Article "Hacked convoy data shows more than half of donations came from U.S.", dated February 14, 2022.

⁷⁷⁵ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, pp 6-8.

⁷⁷⁶ PB.NSC.CAN.00002419_REL.0001, Mandate protests – considerations, dated February 9, 2022, pp 6-8.

⁷⁷⁷ *Bank Act*, SC 1991, c 46.

⁷⁷⁸ *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17 (*PCMLTFA*).

⁷⁷⁹ TRN00000025, Evidence of Michael Sabia and Isabelle Jacques, p 45; DOJ.IR.00000003, Institutional Report – Department of Finance, p 7.

⁷⁸⁰ DOJ.IR.00000003, Institutional Report – Department of Finance, p 7; SSM.CAN.00000002_REL.0001, Consolidated Q&A – EEMO, p 3.

⁷⁸¹ TRN00000025, Evidence of Michael Sabia, p 46; SSM.CAN.00000002_REL.0001, Consolidated Q&A – EEMO, p 3.

⁷⁸² TRN00000025, Evidence of Michael Sabia, p 111.

⁷⁸³ WTS.00000078, Interview Summary – The Deputy Prime Minister, p 8.

Department of Finance therefore examined options for expanding the *PCMLTFA* framework to cover crowdfunding platforms and payment services providers.⁷⁸⁴

397. The Department of Finance also considered potential amendments to the *Bank Act* to permit the freezing of accounts used to fund illegal activity. However, amendments to the *Bank Act* would only apply to federally regulated banks and would not include provincially regulated financial services providers.⁷⁸⁵ Amending the *Bank Act* would also be a lengthy process, which did not address the need to act swiftly.⁷⁸⁶
398. Financial services providers, private citizens, and the Province of Ontario had attempted to address the funding of the illegal blockades. While these efforts assisted in mitigating the problem, none of them was an adequate solution to the problem:
- **GoFundMe:** To some degree, the private sector was able to respond to the problem of their services being used to fund illegal activity. On February 4, 2022, GoFundMe cancelled the Freedom Convoy campaign and announced that it would be refunding all donations.⁷⁸⁷ This decision was met with significant media attention and public criticism of GoFundMe from Freedom Convoy supporters.⁷⁸⁸ Freedom Convoy organizers responded by shifting their fundraising efforts to a different crowdfunding platform, GiveSendGo.⁷⁸⁹
 - **TD Bank:** On February 10, TD Bank (“TD”) froze two personal accounts associated with the blockades, including \$1 million that GoFundMe had transferred to Ms. Lich prior to the cancellation of its campaign (TD later commenced an interpleader court application to determine ownership of these funds).⁷⁹⁰ TD’s decision was met with public criticism, including Fox News urging its viewers not to do business with TD.⁷⁹¹ The Chief Executive Officer (“CEO”) of TD expressed concern regarding the reputational impact of this action at a meeting between the Deputy Prime Minister and the CEOs of the six largest Canadian banks.⁷⁹² The risk of negative publicity in the US was a particular concern for Canadian banks, which have a large presence in that market.⁷⁹³ While TD’s actions were helpful in freezing the flow of funds for illicit activity, the public reaction demonstrated the danger in relying on voluntary action by financial services providers.

⁷⁸⁴ TRN00000025, Evidence of Michael Sabia, pp 80-81.

⁷⁸⁵ TRN00000025, Evidence of Michael Sabia, p 46; DOJ.IR.00000003, Institutional Report – Department of Finance, p 7; SSM.CAN.00003761_REL.0001, Department of Finance Options Note, dated February 8, 2022; SSM.CAN.00003764_REL.0001, Department of Finance Briefing Note, dated February 9.

⁷⁸⁶ TRN00000025, Evidence of Michael Sabia and Isabelle Jacques, pp 47, 94, 122; WTS.00000059, Interview Summary – Department of Finance, p 7.

⁷⁸⁷ COM.OR.00000005, Overview Report: Protester Fundraising, p 31.

⁷⁸⁸ PB.CAN.00001797_REL.0001, Multimedia Video, referenced at TRN00000025, Evidence of Isabelle Jacques, p 167.

⁷⁸⁹ COM.OR.00000005, Overview Report: Protester Fundraising, pp 19-39.

⁷⁹⁰ COM.OR.00000005, Overview Report: Protester Fundraising p 34.

⁷⁹¹ TRN00000030, Evidence of the Deputy Prime Minister, pp 156-157.

⁷⁹² SSM.CAN.00008766_REL.0001, Read-out of call with Bank CEOs, dated February 13, 2022, p 1.

⁷⁹³ TRN00000030, Evidence of the Deputy Prime Minister, pp 35, 157.

- **Ontario Restraint Order:** On February 10, the Attorney General of Ontario sought and obtained a restraint order under s. 490.8 of the *Criminal Code* freezing assets associated with the GiveSendGo campaigns.⁷⁹⁴ Under s. 490.8, it is generally only provincial attorneys general who are authorized to seek such relief (the Attorney General of Canada may only seek such relief in respect of certain specific criminal offences which were not relevant to the Freedom Convoy). The Ontario restraint order was an important measure in limiting funding of the illegal blockades. However, it was not a complete solution to the problem. The order applied only to the funds raised from one particular crowdfunding platform. The Department of Finance was concerned that the organizers would shift to new fundraising techniques, including reliance on cryptocurrency, which would be harder to target with court orders.⁷⁹⁵ Furthermore, as one of the bank CEOs pointed out on a February 13 call with the Deputy Prime Minister, even a delay of four hours while seeking a court order had permitted hundreds of thousands of dollars in funds for the blockades to move through one of their accounts.⁷⁹⁶
- **Mareva Order:** On February 17, 2022, Zexi Li, the representative plaintiff in a class action against the Freedom Convoy organizers, sought and obtained a *Mareva* order freezing the assets of the defendants. A *Mareva* order is a private law remedy that would not have been available to the federal government. In any case, it is not an appropriate tool to achieve the objective of preventing the funding of illegal activity. As MacLeod R.S.J. noted in his reasons for granting the *Mareva* order, the purpose of such an order is “to preserve an asset to which the plaintiff (or the plaintiff class) may have a claim rather than to interdict the flow of funds which is the rationale behind a restraint order granted earlier this month or the new emergency regulations brought in by the Government of Canada”.⁷⁹⁷

VI. The third weekend of the convoy emergency: February 12 to February 14, 2022

a. The volatility of the occupation reaches a peak

399. Heading into the third weekend, the federal government observed the deepening entrenchment of the situation in Ottawa, and a growing pattern of activity and disruptions nationally, including in Windsor, Sarnia, Fort Erie, Toronto, Winnipeg, Emerson, Regina, Regway, Coutts, Edmonton, Fredericton, Halifax, Vancouver, and Montreal.⁷⁹⁸
400. Witnesses have testified that in Ottawa the level of unlawful behaviour was high and there were real concerns of significant violence. Interim Chief Bell described the situation on the third

⁷⁹⁴ COM.OR.00000005, Overview Report: Protester Fundraising, p 39.

⁷⁹⁵ TRN00000025, Evidence of Isabelle Jacques, p 166.

⁷⁹⁶ SSM.CAN.00008766_REL.0001, Read-out of call with Bank CEOs, dated February 13, 2022.

⁷⁹⁷ *Li et al. v Barber et al.*, 2022 ONSC 1176, para 27.

⁷⁹⁸ TRN00000024, Evidence of Michael Keenan, p 273; SSM.CAN.NSC.00002872_REL.0001, GOC Protest Update, dated February 12, 2022.

weekend as “exceptionally volatile”, and “you could see it escalate almost on an hour-by-hour basis”.⁷⁹⁹

401. At the February 12 IRG meeting, ministers and officials were informed that multiple POEs were experiencing blockades, that children were being brought to sites such as the Ambassador Bridge to prevent police enforcement action, that IMVE extremists may be present within groups, and that concerns remained about the risk of lone wolf activities. The NSIA reported that the situation in Windsor remained fluid, with law enforcement having begun to take action, and that officials in Ottawa were seeing a significant escalation in the boldness of protesters.⁸⁰⁰ Commissioner Lucki reported that the situation was evolving “by the hour”.⁸⁰¹

402. The Clerk of the Privy Council described the volatility that marked the national picture on February 13 as they went into the IRG meeting of that date:

We were at the end of the third weekend. Ottawa was still a significant site of what I think was generally considered at that point to be an illegal protest. There – make no mistake, there were people who were there for a lawful protest, but at that point, the totality of the situation in Ottawa was an illegal protest, an illegal blockade. And what was going on in Windsor. And we saw the size of the effort that was required to bring Windsor under control and the duration of the effort. That took days to de-escalate and to eliminate – to get to a point where that situation was settled and the port of entry was able to open, but we didn’t know how long it was going to be sustained. So all to say, it was a serious set of circumstances. Other ports of entry were kind of on and off. The situation was quite volatile.⁸⁰²

403. There were serious concerns about how the convoy emergency could evolve or expand further. For example, having experienced significant rail blockades in 2020, Transport Canada was worried that the next blockade would be a rail one, dramatically escalating the economic harm to the country.⁸⁰³

404. At the February 13 IRG meeting, Director Vigneault advised the Prime Minister that in his opinion, based on understanding the differences in the *EA* as opposed to the *CSIS Act*, and based on his opinion of everything he had seen to that point, it was necessary to invoke the *EA*.⁸⁰⁴

⁷⁹⁹ TRN00000008, Evidence of Steve Bell, p 122.

⁸⁰⁰ TRN00000025, Evidence of Jody Thomas, pp 199-200.

⁸⁰¹ SSM.NSC.CAN.00000214_REL.0001, IRG Minutes, dated February 12, 2022, p 6.

⁸⁰² TRN00000026, Evidence of Janice Charette, p 146; TRN00000031, Evidence of the Prime Minister, pp 45-47.

⁸⁰³ TRN00000024, Evidence of Michael Keenan, p 274.

⁸⁰⁴ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, pp 8-9; TRN00000027, Evidence of David Vigneault, p 59.

405. The volatility of the protests was taking place against the background of increasing economic harms that were threatening the national interest, risking Canada's international reputation, harming Canada's economic security and greatly impacting Canadian people and their personal and economic security.⁸⁰⁵ The government was also observing a different and more insidious impact on the Canadian people: that of public unrest that causes citizens to think about taking matters into their own hands.⁸⁰⁶
406. Officials considered, and ministers were aware, that some existing tools and authorities had not yet been fully deployed in some places.⁸⁰⁷ During the hearing the question was asked whether the IRG was informed that an operational plan had been approved for integrated policing in Ottawa. At the February 12 IRG meeting, ministers were informed that a plan developed by the IPC had been accepted by then Chief Sloly,⁸⁰⁸ and at the February 13 Cabinet meeting ministers heard that there was a potential for a breakthrough in Ottawa.⁸⁰⁹ At the February 13 IRG meeting, ministers were also informed that great progress had been made in clearing and securing the Ambassador Bridge, but that there was no definitive timeline for reopening.⁸¹⁰ However, these were individual sites in a complex national situation; it would be a mistake to consider them in isolation.
407. On the evening of February 13, a meeting of full Cabinet was convened to discuss the potential use of the *EA*.⁸¹¹ Among other things, Cabinet received information about the serious situation facing the country, including that multiple POEs continued to experience blockages despite successful law enforcement in Windsor. The Commission heard evidence about the concerns around continuing to be able to hold Windsor.⁸¹² Cabinet heard about the continuing role that social media played in organizing protesters and that CSIS continued to watch persons of interest.⁸¹³
408. Everyone was cognizant of the volatile atmosphere, and gave serious and responsible consideration to the possibility that invoking the *EA* might inflame protesters.⁸¹⁴ CSIS had assessed that it was possible that a small number of individuals could use a decision to invoke to engage in serious violence.⁸¹⁵ Officials and ministers grappled with these issues, to

⁸⁰⁵ TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 198-203.

⁸⁰⁶ TRN00000026, Evidence of Janice Charette, p 203; TRN00000026, Evidence of Nathalie Drouin, p 209.

⁸⁰⁷ TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 156-157.

⁸⁰⁸ SSM.NSC.CAN.00000216_REL.0001, IRG Minutes, dated February 12, 2022.

⁸⁰⁹ SSM.NSC.CAN.00000216_REL.0001, Cabinet Minutes, dated February 13, 2022, p 8; TRN00000025, Evidence of Jody Thomas, p 255.

⁸¹⁰ SSM.CAN.00000095_REL.0001, IRG Minutes, dated February 13, 2022, p 5.

⁸¹¹ TRN00000026, Evidence of Janice Charette, p 147; SSM.NSC.CAN.00000216_REL.0001, Cabinet Minutes, dated February 13, 2022.

⁸¹² TRN00000026, Evidence of Jeffery Hutchinson, p 76; TRN00000026, Evidence of Jacqueline Bogden, pp 61-62.

⁸¹³ SSM.NSC.CAN.00000216_REL.0001, Cabinet Minutes, dated February 13, 2022, p 8.

⁸¹⁴ TRN00000024, Evidence of Michael Keenan, pp 179-180.

⁸¹⁵ SSM.NSC.CAN.00000216_REL.0001, Cabinet Minutes, dated February 13, 2022, p 12; TRN00000026, Evidence of Janice Charette, p 159; TRN00000028, Evidence of Minister LeBlanc, pp 337-338.

understand to the extent possible what the unintended consequences may be.⁸¹⁶ Cabinet received and fully considered CSIS' threat assessment of the potential implications of invoking the *EA*.⁸¹⁷

409. Coming out of the February 13 Cabinet meeting, the decision was made to convene a meeting with all premiers to formally consult on the invocation of the *EA*, to brief them on the situation, and to consider any other measures that may be necessary to deal with the situation facing the country.⁸¹⁸ This consultation was required pursuant to section 25 of the *EA*.
410. No final decision on invoking the *EA* was made at the Cabinet meeting.⁸¹⁹

b. The First Ministers Meeting

411. On February 14, the Prime Minister convened the First Ministers Meeting ("FMM").⁸²⁰ FMMs are convened and chaired by the Prime Minister. They are a forum where issues of national importance can be discussed openly and frankly by Canada's most senior leaders.⁸²¹
412. The FMM was organized late over the previous evening.⁸²² During the hearing, some parties attempted to contrast the speed at which this FMM was convened with past experiences with FMMs in other contexts and, particularly, those that considered whether the COVID-19 pandemic rose to the level of a national emergency for the purposes of the *EA*. The Prime Minister explained that FMMs are context-driven in every case, but that the *EA* specifically contemplates that the needs and statutory requirements relevant to public order emergencies and public welfare emergencies are different.⁸²³
413. In part to be cautious about inflaming reactions and avoid an early leak that the invocation of the *EA* was under serious consideration, PCO did not formally advise the premiers of the purpose for the FMM.⁸²⁴ However, no premier appeared to be surprised to learn that the purpose was to formally consult on the invocation of the *EA*.⁸²⁵ It would not be surprising to this group of individuals that the use of this statute would be under consideration.
414. The FMM commenced at 10:15a.m. EST. All premiers attended and participated in the FMM.⁸²⁶ The Prime Minister explained why the declaration of a public order emergency might be

⁸¹⁶ TRN00000024, Evidence of Michael Keenan, pp 179-180; SSM.CAN.00000399_REL.0001, DMOC Read-Out, dated February 13, 2022.

⁸¹⁷ SSM.NSC.CAN.00000216_REL.0001, DMOC read-out, dated February 13, 2022, p 12.

⁸¹⁸ TRN00000026, Evidence of Janice Charette, p 231.

⁸¹⁹ TRN00000028, Evidence of Minister LeBlanc, pp 285-287.

⁸²⁰ SSM_CAN.00002357_REL.0001, First Ministers' Meeting – Key Messages, dated February 14, 2022.

⁸²¹ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 19.

⁸²² DOJ.IR.00000013, Institutional Report – Privy Council Office, pp 19-20; MAN00000048, Email from Michael Vandergrift to Premiers convening urgent First Ministers' Call, dated February 14, 2022.

⁸²³ TRN00000031, Evidence of the Prime Minister, pp 172-173.

⁸²⁴ TRN00000026, Evidence of Nathalie Drouin, pp 161, 299-301; TRN00000027, Evidence of Minister Blair, pp 302-303; TRN00000028, Evidence of Minister LeBlanc pp 260-262.

⁸²⁵ TRN00000028, Evidence of Minister LeBlanc, p 284.

⁸²⁶ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers' Call – Emergencies Act, dated February 14, 2022.

necessary. He emphasized that each jurisdiction had to look at all possible measures to respond in the national interest, as well as to deter future events. The Prime Minister stressed the need to be proportional in the response, recognizing the risk of appearing to overreach and inflaming the very complaints about freedom that some were protesting. He also stressed that any use of the *EA* would supplement provincial and territorial measures with additional federal authorities to give law enforcement maximum leverage to be able to uphold the rule of law.⁸²⁷ The Prime Minister emphasized that a final decision had not yet been made, and that the discussion amongst premiers would inform Canada's decision.⁸²⁸

415. Minister Lametti outlined potential measures the Government of Canada was contemplating taking under the *EA* to respond to the urgent and unprecedented situation. He highlighted the procedural safeguards in place, and that the *EA* was meant to be used as a last resort. The Minister of Intergovernmental Affairs Dominic LeBlanc spoke briefly about ongoing collaboration with provincial and municipal governments. The Prime Minister asked what measures could be supplemented through the *EA*.⁸²⁹
416. These options and proposed measures were developed over a period of approximately three days of around-the-clock work by the public service. Consultation on the potential use of the *EA* before there were proposed measures to discuss would have served little purpose.⁸³⁰ However, consultation and information sharing about the situation facing the country had been taking place with ministers and officials at all levels of government throughout the events. These discussions had informed the consideration of the use of the *EA*, as well as the specific measures under consideration.
417. At the FMM, each premier was given the opportunity to provide their perspective on the situation – both nationally and within their respective jurisdictions – and on whether a declaration of a public order emergency should be issued. The premiers did not all agree on next steps, nor was there any requirement that they do so.⁸³¹ During the meeting, premiers expressed a variety of views.⁸³²
418. Many of the premiers and territorial leaders were supportive of invoking the *EA* and moving forward with robust measures, describing the measures as necessary to resolve the current

⁸²⁷ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 20; SSM.CAN.00002357_REL.0004, First Ministers' Meeting – Key Messages, dated February 14, 2022, p 3; ONT.IR.00000001, Institutional Report – Ontario, p 4.

⁸²⁸ SAS00000120.0001, Notes of Trevor Holloway taken during the February 14th First Ministers call with the Prime Minister, dated February 14, 2022, p 1; TRN00000028, Evidence of Minister LeBlanc, p 266; TRN00000031, Evidence of the Prime Minister, p 62.

⁸²⁹ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 20; SSM_CAN.00002357_REL.0001, First Ministers' Meeting – Key Messages, dated February 14, 2022; SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers' Call – Emergencies Act, dated February 14, 2022.

⁸³⁰ TRN00000031, Evidence of the Prime Minister, pp 121-122.

⁸³¹ TRN00000026, Evidence of Janice Charette, pp 240-241.

⁸³² TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 176-177; TRN00000028, Evidence of Minister LeBlanc, pp 268-269.

situation.⁸³³ Premier Cochrane of the Northwest Territories expressed his support of the *EA*, noting that he was comforted that invoking the *EA* did not involve the armed forces, and that he was concerned about potential blockades at the Alberta-Northwest Territories border. Premier Akeagok of Nunuvut expressed a similar concern about the risk that his territory would be cut off from critical food and medical supplies in the event that airports became blockaded (which was a threat at the time). Premier Horgan of British Columbia expressed his support and indicated that the measures outlined by the federal government on the call were measured and practical. Premier Ford of Ontario indicated that he supported the Prime Minister “100%” in invoking the *EA*, noting that the situation on the Ambassador Bridge and Ottawa was “anarchy”. He also informed the Prime Minister that the province of Ontario still did not have access to tow trucks. The Prime Minister indicated that the proposed measure for compelling essential services was designed to address that stated need. Premier Furey of Newfoundland likewise indicated that he supported invocation “100%”, noting that as an island, his province’s supply chains were vulnerable.⁸³⁴

419. A few of the Premiers expressed concerns about the potential for inflaming the sentiment underlying the protests.⁸³⁵ For example, Premier Kenney of Alberta indicated that the people at the core of the convoy movement were “not rational” and “prone to conspiracy theories” and that they may view invocation of the *EA* as martial law [even if it was not]. Similarly, Premier Moe of Saskatchewan indicated that even though the six potential measures sounded reasonable, they would not be perceived that way by all.⁸³⁶
420. At the same time, Premier Kenney described a situation that was already volatile and dangerous. He called the situation at RCMP checkpoints in Alberta a “circus” and warned of a violent cell in Coutts that was “heavily armed” and “prepared to die for their cause”. While he indicated that some arrests had been made overnight, that further enforcement action was expected, and that he believed the situation was secure, the infiltration of the convoys by armed extremists was a worrying sign. Ultimately, Premier Kenney indicated that he did not “quibble” with the proposed use of the *EA*. Likewise, while Premier Houston of Nova Scotia expressed concerns about invocation inflaming the situation, he said that he understood the need to deal with Ottawa. Premier King of Prince Edward Island expressed the view that, in light of the risk of inflaming the situation, the federal government should be very cautious in its messaging to the Canadian people.⁸³⁷ The Prime Minister accepted that advice.

⁸³³ DOJ.IR.00000013, Institutional Report – Privy Council Office, para 95; ONT.IR.00000001, Institutional Report – Ontario, p 16; MAN00000053, Summary of First Minister’s Meeting, dated February 14, 2022; SSM.CAN.NSC.00002885_REL.0001, Email titled FMM, dated February 14, 2022.

⁸³⁴ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

⁸³⁵ SSM.CAN.00000124_REL.00001, Report to the Houses of Parliament: Emergencies Act Consultations, p 6.

⁸³⁶ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

⁸³⁷ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

421. A few Premiers expressed the view that provincial authorities were sufficient to address the situation in their respective jurisdictions.⁸³⁸ Those assessments, however, were focused on discrete situations rather than the full national picture and the growing number of targets under threat. It also had to be balanced against concerns expressed by Premier Horgan of British Columbia that the RCMP in his province was now “fully taxed”, having sent a contingent east to Alberta.⁸³⁹ The national picture, and in particular the fact that law enforcement resources across the country were being stretched thin, was a significant factor that the federal government was required to consider.
422. Premier Légal of Quebec expressed concern about the RCMP supplanting the Sûreté du Québec. In response, the Prime Minister noted that the invocation of the EA would not displace the police of jurisdiction and that its authorities would only be used where needed. He noted that the POE at Lacolle had been threatened and that Ottawa would likely need the cooperation of Gatineau and the Sûreté du Québec to address the crisis in the NCR.⁸⁴⁰
423. Lastly, some of the Premiers suggested that the Prime Minister give the convoy participants a “carrot” by revoking public health measures, rather than invoking the EA. Premier Furey of Newfoundland expressed strong disagreement with that approach. Not only did he point out that this would set a precedent of “placating” “anyone who blocks a road”, but he also expressed a fear that doing so (or doing nothing) would inflame the “silent majority” of Canadians who opposed the convoys and what they were seeing take place across the country.⁸⁴¹ These concerns were consistent with concerns held by the federal government.
424. The Prime Minister testified that it was important to him not to rush, but to ensure that each premier had the time needed to express their views.⁸⁴² The FMM lasted approximately an hour, and the evidence was that it would have gone on for as long as necessary – no time limits were fixed.
425. After the FMM, additional Federal, Provincial, Territorial (“FPT”) consultations took place with a number of provinces. These meetings were opportunities to exchange information and to ensure that federal government continued to receive feedback from provinces and territories on the invocation of the EA. In addition to continued consultation amongst officials, this continued consultation included, for example:

⁸³⁸ DOJ.IR.00000013, Institutional Report – Privy Council Office, p. 20, para 93.

⁸³⁹ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

⁸⁴⁰ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

⁸⁴¹ SSM.NSC.CAN.00000625_REL.0001, Readout of the First Ministers’ Call – Emergencies Act, dated February 14, 2022.

⁸⁴² TRN00000026, Evidence of Nathalie Drouin, p 233; TRN00000028, Evidence of Minister LeBlanc, pp 279-280; TRN00000031, Evidence of the Prime Minister, p 190.

- The Prime Minister wrote a letter to each premier on February 15.⁸⁴³
- The Prime Minister's Office spoke with the Office of the Premier of British Columbia, as Chair of the Council of the Federation, to offer briefings to premiers' offices and to explain the role of provinces and territories under the *EA*.
- Minister LeBlanc communicated with his Quebec counterpart on the *EA* and the intention that it complement provincial measures. He explained that there may be measures that need to apply in Quebec, for example, measures that regulate activities of financial institutions.
- The Quebec Lieutenant also connected with Quebec's Deputy Premier and Minister of Public Safety and Quebec's Minister of Finance to convey the same message.
- Staff from the Prime Minister's Office engaged with the Office of the Premier of Quebec.
- Minister LeBlanc engaged the Premier Ford and received feedback from the Saskatchewan Premier Scott Moe.
- Minister LeBlanc communicated with Prince Edward Island Premier Dennis King, Nova Scotia Premier Tim Houston, and New Brunswick Premier Blaine Higgs.
- The Prime Minister's Office spoke with the Office of the Premier of Ontario and the Office of the Premier of Newfoundland and Labrador on February 14, 2022 to explain the rationale and implementation of the *EA*.⁸⁴⁴

426. While the FMM was a substantive and meaningful consolation on its own, it was not the only consultation that took place between FPT partners during the convoy emergency. There has been considerable evidence before the Commission about the continuous and extensive FPT engagement throughout the convoy emergency, through which federal officials kept abreast of facts on the ground and explored the limits of existing authorities to deal with the national crisis.⁸⁴⁵ While these engagements were not explicitly in respect of the *EA*, the information shared, discussed, and debated dealt directly with the issues that informed the decision to invoke, and the tailoring of the measures that were ultimately put in place.

427. Canada also engaged Indigenous leaders regarding the blockades.⁸⁴⁶ The consultations and engagements are set out in the Report to the Houses of Parliament: Emergencies Act Consultations, tabled in both Houses of Parliament pursuant to section 58 of the *EA*.⁸⁴⁷

⁸⁴³ SSM.CAN.00000111_REL.0001, Letter to Provincial and Territorial Premiers on Emergencies Act, dated February 15, 2022.

⁸⁴⁴ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 21.

⁸⁴⁵ TRN00000024, Evidence of Michael Keenan, pp 242-253; TRN00000028, Evidence of Minister LeBlanc, pp 279-280; SSM.CAN.00000124_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, dated February 16, 2022.

⁸⁴⁶ SSM.CAN.00000124_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, dated February 16, 2022 p 4.

⁸⁴⁷ SSM.CAN.00000124_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, dated February 16, 2022.

c. The recommendation to declare a public order emergency

428. After the FMM, the Clerk of the Privy Council advised the Prime Minister on the totality of the considerations in relation to the decision to invoke the *EA*.⁸⁴⁸ She highlighted the increasing complexity and expansion of the protests, the organization of the movement, and the impact it was having. The memorandum to the Prime Minister included a detailed synopsis of the threats to the security of Canada giving rise to the national emergency, including the severe risks to public security, economic stability and international relations.⁸⁴⁹ By that time, this included the news of a major enforcement action taking place at Coutts that confirmed the government's concerns about the risks of serious violence associated with the convoy emergency.⁸⁵⁰
429. The Clerk advised that the objective of invoking the legislation would be to take a proportional approach, with time-limited measures that would supplement provincial and territorial authorities to address the current situation, without displacing them or derogating from the provinces' authority to direct their police forces, while respecting the *Charter* at all times.⁸⁵¹
430. The memorandum reviewed measures that had been tried by other jurisdictions with varying degrees of success while requiring inordinate resources, and explained the assistance the RCMP had been making available to police of jurisdiction in various places, in addition to work it was doing in areas where it was the police of jurisdiction through contract policing.⁸⁵² It highlighted the continuing volatility of the national picture.
431. It also included a full consideration of the different views expressed by premiers at the FMM during the formal consultation. It concluded that the threshold for invoking the *EA* was met.⁸⁵³
432. Relying on the advice of the public service and their thorough review of available options, the Prime Minister approved the memorandum.⁸⁵⁴
433. Later that afternoon, he publicly announced that the *EA* would be invoked.⁸⁵⁵

⁸⁴⁸ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 21; SSM.NSC.CAN.00003224_REL.0001, Memorandum – Invoking the Emergencies Act to end Nation-wide Protests and Blockades, dated February 14, 2022; TRN00000026, Evidence of Janice Charette, pp 166-168.

⁸⁴⁹ SSM.NSC.CAN.00003224_REL.0001, Memorandum – Invoking the Emergencies Act to end Nation-wide Protests and Blockades, dated February 14, 2022.

⁸⁵⁰ TRN00000026, Evidence of Janice Charette, pp 181-184.

⁸⁵¹ SSM.NSC.CAN.00003224_REL.0001, Memorandum – Invoking the Emergencies Act to end Nation-wide Protests and Blockades, dated February 14, 2022, p 2.

⁸⁵² SSM.NSC.CAN.00003224_REL.0001, Memorandum – Invoking the Emergencies Act to end Nation-wide Protests and Blockades, dated February 14, 2022, pp 5-7.

⁸⁵³ TRN00000026, Evidence of Janice Charette, pp 162-163; SSM.NSC.CAN.00003224_REL.0001, Memorandum – Invoking the Emergencies Act to end Nation-wide Protests and Blockades, dated February 14, 2022, pp 6-7.

⁸⁵⁴ TRN00000031, Evidence of the Prime Minister, pp 67-69.

⁸⁵⁵ TRN00000026, Evidence of Janice Charette, pp 163-164; TRN00000031, Evidence of the Prime Minister, p 61.

434. The Proclamation Declaring a Public Order Emergency and related measures were published in a special edition of the Canada Gazette on February 15, 2022. The measures were also posted on the PCO website (Orders in Council). That same day, the Prime Minister wrote to each premier, thanking them for the productive consultation they had had at the FMM, and shared the Proclamation with them, explaining the six types of measures taken under it, and confirming that this step was taken not to displace, but to supplement provincial authorities. The Prime Minister advised that consultation and coordination would continue.⁸⁵⁶

VII. Measures imposed as part of the Public Order Emergency Declaration

a. Development of the *EA* measures

435. In addition to the “Track 1” examination of existing authorities, government officials examined potential new powers that could be adopted under the *EA* under “Track 2”.
436. On February 12, 2022, Mike Jones, the Chief of Staff to Minister Mendicino, asked Commissioner Lucki to provide a list of critical infrastructure affected by the blockades and a list of emergency powers that would be useful to law enforcement in responding to the blockades. Commissioner Lucki consulted within the RCMP to develop this list.⁸⁵⁷ Shortly before the Cabinet meeting on February 13, Commissioner Lucki sent the list of potential additional powers to Mike Jones:⁸⁵⁸
- Prohibitions on public assembly on roadways that are expected to lead to a breach of the peace and the capacity to arrest and lay charges;
 - Consideration could also be given to extending the current bubble zone around Healthcare facilities to include other critical infrastructure such as government facilities / Police Detachments;
 - Prohibition on the use of specified property to assist the protest. For example, it could be an offence for individuals to bring gas / diesel fuel to protesters to fuel the trucks;
 - Powers for police to deal with property, including authorities to commandeer heavy equipment (e.g. tow trucks) to remove obstacles (trucks).
 - Cell phone disruption (but more work to be done);
 - [P]rohibit travel to place where prohibited assembly;
 - [N]ot cause person under 18 to participate in assembly.
437. Apart from the cell phone measure, which was not pursued, the other tools put forward by Commissioner Lucki formed the basis for measures included in the *Emergency Measures Regulations* (“*EMR*”).⁸⁵⁹

⁸⁵⁶ DOJ.IR.00000013, Institutional Report – Privy Council Office, p 22; SSM.CAN.00000111_REL.0001, Letter to Provincial and Territorial Premiers on Emergencies Act, dated February 15, 2022.

⁸⁵⁷ TRN00000023, Evidence of Brenda Lucki, pp 68-69.

⁸⁵⁸ SSM.NSC.CAN.00002280_REL.0001, Email from Brenda Lucki to Mike Jones, dated February 13, 2022.

⁸⁵⁹ *Emergency Measures Regulations*, SOR/2022-21 (*EMR*); TRN00000023, Evidence of Brenda Lucki, p 185.

438. Commissioner Lucki's list of tools did not include the elimination of the need to swear in RCMP officers to permit them to enforce provincial offences and municipal by-laws. Public Safety officials identified this as an administrative burden that was creating an unnecessary obstacle to RCMP mobilization.⁸⁶⁰
439. The CBSA identified as a legislative gap that BSOs did not have the authority to deny entry to foreign nationals solely on the basis that they wished to participate in the convoy emergency. For example, if an American citizen trying to enter Canada to participate in the Freedom Convoy met all the admissibility requirements and public health measures, BSOs did not have the authority to deny the person entry.⁸⁶¹
440. As noted above, the Department of Finance had been developing policy options in response to the illegal blockades. The Department of Finance's work on these policy proposals was superseded by policy work on the emergency economic measures (which became the *Emergency Economic Measures Order*, ("EEMO")).⁸⁶² The Department of Finance consulted with Public Safety in developing the measures under the *EEMO*.⁸⁶³

b. Summary of the EA Measures

441. The Governor in Council proclaimed a public order emergency on February 14. The proclamation outlined six types of measures that the Governor in Council anticipated adopting to deal with the emergency, as follows:
- (a) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure;
 - (b) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and the provision of reasonable compensation in respect of services so rendered;
 - (c) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including to regulate or prohibit the use of property to

⁸⁶⁰ WTS.00000066, Interview Summary – Public Safety Canada, pp 12-13.

⁸⁶¹ WTS.00000046, Interview Summary – CBSA, p 12; TRN00000024, Evidence of John Ossowski, pp 97, 99.

⁸⁶² *Emergency Measures Regulations*; DOJ.IR.00000003, Institutional Report – Department of Finance, pp 7-8.

⁸⁶³ TRN00000025, Evidence of Isabelle Jacques, p 159.

fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial services provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade;

(d) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference;

(e) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *EA*; and

(f) other temporary measures authorized under section 19 of the *EA* that are not yet known.

442. The following day, on February 15, the Governor in Council adopted two instruments, the *EMR* and the *EEMO*, both of which took immediate effect. These instruments are summarized below.

c. Summary of the *EMR*

443. The *EMR* created a number of prohibitions against the following conduct:

- Participating in a public assembly that may reasonably be expected to lead to a breach of the peace by:
 - Serious disruption of the movement of persons or goods
 - Serious interference with trade
 - Interference with the functioning of “critical infrastructure”;⁸⁶⁴ or
 - Support of the threat of violence or acts of violence against persons or property. [s 2(1)]
- Causing a person under 18 years old to participate in [s 2(2)], travel to or be within 500 metres of a prohibited public assembly [s 4(2)].
- Entry into Canada by foreign nationals with the intent to participate in or facilitate a prohibited public assembly [s 3(1)].

⁸⁶⁴ Both the *EMR* and O Reg 71/22 (made under the *EMCPA*) define “critical infrastructure” to include airports, international and interprovincial bridges and crossings, hospitals and locations where COVID-19 vaccines are administered, infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications, power generation and transmission facilities, ports and railways. The *EMR* definition also includes Parliament Hill and other government buildings.

- Traveling to or within an area where a prohibited public assembly is taking place [s 4(1)].
- Using, providing, making available, or inviting a person to provide property to or for the purpose of benefitting persons participating in or facilitating a prohibited public assembly [s 5].

444. The *EMR* also contained a number of ancillary measures:

- Designating and securing “protected places” (including Parliament Hill and the Parliamentary Precinct) [s 6].
- Enabling authorities⁸⁶⁵ to require persons to make available and render essential goods and services for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade⁸⁶⁶ [s 7] and for those so required to be compensated [s 9].
- Enabling RCMP, municipal or provincial police services to enforce the *EMR* and provincial or municipal laws without requiring officers to be sworn in [s 10(1)].
- Prescribing fines or imprisonment for failure to comply with the *EMR* [s. 10(2)].

d. Summary of the *EEMO*

445. The *EEMO* contained provisions requiring financial services providers to freeze the accounts (or suspend services) to individuals and entities participating in the illegal blockades. These measures were intended to serve as a “virtual tow truck” by persuading truckers to voluntarily and peacefully leave the blockades and to cut off funding to the blockades.⁸⁶⁷ In particular, financial services providers (including both federally and provincially-regulated entities, such as credit unions, insurers,⁸⁶⁸ trust and loan companies, securities dealers, and investment advisers) were required to cease:

- Dealing with property owned, held or controlled by or on behalf of or at the direction of a “designated person,”⁸⁶⁹ including:

⁸⁶⁵ The Minister of Public Safety and Emergency Preparedness, the RCMP Commissioner or persons acting on their behalf.

⁸⁶⁶ This measure can be contrasted with the equivalent provision in O Reg 71/22 made under the *EMCPA* which authorized tow truck drivers to assist, if requested by a police officer, but did not empower police officers to compel tow truck drivers to provide assistance.

⁸⁶⁷ TRN00000030, Evidence of the Deputy Prime Minister, pp 65-66; DOJ.IR.00000003, Institutional Report – Department of Finance, p 8.

⁸⁶⁸ The prohibition did not apply to any insurance policy that was valid prior to the coming into force of the *EEMO*, other than an insurance policy for a vehicle used in a public assembly that was prohibited under the *EMR*.

⁸⁶⁹ Defined as “any individual or entity (itself defined as a “corporation, trust, partnership, fund, unincorporated association or organization or foreign state”) that is engaged directly or indirectly, in an activity prohibited by sections 2 to 5 of the *EMR*.”

- Facilitating transactions related to those dealings.
- Making available any property for the benefit of a designated person or someone acting on their behalf.
- Providing any financial or related services to or for the benefit of a designated person [s 2].

446. In addition to the duty to cease dealing, the *EEMO* imposed a number of other obligations on financial services providers:

- Directing financial services providers to determine on a continuing basis whether they were in possession or control of property owned, held or controlled by or on behalf of a designated person [s 3].
- Directing crowdfunding platforms and payment service providers to register with FINTRAC if they were in possession or control of property that is owned, held or controlled by or on behalf of a designated person **and** to report suspicious transactions and large cash transactions (among others) to FINTRAC [s 4].
- Requiring financial institutions to disclose to the RCMP (or CSIS, although in practice these disclosures were made only to the RCMP):
 - the existence of property in their possession or control that they had reason to believe is owned, held or controlled by or on behalf of a designated person; and
 - information about transactions or proposed transactions in relation to such property [s 5].

447. The *EEMO* also contained ancillary measures:

- Enabling government (federal, provincial or territorial) institutions to disclose information to entities that are subject to the obligation to freeze accounts (cease dealings) where the disclosing institution was satisfied that the disclosure will contribute to the application of the *EEMO* [s. 6]. In practice, the RCMP provided these disclosures to financial services providers.
- Granting immunity from civil liability or enforcement under the *EA* to entities complying with the *EEMO* [s 7]. Note that unlike the *EMR*, there is no offence-creating provision in the *EEMO* (under the *EA* a contravention of an order or regulation is only an offence if it is so prescribed by the order or regulation).

e. The *EA* measures were necessary and effective

448. Certain police witnesses expressed the view that the Ottawa occupation could have been cleared without the *EMR* and *EEMO* (“*EA* Measures”) by relying on existing authorities,⁸⁷⁰ or that the *EA* Measures were “useful but not necessary”.⁸⁷¹ In assessing this evidence, it is important to be clear about what “necessary” means in this context.
449. Section 19(1) of the *EA* provides that while a declaration of a public order emergency is in effect, the Governor in Council may make such orders or regulations with respect to certain enumerated matters “as the Governor in Council believes, on reasonable grounds, are necessary for dealing with the emergency”. It is clear from the statutory language that the Governor in Council is entitled to deference with respect to what is “necessary for dealing with the emergency”. The decision of the Governor in Council should be assessed at the time the emergency measures were adopted, and not with the benefit of hindsight.
450. In some respects, the *EA* Measures were “necessary” for dealing with the emergency on any standard. Several police witnesses acknowledged that the plan to clear the occupation in Ottawa was dependant on heavy tow capacity to tow large trucks. For example, Chief Superintendent Pardy, one of the chief planners for the operation, stated that the use of heavy tow trucks was instrumental to the plan to clear out the occupation of Ottawa.⁸⁷² A tool that is instrumental to the viability of a plan is a necessary tool.
451. However, the “necessity” of the *EA* Measures as a whole should be assessed against a broader standard of what the Governor in Council had reasonable grounds to believe were “necessary for dealing with the emergency”. In light of the urgent economic and security threats posed by the blockades across the country, it was reasonable for the Governor in Council to adopt measures that were reasonably likely to ensure that the emergency would be dealt with expeditiously, while minimizing the risk to the safety of police, protesters, and members of the public. In other words, “necessary” in this context properly means “necessary for dealing with the emergency quickly and safely”.
452. It is speculative to suggest that the OPS, with its policing partners, could eventually have executed a public order operation without the benefit of the *EA* Measures. When asked directly whether the *EA* Measures were necessary, Supt. Bernier candidly conceded that he “cannot speak” to whether common law powers would have been effective, since that was not the plan that he executed.⁸⁷³ Any determination of what would have happened without the *EA* Measures is necessarily hypothetical, speculative, and vulnerable to hindsight bias.
453. As acknowledged in the evidence, many of the *EA* Measures provided a deterrent. It is difficult, if not impossible, to predict how the convoy participants would have behaved absent

⁸⁷⁰ TRN00000008, Evidence of Steve Bell, p 251; TRN00000010, Evidence of Robert Bernier, pp 147-148.

⁸⁷¹ TRN00000010, Evidence of Robert Bernier, pp 147-148.

⁸⁷² TRN00000007, Evidence of Carson Pardy, p 218; TRN00000010, Evidence of Robert Bernier, pp 108-109; TRN00000023, Evidence of Michael Duheme, p 274.

⁸⁷³ TRN00000010, Evidence of Robert Bernier, pp 32-33.

those measures, and the additional challenges that would have posed for law enforcement. Likewise, it is entirely speculative to suggest that the police would have obtained towing services without the *EA*.

454. A plan that did not include use of the *EA* Measures would likely have involved further delay and greater safety risks. Such a plan would have involved greater risk of harm to the economy, to police and to the public. The measures adopted to mitigate those risks were necessary for a safe and effective response to the situation.
455. On the issue of delay, Commissioner Lucki noted that the February 13 plan contemplated a four-day operation and that it may not have commenced until the week of February 21, 2022.⁸⁷⁴ In contrast, with the assistance of the *EA* Measures, the plan commenced on February 18 and was largely completed within three days.⁸⁷⁵
456. On the issue of safety, given the scale and complexity of the occupation, it was essential for police to reduce the footprint of the unlawful protests prior to commencing enforcement action. Chief Supt. Pardy noted that if police had attempted to carry out an enforcement action without first reducing the footprint, it would have required 10,000 police officers to carry out the operation safely.⁸⁷⁶ As discussed above, the *EA* Measures permitted police to reduce the footprint of the protests by cutting off access and supplies to the exclusion zone and convincing protesters to leave to avoid financial consequences under the *EEMO*.
457. In addition, the enforcement action was rendered much safer through the removal of children, in accordance with the *EA* Measures, prior to the enforcement action commencing.⁸⁷⁷
458. The enforcement operation launched on February 18, 2022 was the largest public order operation in Canadian history.⁸⁷⁸ Even with the reductions in the footprint achieved, it required the “largest unplanned deployment of officers” in the history of the OPP.⁸⁷⁹ Despite its scale and complexity, the enforcement action was carried out successfully. Critically, this happened without serious injury to police, protesters, or the public.⁸⁸⁰ Minister Blair characterized the operation as “textbook” and praised its execution as “proportional, measured, Charter-compliant, and appropriate”.⁸⁸¹ Although it is impossible to know how the counterfactual scenario would have unfolded were this operation to have been conducted

⁸⁷⁴ WTS.00000069, Interview Summary – RCMP, p 15.

⁸⁷⁵ SSM.NSC.CAN.00000237_REL, Emergency Act Enforcement Daily Report, dated February 22, 2022.

⁸⁷⁶ TRN00000007, Evidence of Carson Pardy, pp 163-164.

⁸⁷⁷ TRN00000011, Evidence of Thomas Carrique, p 134; TRN00000013, Evidence of Peter Sloly, p 142; TRN00000018, Evidence of Jason Crowley, pp 239-240; TRN00000019, Evidence of Dana Earley, p 47.

⁸⁷⁸ TRN00000009, Evidence of Marcel Beaudin, p 162; TRN00000010, Evidence of Robert Bernier, p 107.

⁸⁷⁹ TRN00000007, Evidence of Craig Abrams, p 59.

⁸⁸⁰ COM00000923, Special Investigations Unit – Director’s Report Details – Case #22-PFP-053; COM00000922, News Release: SIU Closes Investigation into Reported Serious Injury of Woman at Ottawa Protests – Woman not Seriously Injured; AFF.00000020, Affidavit of Robert Bernier, sworn November 20, 2022, para 31.

⁸⁸¹ TRN00000027, Evidence of Minister Blair, pp 279, 345.

without the benefit of the *EA* Measures, it is clear that the *EA* Measures reduced the risks and made it less likely that anyone would be injured in clearing the occupation.

459. In addition, as previously discussed, the *EA* Measures were publicised around other protests sites, including various POEs in order to dissuade people from re-establishing illegal blockades.

f. Use of economic measures

460. On February 14, 2022, the RCMP began liaising with financial services providers regarding their obligations under the *EEMO*.⁸⁸² Meanwhile, officials from the Department of Finance also began outreach efforts with financial services providers.⁸⁸³
461. Police recognized the potential for the *EEMO* in helping to bring the situation in Ottawa under control. Following invocation of the *EA*, the enforcement plan for Ottawa was amended to include collection of information required for effective enforcement of the *EEMO*.⁸⁸⁴
462. On February 16, the RCMP began providing financial services providers with disclosures related to persons believed to be “designated persons” pursuant to section 6 of the *EEMO*.⁸⁸⁵ The disclosures related to individuals or entities who were the subject of police investigation for their involvement in the blockades (i.e., the organizers), or whose vehicles remained involved in the blockades in downtown Ottawa.⁸⁸⁶ Before providing disclosure in relation to vehicles remaining in Ottawa, the RCMP made attempts to reach out to the owners of those vehicles and provide them with the opportunity to leave. Only if they refused to leave was their information disclosed to financial services providers.⁸⁸⁷
463. In total, the RCMP provided financial services providers with disclosures related to 57 individuals or entities and 170 Bitcoin addresses.⁸⁸⁸ The Bitcoin addresses represented approximately \$1.2 million at the time.⁸⁸⁹
464. Canada does not have comprehensive data regarding the accounts that were frozen. However, certain financial services providers provided information to the Department of Finance (primarily through the Canadian Bankers’ Association). According to these reports,

⁸⁸² DOJ.IR.00000011, Institutional Report – RCMP, para 56.

⁸⁸³ DOJ.IR.00000003, Institutional Report – Department of Finance, p 10.

⁸⁸⁴ DOJ.IR.00000011, Institutional Report – RCMP, para 83.

⁸⁸⁵ DOJ.IR.00000011, Institutional Report – RCMP, para 61.

⁸⁸⁶ DOJ.IR.00000011, Institutional Report – RCMP, paras 57-58.

⁸⁸⁷ PB.CAN.00000781_REL.0001, Affidavit of Denis Beaudoin, sworn April 4, 2022, paras 25-26.

⁸⁸⁸ DOJ.IR.00000011, Institutional Report – RCMP, para 69; HRF00000088, RCMP Disclosure to Financial Institutions, dated February 17, 2022.

⁸⁸⁹ PB.CAN.00000781_REL.0001, Affidavit of Denis Beaudoin, sworn April 4, 2022, para 21.

approximately 280 accounts were frozen representing over \$8 million in assets (as well as approximately \$1 million in credit facilities).⁸⁹⁰

465. The *EEMO* was intended to discourage individuals from continuing to participate in the illegal blockades.⁸⁹¹ Witnesses from the OPS,⁸⁹² OPP,⁸⁹³ and RCMP⁸⁹⁴ all gave evidence that the *EEMO* was successful in achieving that objective.
466. In addition, there is anecdotal evidence demonstrating that the measures succeeded in having this effect.⁸⁹⁵ For example, according to one media report, the Load Safe truck, which had been parked outside the Chateau Laurier for weeks, finally departed due to the driver's concerns regarding the impact of the *EEMO*.⁸⁹⁶

g. Use of *EMR* in Ottawa

467. In addition to the *EEMO* measures discussed above, the *EMR* measures were instrumental in bringing about a swift and peaceful conclusion to the occupation of Ottawa. Interim Chief Bell described the measures as “exceptionally beneficial to us in the execution of our plan, well-utilized, and [they] created a stable environment for us to actually remove the occupiers from our streets”.⁸⁹⁷
468. It was particularly important to clear the occupation of Ottawa given the symbolic significance of the occupation of the nation's capital, which had served as an inspiration for the convoy emergency. As Mayor Watson put it, the Ottawa occupation “with the backdrop of Parliament Hill like they'd taken over the country”.⁸⁹⁸ Had the Ottawa occupation continued, this could have continued to inspire further blockades elsewhere in the country.
469. The *EA* Measures enabled the OPS to clear the occupation within a matter of days and were incorporated in various aspects of the operational plan that was executed on February 18, 2022.
470. First, the *EMR* removed any possible ambiguity regarding the legality of the occupation in Ottawa by creating a specific prohibition. Existing prohibitions in the *Criminal Code*, such as breach of the peace (s. 31), unlawful assembly (s. 63), or mischief (s. 430), would have prohibited more egregious acts by protesters but they carried some potential ambiguity as to

⁸⁹⁰ DOJ.IR.00000003, Institutional Report – Department of Finance, p 12; SSM.CAN.00000067_REL.0001, Email from CBA to Finance, dated February 22, 2022; SSM.CAN.00000068_REL.0001, Revised CBA Financial Data Report for February 20, 2022; SSM.CAN.00000223_REL.0001, Email from CBA to Finance, dated February 23, 2022; SSM.CAN.00003825_REL.0001, Email regarding 20 accounts frozen by a credit union, dated February 18, 2022.

⁸⁹¹ DOJ.IR.00000003, Institutional Report – Department of Finance, p 8.

⁸⁹² TRN00000008, Evidence of Steve Bell, p 130; TRN00000006, Evidence of Patricia Ferguson, pp 144, 183.

⁸⁹³ WTS.00000026, Interview Summary – Mike McDonnell, p 7.

⁸⁹⁴ WTS.00000069, Interview Summary – RCMP, p 25.

⁸⁹⁵ WTS.00000069, Interview Summary – RCMP, p 25.

⁸⁹⁶ PB.CAN.00001838_REL.0001, Newsweek Article “Fears of Losing Insurance Prompt Some Truckers To Leave Weeks-Long Protest”, dated 18 February 2022.

⁸⁹⁷ TRN00000008, Evidence of Steve Bell, p 245.

⁸⁹⁸ TRN00000004, Evidence of Jim Watson, p 74.

whether they constituted an outright prohibition on any participation in the Ottawa occupation. Section 2(a) of the *EMR* provides, in relevant part, that “[a] person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by... (a) the serious disruption of the movement of persons or goods”. This provision clearly prohibited the blockading of public roadways, which was a hallmark of the occupation in Ottawa. Messaging from the Government of Canada regarding the *EA* clearly conveyed that continued participation in the occupation of Ottawa was unlawful and that messaging was widely disseminated in the media. The OPS and OPP PLT began messaging to Ottawa protesters on February 16 regarding the *EA* Measures and clearly conveyed that it was time to leave.⁸⁹⁹

471. Several of the protest organizers testified that they did not understand that the continuation of the protest was illegal.⁹⁰⁰ This arose in part from legal advice provided by Mr. Wilson and his colleagues. Mr. Wilson explained that in his view, continued participation in the Ottawa protests was permitted, provided that individual participants remained peaceful.⁹⁰¹ With respect, this reflects a strained and implausible interpretation that runs counter to the plain wording of s. 2(a) of the *EMR* and that rests on an unreasonable and absolutist interpretation of s. 2(c) of the *Charter*. To the extent that the protest organizers genuinely did not understand that continued participation in the occupation was prohibited by the *EMR*, their misunderstanding is a result of their determination to continue the occupation. It was not the result of any ambiguity in the *EMR*.
472. Secondly, the OPS relied on the *EA* Measures in an attempt to convince protesters to leave. Police employed the persuasive power of the *EA* Measures to persuade protesters to leave peacefully. In commenting on a draft of messaging to protesters, Commissioner Carrique indicated in an email to Ontario Deputy Solicitor General Di Tommaso that the messaging needed to place greater emphasis on emergency measures (both provincial and federal) rather than criminal charges, since “[a] good portion of the demonstrators don’t care about being charged criminally, or they would have left already”.⁹⁰² On February 17, 2022, the OPS began circulating a notice to protesters warning them that their actions were illegal and that an enforcement operation was imminent. The notice referred extensively to sanctions imposed under the *EA* Measures, including:
- Your personal or business bank accounts may be subject to examination and restriction, including virtual currency.
 - If you bring a minor (a person under 18) with you to an unlawful protest site, you may be charged and fined up to \$5000 and/or potentially spend up to five years in prison.
 - Those delivering fuel and other supplies to those taking part in the unlawful demonstrations can be charged.

⁸⁹⁹ WTS.00000069, Interview Summary – RCMP, pp 25-26; TRN00000017, Evidence of Tamara Lich, pp 40, 42; OPS00012205, OPS PLT log, p 60. See also AFF.00000020, Affidavit of Robert Bernier, paras 3-11.

⁹⁰⁰ For example, TRN00000016, Evidence of Tamara Lich, pp 345-346.

⁹⁰¹ TRN00000015, Evidence of Keith Wilson, p 50.

⁹⁰² OPP00001580, Email from Thomas Carrique to Deputy Solicitor General Di Tommaso, February 16, 2022.

- Persons travelling to any other unlawful protest site to participate in or support the unlawful demonstration can be charged.⁹⁰³
473. In response, a significant number of protesters left the protest sites peacefully and others were likely deterred from joining.⁹⁰⁴
474. Third, police relied on the powers granted under the *EMR* to establish a secure perimeter, which allowed police to control access to the protest sites in downtown Ottawa.⁹⁰⁵ On February 17, 2022, police established a “Secure Zone” in downtown Ottawa involving approximately 100 police checkpoints.⁹⁰⁶
475. The Secure Zone permitted police to stop additional protesters from joining the occupation and to cut off access to additional supplies, including fuel.⁹⁰⁷ Interim Chief Bell characterized this measure as the “main benefit” provided by the *EA* Measures.⁹⁰⁸
476. The *EMR* created two separate mechanisms by which police could exclude protesters from an area in which an unlawful protest was taking place. Section 4 prohibited any person from travelling within an area where an unlawful assembly (under subsection 2(1)) was taking place (and thereby authorized police to prevent anyone from committing an offence by entering that area). Separately, under section 6, police are authorized to secure certain “protected places”, including any place so designated by the Minister of Public Safety. The OPS consulted with Minister Mendicino about the possibility of issuing such a designation over the Secure Zone. Ultimately, Minister Mendicino concluded that such a designation was not advisable and that it was preferable for police to rely on the more flexible powers to create an exclusion zone in the *EMR* (i.e. under section 4), which would permit the police to expand or contract the exclusion zone as needed (without requiring a variation to a Ministerial designation).⁹⁰⁹ In practice, police were able to gradually reduce the size of the exclusion zone as the operation progressed, which minimized the impact on members of the public.⁹¹⁰
477. In addition to the exclusion zone, the OPS also relied on *EMR* powers to erect fencing to secure government buildings, including Parliament Hill and the Senate of Canada Building.⁹¹¹ Police also relied on the prohibition under section 4 of the *EMR* to prohibit additional protesters from travelling to Ottawa to join the protests.⁹¹²

⁹⁰³ OPS00014504, OPS Notice to Protesters, February 17, 2022.

⁹⁰⁴ WTS.00000026, Interview Summary – Mike McDonnell, p 7; OPS.IR.00000001, Institutional Report – Ottawa Police Service, p 12; DOJ.IR.00000011, Institutional Report – RCMP, para 160; WTS.00000069, Interview Summary – RCMP, pp 25-26.

⁹⁰⁵ TRN00000008, Evidence of Steve Bell, pp 192-193; WTS.00000069, Interview Summary – RCMP, p 25.

⁹⁰⁶ SSM.NSC.CAN.00000280_REL.0001, GOC Key Points Update, February 18, 2022.

⁹⁰⁷ DOJ.IR.00000011, Institutional Report – RCMP, paras 159, 162.

⁹⁰⁸ TRN00000008, Evidence of Steve Bell, pp 130-131.

⁹⁰⁹ WTS.00000030, Interview Summary – Robert Bernier, pp 22-23.

⁹¹⁰ TRN00000010, Evidence of Robert Bernier, p 114.

⁹¹¹ DOJ.IR.00000011, Institutional Report – RCMP, para 161.

⁹¹² WTS.00000069, Interview Summary – RCMP, p 25.

478. OPS Superintendent Bernier gave evidence that prior to the invocation of the *EA*, the OPS was planning to create an exclusion zone in downtown Ottawa in reliance on common law ancillary police powers to exclude the public from an area where there was an active police operation.⁹¹³ However, Supt. Bernier acknowledged that the *EMR* powers had advantages over common law powers and that they “permitted the police to adopt a much stronger posture at the Secure Zone checkpoints, and clarified the police’s authority to create the exclusion zones”.⁹¹⁴ The power created under the *EMR* had several advantages over common law powers (as evidenced by the fact that the OPS in fact chose to rely on the *EMR* powers once they became available). The common law authority to create an exclusion zone rests on the ancillary powers doctrine. Although the ancillary powers doctrine permits measures that are “reasonably necessary” for the police to fulfil their duties, such powers are interpreted narrowly by courts.⁹¹⁵
479. Compared to sections 4 and 6 of the *EMR*, common law ancillary powers to designate exclusion zones were inadequate to designate, establish, enforce and maintain protected places in Ottawa. The availability and acceptable use of common law exclusion or “buffer” zones is often unclear and courts have interpreted these powers narrowly.⁹¹⁶ Common law exclusion zones can assist in enforcement, but are generally unavailable to prevent recidivism or maintain a secured area.⁹¹⁷ Similarly, the Civilian Review and Complaints Commission for the RCMP has criticized police for broadly using ancillary powers to control access to a protest area.⁹¹⁸
480. Police could not have used a common law exclusion zone to secure an area as large as was necessary in Ottawa. Courts have been critical of police using common-law powers to restrict access to areas any larger than “metres or tens of metres.”⁹¹⁹
481. Conversely, the powers authorized under *EMR* allowed law enforcement to maintain a secured zone in downtown Ottawa to safely conduct enforcement and prevent the occupation from reoccurring following that enforcement operation.
482. Fourth, the *EMR* eliminated the need for RCMP officers to be sworn in (i.e. designated as a special constable under the Ontario *PSA*) before they could enforce provincial offences and municipal by-laws. Interim Chief Bell described this measure as being “key” to allowing the OPS to “streamline and effectively create operational bodies”.⁹²⁰ Interim Chief Bell had personally been responsible for administering the swearing-in process. He described it as a

⁹¹³ WTS.00000030, Interview Summary – Robert Bernier, p 22.

⁹¹⁴ WTS.00000030, Interview Summary – Robert Bernier, p 23.

⁹¹⁵ *Fleming v Ontario*, 2019 SCC 45, paras 43-46.

⁹¹⁶ *Fleming v Ontario*, 2019 SCC 45, paras 82-86; *R. v C.E.*, 2009 NSCA 79, paras 36-39.

⁹¹⁷ *Figueiras v Toronto (Police Services Board)*, 2015 ONCA 208, paras 59-62, 89-91; *Teal Cedar Products Ltd. v Rainforest Flying Squad*, 2021 BCSC 1554, paras 32-39.

⁹¹⁸ Civilian Review and Complaints Commission for the RCMP, *Commission’s Final Report into the RCMP’s Response to Anti-shale gas Protests in Kent County, New Brunswick*, (2020).

⁹¹⁹ *Teal Cedar Products Ltd. v Rainforest Flying Squad*, 2021 BCSC 1554, para 34.

⁹²⁰ TRN00000008, Evidence of Steve Bell, p 130.

cumbersome, labour-intensive process with multiple layers that normally took several days.⁹²¹ Although Acting Deputy Chief Ferguson minimized the significance of this measure under cross-examination,⁹²² Interim Chief Bell's evidence on this point should be preferred given his personal familiarity the challenges of the swearing-in process. Chief Supt. Pardy of the OPP also described this measure as having been useful in overcoming the challenge of interprovincial police accreditation.⁹²³

483. This measure streamlined the mobilization of police officers from outside Ontario, including the Vancouver Police Department, the Edmonton Police Service, the RCMP, and the Saskatoon Police Service.⁹²⁴
484. Fifth, the *EMR* was critical in securing the tow trucks that were used to remove the trucks blockading the streets of Ottawa. As explained above, prior to invocation of the *EA*, police had been unable to secure the cooperation of heavy tow providers in order to remove the vehicles blockading the streets of Ottawa, largely due to safety concerns.
485. While certain police witnesses gave evidence that the OPP had secured the use of tow trucks without reliance on the *EMR*, those witnesses were mistaken on this point.⁹²⁵ The evidence (including contemporaneous documentary evidence) clearly shows that the OPP relied on *EMR* powers to compel tow truck providers to provide their services in support of the public order operation to clear the occupation in Ottawa.
486. In preparation for the public order operation to clear the Ottawa occupation, the integrated planning group of the OPS, OPP, and RCMP tasked the OPP with sourcing heavy tow trucks due to the OPP's existing relationships with providers.⁹²⁶
487. By February 13, 2022, the OPP had identified seven heavy tow truck companies that were willing to provide a total of 34 heavy tow trucks.⁹²⁷ However, the OPP had not concluded any agreements with any of these providers and significant concerns remained outstanding. Commissioner Carrique noted repeatedly throughout his testimony that there was no guarantee that these tow truck operators would follow through in providing towing services.⁹²⁸
488. Eventually, the OPP had the Ministry of Transportation of Ontario ("MTO") source the tow trucks that were used in the enforcement action in Ottawa. As of mid-day on February 16, the MTO had confirmed 11 heavy tow trucks from three companies, on the condition that they receive indemnity from the OPP or province for damage from protesters to their vehicles or claims from owners of vehicles towed. This was necessary as insurers told the companies that

⁹²¹ TRN00000008, Evidence of Steve Bell, pp 247-248.

⁹²² TRN00000006, Evidence of Patricia Ferguson, p 184.

⁹²³ WTS.00000033, Interview Summary – Carson Pardy, p 17.

⁹²⁴ DOJ.IR.00000011, Institutional Report – RCMP, para 157; OPS.IR.00000001, Institutional Report – Ottawa Police Service.

⁹²⁵ TRN00000010, Evidence of Robert Bernier, p 33.

⁹²⁶ TRN00000010, Evidence of Robert Bernier, p 116; TRN00000007, Evidence of Carson Pardy, pp 218-219.

⁹²⁷ OPP00001585, Email from Thomas Carrique RE: Heavy Tows, dated February 13, 2022.

⁹²⁸ TRN00000011, Evidence of Thomas Carrique, pp 305-306.

such risks would not be covered. By later that day, one of the three tow companies had withdrawn, leaving only 10 trucks available. On the evening of February 16, the remaining two companies agreed to move their trucks to Ottawa based on an assurance from the MTO and OPP that an indemnification letter under the *EA* would be provided.⁹²⁹

489. Commissioner Carrique identified three issues in relation to obtaining tow trucks without the use of the *EA*. First, the towing companies required a broad indemnity, which would have required additional time (in order to obtain a special approval from the provincial Minister of Finance).⁹³⁰ Second, the towing companies were demanding confidentiality guarantees, which the OPP could not provide given that disclosure of the identity of the providers might be required by law, e.g. under access to information legislation or disclosure through court proceedings.⁹³¹ Finally, Commissioner Carrique noted his concern that the towing companies would back out as the operation approached. In a February 22 report to Deputy Solicitor General Di Tommaso, Commissioner Carrique noted that even after February 15, “the vendor community was highly reluctant to assist the police”.⁹³²
490. Ultimately, the OPP relied on powers granted under the *EMR* in securing the tow trucks that were used to clear the Ottawa blockades. On February 17, 2022, Commissioner Lucki delegated to Commissioner Carrique the authority to compel tow trucks to provide their services upon request.⁹³³ By a letter dated that same day, from Commissioner Carrique to the relevant towing companies, Commissioner Carrique expressly invoked the authority granted under section 7 of the *EMR* and stated “the OPP is now requiring you to make available and render, the essential goods and services required for the removal, towing, and storage of any vehicle, equipment, structure or object that is part of blockades in Ottawa or other critical infrastructure locations in the province of Ontario”.⁹³⁴ In his testimony, Commissioner Carrique accepted that these letters were sent to tow operators.⁹³⁵
491. On February 27, the OPP invoiced the RCMP \$666,787.94 for reimbursement in connection these with towing services.⁹³⁶ Compensation under section 9 of the *EMR* is only available to the extent that the services were provided under a section 7 request. The only scenario in which the RCMP would be liable to compensate or indemnify tow operators would be in the event that the compulsory powers under the *EMR* were used.
492. The timing of the arrival of the tow trucks in Ottawa is consistent with the use of the *EMR* to compel their participation. Some of the heavy tow trucks appear to have arrived in Ottawa

⁹²⁹ ONT00000179, Email from MTO RE: Tow Trucks Request, dated February 16, 2022.

⁹³⁰ PB.NSC.CAN.00007378_REL.0001, Letter from Thomas Carrique to Mario Di Tommaso, dated February 22, 2022.

⁹³¹ PB.NSC.CAN.00007378_REL.0001, Letter from Thomas Carrique to Mario Tommaso, dated February 22, 2022.

⁹³² PB.NSC.CAN.00007378_REL.0001, Letter from Thomas Carrique to Mario Di Tommaso, dated February 22, 2022.

⁹³³ PB.NSC.CAN.00007378_REL.0001, RCMP “Authorization for Person Acting on Commissioner’s Behalf”, dated February 17, 2022, p 4.

⁹³⁴ PB.NSC.CAN.00007378_REL.0001, Letter from Thomas Carrique to all identified towing companies, dated February 17, 2022, p 5.

⁹³⁵ TRN00000011, Evidence of Thomas Carrique, p 141.

⁹³⁶ PB.CAN.00001628_REL.0001, Ontario Invoice to RCMP, dated February 27, 2022; TRN00000023, Evidence of Brenda Lucki, pp 266-267.

prior to February 17, 2022.⁹³⁷ An email chain between the OPP and the MTO noted that towing companies began moving tow trucks to Ottawa on February 16, 2022. This email noted that towing companies had agreed to move the trucks to Ottawa at the request of the OPP and based on a commitment that a formal letter under the *EMR* would be forthcoming the following day.⁹³⁸ In other words, the *EMR* authorities were necessary to persuade the towing companies to move the tow trucks to Ottawa in time for the February 18 public order operation.

493. The OPP argues that the power to compel tow trucks under the *EMR* was not used. In support of this argument, the OPP relies on a February 20, 2022 email from Kirk Richardson, the OPP subject matter expert on tow trucks, in which he states that “I do not believe the EO [sic] was used to make them tow but it was referenced in relation to protection and compensation if damage occurred related to the protest”.⁹³⁹ With respect, this is not a tenable position. First, there is no distinction between the indemnification and compensation provisions of the *EMR* and *EA* and the exercise of compulsion under those authorities. Second, given the clear evidence that the OPP wrote to two truck operators requiring them to provide assistance, there is no doubt that they were under legal compulsion to comply. Under section 7 of the *EMR*, a person was required to provide essential services upon being “requested” to do so by an authorized person (such as Commissioner Carrique). Under subsection 10(2) of the *EMR*, it would have been an offence for a towing company to refuse to provide towing services once they had been requested to do so by the OPP. While Commissioner Carrique maintained in his witness interview summary that the towing companies were not “compelled”,⁹⁴⁰ he clarified in his testimony that he had issued a binding request to the tow truck operators and that if they had refused to comply, the OPP would have been “able to compel” them.⁹⁴¹ He accepted that the towing companies would have been committing an offence if they had refused to comply.⁹⁴² The OPP’s position appears to be that no compulsion was used because no actual charges were laid for non-compliance by a tow operator.

h. Use of *EA* measures outside Ottawa

494. Even with the dispersal of the border blockades, the situation remained volatile and unpredictable. The deterrent effect of the *EA* Measures militated against the threat of further unlawful protests and blockades.⁹⁴³
495. National media coverage of the *EA* Measures likely had a deterrent effect on protesters. Across the country, police forces employed messaging related to the *EA* and the *EA* Measures:

⁹³⁷ TRN00000010, Evidence of Robert Bernier, pp 118, 149.

⁹³⁸ ONT00000179, Email from MTO Re: Tow Trucks Request, dated February 16, 2022.

⁹³⁹ PB.NSC.CAN.00005777_REL.0001, Email from Kirkland Richardson Re: Tows and EA, dated February 20, 2022.

⁹⁴⁰ WTS.00000039, Interview Summary – Thomas Carrique, p 8.

⁹⁴¹ TRN00000011, Evidence of Thomas Carrique, p 141.

⁹⁴² TRN00000011, Evidence of Thomas Carrique, p 141.

⁹⁴³ TRN00000018, Evidence of Drew Dilkens, p 124.

- In Coutts, the RCMP distributed pamphlets to protesters advising them of their obligations under the *EA Measures*.⁹⁴⁴ Mayor Willett gave evidence that protesters were concerned about potential consequences under the *EA Measures*, including having their bank accounts frozen and losing their insurance and that this played a role in convincing them to abandon the blockade after the RCMP arrests on February 14, 2022.⁹⁴⁵ ADM Degrand acknowledged that the *EA Measures* may have had a deterrent effect on the Coutts protesters.⁹⁴⁶
- Similarly, the Winnipeg Police Service distributed flyers to protesters outside the Manitoba legislature notifying them of the invocation of the *EA* and warning them of potential consequences under the *EA Measures*.⁹⁴⁷
- In Surrey, B.C., the Pacific Highway resumed regular service on February 15, but protests continued to occur after that time, including a further service disruption of the port of entry for roughly 7.5 hours on February 19.⁹⁴⁸ On or around February 18, Surrey RCMP relied on section 7 of the *EMR* to requisition a tow operator to provide towing services.⁹⁴⁹ Although there is no evidence indicating whether or not these services were used, their availability may have deterred protesters.
- In Windsor, where the blockade of the Ambassador Bridge had been cleared prior to invocation of the *EA*, the *EA Measures* still played a valuable role. The situation remained unstable after the bridge was cleared, to the extent that the Superior Court of Justice extended the injunction against blockading the bridge on February 18, 2022, noting that “[t]here is evidence of the protesters’ expressed intent to continue their blockade despite the February 11 Order”.⁹⁵⁰ Protesters were planning to attempt to re-establish the blockade by exploiting the fact that police resources were redeployed from Windsor to Ottawa.⁹⁵¹ Following invocation, the OPP adapted its media strategy to include messaging to protesters regarding the *EA*.⁹⁵² Both Supt. Earley and Deputy Chief Crowley agreed that the *EA Measures* may have had a deterrent effect on these plans.⁹⁵³

⁹⁴⁴ DOJ.IR.00000011, Institutional Report – RCMP, para 195; PB.NSC.CAN.00008361_REL.0001, Alberta RCMP Notice to Lawful Protest Participants.

⁹⁴⁵ WTS.00000012, Interview Summary – Jimmy Willett, p 3.

⁹⁴⁶ WTS.00000003, Interview Summary – Marlin Degrand, p 3.

⁹⁴⁷ MAN00000070, Email from Dave Dalal, dated February 22, 2022; MAN00000071, Winnipeg Police Service Protest Eviction Notice.

⁹⁴⁸ DOJ.IR.00000006, Institutional Report – CBSA, p 57.

⁹⁴⁹ PB.NSC.CAN.00005444_REL.0001, Email from [redacted] tow operator to Surrey RCMP, dated February 18, 2022.

⁹⁵⁰ WIN00001889, Order of Justice Morawetz, dated February 18, 2022; *Windsor (City) v Persons Unknown*, 2022 ONSC 1168, para 47.

⁹⁵¹ TRN00000019, Evidence of Dana Earley, pp 73, 75.

⁹⁵² TRN00000019, Evidence of Dana Earley, p 73.

⁹⁵³ TRN00000019, Evidence of Dana Earley, p 73; TRN00000018, Evidence of Jason Crowley, p 225.

i. Other measures

496. Canada acknowledges that not all of the *EA* Measures were useful in resolving the public order emergency. While these measures were reasonably viewed as necessary at the time they were adopted, as matters unfolded, the emergency was resolved without resort to them.
497. However, these measures should not be considered in light of how the emergency was actually resolved, but in light of what may have been reasonable believed to be necessary based on what was known at the time they were put in place. In addition, many of the measures were necessary for their deterrent effect in convincing individuals to cease illegal blockades and occupations. The fact that some of the provisions may not have been used, or may have been used only to a limited degree, is not an indication that the Governor in Council did not have reasonable grounds to believe these measures were necessary for dealing with the emergency at the time they were adopted.
498. While the FINTRAC-related measures in the *EEMO* did not play a meaningful role in addressing the emergency, this may have been because of the short time taken to resolve the emergency. The *EEMO* required a number of entities to file reports with FINTRAC in certain circumstances, but only a very small number were filed while the measures were in effect⁹⁵⁴ If the emergency had continued for a longer period of time, these measures may have permitted FINTRAC to receive additional reports from crowdfunding platforms or payment services providers. If a report was suspected to be relevant to terrorist activity financing, the *PCMLTFA* would have required it to be disclosed to law enforcement.
499. The convoy emergency highlighted the risks associated with crowdfunding platforms. The Department of Finance had been aware for years of the anti-terrorism financing risks associated with crowdfunding platforms.⁹⁵⁵ Following the end of the emergency, these measures have now been made permanent through amendments to regulations under the *PCMLTFA*.⁹⁵⁶ It is still too early to measure the impact of these measures, which will depend on the quantity and quality of reports submitted by the new reporting entities.⁹⁵⁷
500. The measure authorizing the CBSA to deny entry to a foreign national seeking to enter Canada in order to participate in the blockades was also minimally used. Many individuals who wanted to enter Canada to participate in the Freedom Convoy were unvaccinated and were denied entry on that basis in accordance with Orders in Council made pursuant to the *Quarantine Act* that were in effect at the time.⁹⁵⁸ The *EMR* power to deny entry was used to deny two individuals entry to Canada.⁹⁵⁹ However, at the time the measures were put in place,

⁹⁵⁴ WTS.00000055, Interview Summary – FINTRAC, pp 7-8.

⁹⁵⁵ WTS.00000078, Interview Summary – The Deputy Prime Minister, p 8; WTS.00000055, Interview Summary – FINTRAC, p 8.

⁹⁵⁶ CCF00000042, Amendments to the *PCMLTFA* (SOR/2022-76), p 1166.

⁹⁵⁷ WTS.00000055, Interview Summary – FINTRAC, p 8.

⁹⁵⁸ WTS.00000046, Interview Summary – CBSA, pp 12-13.

⁹⁵⁹ WTS.00000046, Interview Summary – CBSA, p 13.

it was not possible to know how often it may have been necessary to resort to them over the course of an emergency of unknown duration.

j. The *EA* measures were targeted, time-limited, and proportionate

501. Although the situation facing the country as of February 14, 2022 remained volatile and unpredictable, Canada sought to respond in a manner that was restrained and proportionate. As the Prime Minister stated at the time, the *EA* would not remain in place “one minute longer than absolutely necessary”.⁹⁶⁰ The *EA* Measures were introduced on February 15, 2022 and were lifted eight days later when the Governor in Council revoked the proclamation of a public order emergency. The *EA* Measures fully complied with the *Charter* and with the division of powers under the *Constitution Act, 1867*.⁹⁶¹

k. Limited impact on individuals

i. Impact of the *EMR* on individuals

502. Section 2 of the *EMR* contained a prohibition against engaging in a public assembly likely to breach the peace through blockades. This provision could not reasonably have been limited to any particular protest sites, given the fluid and evolving situation across the country, with new blockade sites constantly emerging.
503. The *EMR* did not prohibit all protests, only those that involved prohibited activity (such as blockades). In Ottawa, after the main occupation sites were cleared, protesters continued to peacefully protest near the Canadian War Museum.⁹⁶² Similarly, the power to create exclusion zones was used in a way that minimized the impact on protesters and the public by gradually reducing its size as the illegal occupation was cleared.⁹⁶³
504. The *EMR* measure compelling tow truck companies to provide services was implemented in a manner that minimized any safety concerns for the tow companies. The tow operators were escorted by a police escort. The tow trucks were decorated in police decals to disguise the company names, to avoid any risk of retaliation.⁹⁶⁴ The tow operators were compensated at market rates for their services and indemnified against any losses sustained in complying with their obligations under the *EMR*.
505. The *EMR* were consistent with fundamental freedoms as guaranteed by section 2 of the *Charter*. Section 2 of the *Charter* protects freedoms of conscience and religion; expression; peaceful assembly; and association. Some or all of these fundamental freedoms may be

⁹⁶⁰ TRN00000030, Evidence of Katie Telford, p 217.

⁹⁶¹ 1867 (UK), 30 & 31 Vict, c 3, s 91, reprinted in RSC 1985, Appendix II, No 5 (*Constitution Act, 1867*).

⁹⁶² SSM.NSC.CAN.00003227, Memorandum – Revoking the Declaration of the Public Order Emergency under the Emergencies Act, dated February 23, 2022.

⁹⁶³ WTS.00000030, Interview Summary – Robert Bernier, pp 22-23.

⁹⁶⁴ WTS.00000030, Interview Summary – Robert Bernier, p 22.

exercised by persons attending a protest, but not all protest activities are exercises of fundamental freedoms.

506. The *EMR* were adopted in response to a situation involving a range of protest activities, including activities, current and reasonably apprehended, that fell outside the scope of fundamental freedoms as protected by the *Charter*. Certain aspects of the occupations and blockades that gave rise to the emergency measures were coercive, and coercion is inimical to the purpose of fundamental freedoms.⁹⁶⁵ With respect to subsection 2(b) of the *Charter*, threats of violence are not exercises of freedom of expression because they “undermine the rule of law” and “take away free choice and undermine freedom of action”.⁹⁶⁶
507. By analogy, gatherings that employ physical force, in the form of enduring or intractable occupations of public space that blocks residents and others from carrying out the activities of their daily lives in order to intimidate and compel agreement, are not exercises of the freedom of peaceful assembly, but coercive acts. Similarly, occupations or blockades that repel the enforcement of ordinary laws by intimidating or ousting peace officers degenerate into lawlessness and thus undermine the rule of law. These gatherings are to be distinguished from acts of civil disobedience, which are not coercive, but peacefully accept the application and enforcement of the law in order to draw attention to its purported injustice. Furthermore, marshalling vehicles in order to close off public streets is not itself an assembly, nor is it incidental to an assembly. It is a distinct coercive action that may be regulated without limiting freedom of peaceful assembly.
508. To the extent that the *EA* Measures did limit fundamental freedoms set out in section 2 of the *Charter*, those limits were justified. The *EA* Measures prohibited a narrow, defined range of activities antecedent to and surrounding threats of violence, and the occupations and blockades, in response to a reasoned apprehension of harm. Existing occupations and blockades proved difficult to dislodge and there was a significant risk that new ones would form. Activities that could reinforce existing blockades, make them more difficult to dislodge, or lead to the formation of new ones, were prohibited for the short period of time during which the *EA* Measures were in effect. The *EA* Measures were tailored to limit fundamental freedoms no more than reasonably necessary to address the serious harms of the convoy emergency, and were proportionate in their effects. The considerations discussed above in relation to the necessity and effectiveness of the measures equally support the justification of the measures under section 1 of the *Charter*.

ii. Impact of the EEMO on individuals

509. Much of the criticism of the *EA* Measures has focused on the *EEMO*. While the freezing of bank accounts (and suspension of other financial services) is an extraordinary measure, it was warranted by the urgent need to bring the blockades to an end in a peaceful manner. The *EEMO* was a tailored and proportionate means of achieving this objective.

⁹⁶⁵ *R. v Big M Drug Mart Ltd.*, [1985] 1 SCR 295, pp 336-37.

⁹⁶⁶ *R. v Khawaja*, 2012 SCC 69, para 70.

510. The objective of the *EEMO* was not to punish protesters, but to convince them to disperse peacefully. Consistent with this objective, Canada and police attempted to persuade protesters to depart without having to freeze any accounts. Protesters were given notice prior to the imposition of financial measures. The government's intention to freeze accounts was announced as part of the February 14 press conference announcing invocation of the *EA*, which was widely reported in the media. As part of this announcement, the Deputy Prime Minister stated:

We are today serving notice: if your truck is being used in these protests, your corporate accounts will be frozen. The insurance on your vehicle will be suspended. Send your semi-trailers home.⁹⁶⁷

As noted above, the OPS distributed flyers to protesters warning them that their accounts could be frozen if they did not leave the blockades. The RCMP attempted to contact individual truckers to verify that they were continuing to participate in the blockades before reporting them to financial services providers.⁹⁶⁸

511. The Canadian Bankers' Association has criticized the *EEMO* for not providing a "list" of "designated persons".⁹⁶⁹ This criticism reflects a misunderstanding of what the *EEMO* was attempting to achieve. Rather than providing for a list of "designated persons", the *EEMO* employed a "hybrid" model that relied in part on lists provided by the RCMP, and in part on the internal data and compliance systems of financial services providers. Through their normal monitoring processes, financial services providers have access to transaction data and algorithms for flagging suspicious transactions that law enforcement cannot access in real time. It was essential that the *EEMO* not rely solely on a "list" but also include a role for internal compliance systems.⁹⁷⁰
512. The utility of these internal compliance systems was demonstrated by the actions of TD Bank. As explained above, TD Bank learned through its normal monitoring processes that one of its accountholders was holding \$1 million raised from the GoFundMe campaign and froze the account. The *EEMO* imposed a legal obligation on all financial services providers to take the type of action that TD had taken voluntarily.
513. Although the *EEMO* did not contain any express appeal provision by which customers could challenge a decision to freeze their account, financial services providers were required to determine "on a continuous basis" if a customer was a "designated person". As such, if a customer believed their account was frozen improperly, they could have contacted their financial institution to complain in the same manner as if their account were subject to a freeze for other reasons (as where a financial institution freezes an account due to suspicion of

⁹⁶⁷ PB.CAN.00001137_REL.0001, Transcript of Press Conference Announcing Invocation of the *EA*, dated February 14, 2022.

⁹⁶⁸ PB.CAN.00000781_REL.0001, Affidavit of Denis Beaudoin, sworn April 4, 2022, paras 25-26.

⁹⁶⁹ CBA00000002, Canadian Bankers Association List of Questions, dated February 15, 2022.

⁹⁷⁰ TRN00000025, Evidence of Isabelle Jacques, p 55.

fraudulent activity). In the event, there is no evidence of any instance of “mistaken identity”, i.e., a person’s account being frozen despite not being a designated person.⁹⁷¹

514. At no time did the RCMP disclose any information on individuals who merely donated to the Freedom Convoys or who purchased Freedom Convoy-related merchandise.⁹⁷² The *EA* Measures could theoretically have applied to require financial services providers to freeze the accounts of individual donors. However, given the use of the present tense in the definition of a “designated person”, the duty to cease dealing would only apply where a person was actively providing ongoing support to the blockades. Furthermore, as the *EEMO* was not retroactive, it would not have applied to donations made prior to February 15, 2022.
515. The *EEMO* did not prescribe any lasting impacts on “designated persons” beyond the time that the *EEMO* was in effect. Although certain protesters testified that they had experienced lasting impacts from the *EEMO*, they did not provide any documentary evidence to corroborate this evidence (or to establish that, if this occurred, it was as a result of actions taken under the *EEMO*).⁹⁷³ If these impacts in fact occurred, they represent isolated incidents in which financial services providers took action on their own, and not pursuant to the *EEMO*. For example, it is possible that by freezing accounts, certain designated persons missed automated payments, which then had a negative impact on their credit score. However, given that accounts were only frozen for a period of days, any such impacts would have been minimal.
516. In hindsight, the freezing measures had the potential to result in hardship. To some extent, this was unavoidable, since allowing continued access to funds would undermine the deterrent effect of the *EEMO*. For example, the *EEMO* applied to joint accounts and thus affected joint account holders who were not directly implicated in the prohibited activities. However, had the *EEMO* not applied to joint accounts, this would have created a significant loophole which would have undermined the efficacy of the *EEMO*. Moreover, although the *EEMO* contained fewer protections than traditional sanctions regimes, this must be viewed in light of the very short time horizon over which accounts were frozen and the fact that designated persons could have their accounts unfrozen simply by leaving the illegal blockades. Nonetheless, as Assistant Deputy Minister Isabelle Jacques testified, in retrospect it would have been preferable if the *EEMO* had included a limited exception allowing financial services providers to permit the use of funds in cases of hardship.⁹⁷⁴
517. In practice, the freezing measures were limited in duration. The unfreezing process also minimized the effects on account holders. A prescribed “list” of designated persons would have required financial services providers to continue freezing accounts until designated persons were officially “de-listed” by law enforcement. Rather than taking this approach, section 3 of the *EEMO* required financial services providers to determine “on a continuing basis” whether a customer was a “designated person”. As a result, financial institutions were

⁹⁷¹ TRN00000025, Evidence of Isabelle Jacques, p 160.

⁹⁷² DOJ.IR.00000011, Institutional Report – RCMP, para 59.

⁹⁷³ TRN00000014, Evidence of Steve Charland, pp 188-189; TRN00000014, Evidence of Christopher Barber, p 124.

⁹⁷⁴ TRN00000025, Evidence of Isabelle Jacques, p 112.

able to unfreeze accounts as soon as an individual ceased participating in the prohibited activities. After the *EEMO* came into effect, several financial services providers expressed concerns regarding the safety of frontline employees who might be confronted by persons whose accounts were frozen. The Department of Finance began developing an alternative approach requiring designated persons to contact law enforcement to have their accounts unfrozen.⁹⁷⁵ However, the *EEMO* was lifted before this alternative approach was fully developed.

518. Furthermore, when the RCMP became aware that an individual was no longer a “designated person” (e.g. because they had left the unlawful protest in Ottawa), the RCMP provided notice of this fact to the financial institutions.⁹⁷⁶
519. For most “designated persons”, the account freeze lasted only 5-6 days. The RCMP began providing disclosures to financial services providers on February 16, 2022 and financial services providers began freezing accounts in response to these disclosures the next day, February 17.⁹⁷⁷ The Canadian Bankers’ Association report for February 17 shows only 76 accounts frozen as of that date (i.e., less than 30% of the total number of accounts eventually frozen by February 20, 2022).⁹⁷⁸ On February 21, 2022, the RCMP gave notice to financial services providers that it was not aware of any individuals or entities who continued to be “designated persons”.⁹⁷⁹ The Canadian Bankers’ Association reported that banks began unfreezing accounts as of that date and that by February 23, the “vast majority” of accounts had been unfrozen.⁹⁸⁰ By February 24, the Canadian Bankers’ Association reported that there were no accounts that remained frozen by virtue of the *EEMO* (some accounts continued to be frozen under other court orders).⁹⁸¹
520. The *EEMO* measures were fully consistent with the protection against unreasonable search and seizure in s. 8 of the *Charter*. The freezing of assets under the *EEMO* did not amount to a “seizure” within the meaning of s. 8, which has not been interpreted as protecting property rights in and of themselves. The Supreme Court has explained that an interpretation of s. 8 of the *Charter* that made it possible to challenge “mere restrictions on the exercise of property rights” would overshoot the purpose of the right.⁹⁸²
521. In order to give rise to a seizure within the meaning of s. 8, a taking or restraint of property by government must interfere with privacy rights, as may be the case where property is put under the control of the justice system for purposes related to the investigation and

⁹⁷⁵ SSM.CAN.00001846_REL.0001, Email from Deputy Minister Sabia, Fwd: Emergencies Act Enforcement, dated February 21, 2022.

⁹⁷⁶ DOJ.IR.00000011, Institutional Report – RCMP, para 61.

⁹⁷⁷ DOJ.IR.00000011, Institutional Report – RCMP, paras 61-62.

⁹⁷⁸ SSM.CAN.00000036_REL.0001, Canadian Bankers Association Financial Data Report, dated February 17, 2022.

⁹⁷⁹ DOJ.IR.00000011, Institutional Report – RCMP, para 61.

⁹⁸⁰ SSM.CAN.00000223_REL.0001, Email from Isabelle Jacques Re: Emergencies Act Enforcement, dated February 23, 2022.

⁹⁸¹ DOJ.IR.00000003, Institutional Report – Department of Finance, p 11.

⁹⁸² *Québec (Attorney General) v Laroche*, 2002 SCC 72, para 52.

prosecution of a criminal offence. The obligation to cease dealings under section 2 of the *EEMO* was imposed for the purpose of encouraging people to stop their participation in the unlawful activities and not in furtherance of an administrative or criminal investigation or prosecution.

l. The national scope of the *EA* measures

522. The *EA* Measures were available across Canada and were not limited to the provinces in which there were active blockades. This was necessary for two reasons. First, participants in, and financial support for the blockades came from across the country (and internationally). In order for the *EEMO* to be effective in disrupting the funding of blockades it was essential that the entire Canadian financial system be subject to the same rules. If the *EEMO* had not applied across Canada, protesters could have continued to access funds and engage in crowdfunding activities in the exempt provinces.⁹⁸³
523. Secondly, protests had continued to “pop up” across the country and it was impossible to know where the next blockade might arise. For example, when police dispersed the blockades at Windsor and Ottawa, this created the risk that the truckers would simply regroup and re-establish a blockade at a new location.⁹⁸⁴ Threats of blockades continued across the country well after invocation.⁹⁸⁵ The use of social media to coordinate blockades across the country was a national phenomenon that required a national solution.

m. The application of the *EA* measures to non-federal entities

524. The *EA* did not interfere with exclusive provincial legislative competence. Alberta and Saskatchewan have raised concerns regarding the *EEMO*’s impact on provincially regulated financial services providers. The *EA* and measures taken under it are valid exercises of Parliament’s jurisdiction, some of which fall under normal areas of federal jurisdiction, and others that were temporarily justified under the emergency branch of its power to make laws for the peace, order and good government of Canada (“POGG”).⁹⁸⁶ In times of emergency, the emergency branch of POGG authorizes temporary federal measures in any area that would fall within provincial jurisdiction during normal times.⁹⁸⁷ The fact that federal emergency measures may touch on areas normally within provincial jurisdiction is one of the reasons for Parliament’s emergency power.
525. In addition, the *EA* Measures did not unduly impair provinces’ ability to take measures within their jurisdiction. The measures were narrow, time limited and operated concurrently with provincial measures. They did not displace or conflict with provincial law.

⁹⁸³ WTS.00000074, Interview Summary – Janice Charette and Nathalie Drouin, pp 10-11; TRN00000026, Evidence of Janice Charette and Nathalie Drouin, pp 304-306.

⁹⁸⁴ TRN00000031, Evidence of the Prime Minister, p 126.

⁹⁸⁵ DOJ.IR.00000006, Institutional Report – CBSA, pp 55-58; TRN00000024, Evidence of John Ossowski, p 97.

⁹⁸⁶ *Constitution Act, 1867*, s 91.

⁹⁸⁷ *Reference re Anti-Inflation Act*, [1976] 2 SCR 373, para 171; Patrick J. Monahan, Byron Shaw and Padraic Ryan, *Constitutional Law*, 5th ed. (Toronto: Irwin Law, 2017), p 268.

526. Parliament already regulates banking under s. 91(15) of the *Constitution Act, 1867*. It is true that in non-emergency times regulating many other financial services providers falls primarily within provincial legislatures' jurisdiction under s. 92(13) and (16). This includes credit unions, insurance companies, trust and loan companies, securities dealers, and investment advisors. However, even outside of the emergency branch of Peace Order Good Government, these institutions are not enclaves free from all federal laws. Parliament may incidentally affect these institutions when acting pursuant to federal heads of power. For example, they are subject to regulation by FINTRAC and to various reporting requirements under other legislation, such as the *Income Tax Act*.⁹⁸⁸
527. When the Department of Finance examined the possibility of amending the *Bank Act* to require banks to freeze accounts of persons involved in funding the illegal blockades, one shortcoming of this approach was that ordinary legislation would apply only to federally regulated financial institutions. If such measures applied only to federally regulated financial services providers to cease dealing with the blockade participants, then they would simply shift to provincially regulated financial services providers.⁹⁸⁹ It was therefore necessary for the federal government to invoke its emergency powers to extend such regulations to provincially regulated institutions.

VIII. Revocation

528. After the *EA* was invoked, there was very careful monitoring, through daily meetings of senior officials and ministers, of how the measures were being implemented and the impact they were having. This included receiving updates on the extremely large police action that took place in Ottawa starting on February 18,⁹⁹⁰ and the de-escalation at key POEs.⁹⁹¹
529. Officials were mindful that the *EA* does not have specific criteria or a test for revocation, but from a policy perspective, the identified need was to end the measures at the earliest possible moment, but not so soon that the emergency would recur.⁹⁹²
530. The IRG meetings held daily between February 16 and February 22 show a stabilizing national situation as the days went on.⁹⁹³ At an IRG meeting held on February 23, the Prime Minister

⁹⁸⁸ See for example, *PCMLTFA*, s 5; *Income Tax Act*, RSC 1985, c 1 (5th Supp), s 231.2, Part XVIII.

⁹⁸⁹ TRN00000024, Evidence of John Ossowski, pp 97-99; TRN00000025, Evidence of Michael Sabia and Isabelle Jacques, pp 45, 46, 80-81, 98; PB.NSC.CAN.00002419, Mandate Protests – Considerations, pp 6-8; WTS.00000059, Interview Summary – Department of Finance, p 7; SSM.CAN.00003764, Memo from Deputy Minister Sabia to Deputy Prime Minister Freeland; DOJ.IR.00000003, Institutional Report – Department of Finance, p 7.

⁹⁹⁰ SSM.NSC.CAN.00000403_REL.0001, IRG Minutes, dated February 18, 2022, p 5.

⁹⁹¹ TRN00000031, Evidence of the Prime Minister, p 87; TRN00000026, Evidence of Janice Charette, pp 204-207.

⁹⁹² TRN00000026, Evidence of Jeffery Hutchinson, pp 51-53; SSM.CAN.00000429_REL.0001, Email regarding Criteria for *EA* Revocation, dated February 21, 2022; TRN00000026, Evidence of Janice Charette, pp 204-208, 210; SSM.NSC.CAN.00003227_REL.0001, Memorandum – Revoking the Declaration of the Public Order Emergency under the Emergencies Act.

⁹⁹³ SSM.NSC.CAN.00000401_REL.0001, IRG Minutes, dated February 16, 2022; SSM.NSC.CAN.00000402_REL.0001, IRG Minutes, dated February 17, 2022; SSM.NSC.CAN.00000403_REL.0001, IRG Minutes, dated February 18, 2022;

initiated a discussion on the readiness to revoke the declaration of public order emergency. The situational update provided was that while some activity was remaining, it was within a manageable level without *EA* authorities.⁹⁹⁴

531. On February 23, the Clerk of the Privy Council delivered a memorandum on revocation of the *EA* to the Prime Minister for decision. The memorandum reviewed the overall situation as it had evolved since February 14, and assessed that the national situation was no longer so urgent and critical such as to be a national emergency. Among other things, the note highlighted that protest participants in Ottawa and at targeted POEs had dispersed, the potential re-emergence was being monitored, temporary *EA* measures to freeze funds were effective in deterring unlawful protests while peaceful and lawful protests continued, and the situation had stabilized and was within law enforcement and governments' existing authorities and capacity to manage.⁹⁹⁵

532. Both Canada and Ontario revoked their declarations of emergency on February 23, 2022.⁹⁹⁶

LEGAL SUBMISSIONS

I. The Commission's Mandate and the Use of Hindsight

533. The Commission is mandated to examine and report on the circumstances that led to the declaration of a public order emergency and the measures taken by the Governor in Council by means of the *EMR* and the *EEMO*, particularly with respect to the impact of certain identified factual issues. The Commissioner is directed to make findings about the use of the *EA*, the appropriateness and effectiveness of the measures, and make recommendations on those topics and others.⁹⁹⁷

534. Over the course of this inquiry, the Commission has heard a great deal of evidence about how the convoy emergency unfolded, and how different actors – from governments to law enforcement – responded to it. With the benefit of hindsight, the extraordinary transparency accorded during this process, and the knowledge of facts not available when decisions were made, it could be tempting to imagine alternate ways that the convoy emergency could have been managed. Canada asks that the Commission guard against the hindsight bias that may arise in such circumstances, and that could lead to the inaccurate impression that a peaceful and quick resolution to the blockades was inevitable or on the horizon.⁹⁹⁸ Canada endorses the

SSM.NSC.CAN.00000404_REL.0001, IRG Minutes, dated February 19, 2022; SSM.NSC.CAN.00000405_REL.0001, IRG Minutes, dated February 20, 2022; SSM.NSC.CAN.00000406_REL.0001, IRG Minutes, dated February 21, 2022; SSM.NSC.CAN.00000407_REL.0001, IRG Minutes, dated February 22, 2022.

⁹⁹⁴ SSM.NSC.CAN.00000408_REL.0001, IRG Minutes, dated February 23, 2022.

⁹⁹⁵ SSM.NSC.CAN.00003227_REL.0001, Memorandum – Revoking the Declaration of the Public Order Emergency under the Emergencies Act, pp 1-2.

⁹⁹⁶ ONT.IR.00000001, Institutional Report – Ontario, pp 4, 20.

⁹⁹⁷ P.C. 2022-392 (April 25, 2022); *Emergencies Act*, RSC 1985, c 22 (4th Supp), s 63.

⁹⁹⁸ Barbara O'Brien and Keith Findley, "Psychological Perspectives: Cognition and Decision Making" (2014) University of Wisconsin Law School, Legal Studies Research Paper Series, Paper No. 1257, pp 37-38; Brian L. Cutler, "Conviction of the Innocent: Lessons from Psychological Research" (2012) American Psychological Association, p

approach taken by the Commissioner in the SARS Commission's Final Report, in which Commissioner Campbell wrote:

It is essential in the investigation of a public emergency that the public interest be served by a full account of what occurred and a catalogue of the lessons to be learned. To do so thoroughly will, of necessity, require the application of hindsight. This is unfair when speculation is entertained that someone "should have" or "might have" acted differently even though he or she did not have the knowledge that only became apparent after the event was over.⁹⁹⁹

535. Canada appreciates the work the Commission has done, and looks forward to receiving its final report and recommendations. Public inquiries have significant public benefits. They are an "integral part of our democratic culture".¹⁰⁰⁰ Free from partisan loyalties or the specific legal responsibilities of Courts and the judiciary, they can inform Canadians about why and how a notable event happened, in a way that allows them to be a part of the recommendations aimed at avoiding that problem in the future.¹⁰⁰¹
536. This informational and educational mandate does not extend to making findings of criminal or civil liability or drawing legal conclusions, and is not connected to normal legal criteria.¹⁰⁰² This flows from the fact that an inquiry is a factual investigation into an event. That being said, to assist the Commission in fulfilling its mandate to investigate the circumstances leading to the Declaration of Public Order Emergency, Canada explains below the legislative framework that governs the declaration that was made and how it was applied.

II. The threshold for declaring a public order emergency

537. Subsection 17(1) of the *EA* authorizes the Governor in Council to declare a public order emergency when it believes on reasonable grounds that such an emergency exists and necessitates the taking of special temporary measures.
538. Section 16 of the *EA* defines a "public order emergency" as "an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency". Both elements of a public order emergency are defined terms in the *EA*, and the Governor in Council must have reasonable grounds to believe that both elements are present in order to declare a public order emergency.

310; Bruce A. MacFarlane, "Wrongful Convictions: Drilling Down to Understand Distorted Decision-Making by Prosecutors" (2016) 63:1&2, *Criminal Law Quarterly*, p 457.

⁹⁹⁹ SARS Commission (2003-2006). Final Report Vol 2, pp 19-20.

¹⁰⁰⁰ *Canada (Attorney General) v Canada (Commissioner of the Inquiry on the Blood System)*, [1997] 2 FC 36 (FCA).

¹⁰⁰¹ *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 SCR 97, paras 61-65; *Canada (Attorney General) v Canada (Commissioner of the Inquiry on the Blood System)*, [1997] 2 FC 36 (FCA).

¹⁰⁰² *Canada (Attorney General) v Canada (Commission of Inquiry on the Blood System)*, [1997] 3 SCR 440, para 57; *Canada (Attorney General) v Canada (Commissioner of the Inquiry on the Blood System)*, [1997] 2 FC 36 (FCA).

539. “Threats to the security of Canada” is defined in section 16 of the *EA* as having the meaning assigned by section 2 of the *CSIS Act*.¹⁰⁰³ No other sections of the *CSIS Act* are incorporated into the *EA*.
540. A “national emergency” is defined in section 3 of the *EA* as “an urgent and critical situation” that (a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it”.¹⁰⁰⁴ A national emergency “cannot be effectively dealt with under any other law of Canada”.
541. Where a statute incorporates by reference a definition from another piece of legislation, the function it serves is still determined in accordance with the modern approach to statutory interpretation.¹⁰⁰⁵ In determining whether a “public order emergency” arises from a “threat to the security of Canada”, the entire context and scheme of the *EA*, and the intention of Parliament, must be considered.

a. The purpose and context of the *EA*

542. The purpose of the *EA* is to authorize the Governor in Council to take special temporary measures to ensure safety and security during national emergencies. The preamble of the *EA* recognizes that ensuring the safety and security of the individual, the protection of the values of the body politic and the preservation of the sovereignty, security and territorial integrity of the state are fundamental obligations of government. The *EA*’s objective is to allow the government to take special measures, under the supervision of Parliament, to ensure that it is able to fulfill those obligations when they are threatened by a national emergency.
543. The *EA* divides national emergencies into four distinct types: public welfare emergencies (i.e. natural disasters, diseases, and environmental catastrophes), public order emergencies, international emergencies, and war emergencies. Each type of emergency relies on the same definition of “national emergency”, which applies in the context, and for the purpose, of protecting the safety and security of the country during an urgent and critical situation that seriously threatens the lives, health, and safety of Canadians, or the sovereignty and security of the country.
544. The types of measures available in the *EA*, restrictions on their use, consultation requirements, and oversight mechanisms all vary depending on the nature of the emergency. The measures contemplated in a war emergency differ from those available in a public welfare emergency, or a

¹⁰⁰³ *CSIS Act*, RSC 1985, c C-23.

¹⁰⁰⁴ The Governor in Council relied on s 3(a) and not s 3(b) of the *Emergencies Act*. See for example, SSM.NSC.CAN.00003224_REL.0001, Memorandum for the Prime Minister: Invoking the Emergencies Act, dated February 14, 2022, pp 7-8.

¹⁰⁰⁵ *Re Rizzo & Rizzo Shoes Ltd*, [1998] 1 SCR 27, para 21; *R. v Alex*, 2017 SCC 37.

public order emergency. This targeted, category-based approach was in deliberate contrast to the *War Measures Act*,¹⁰⁰⁶ which conferred all emergency powers in any emergency situation.¹⁰⁰⁷

545. Nonetheless, the *EA* was still intended to deal with the “full range of possible emergencies” because responding to an urgent crisis with *ad hoc* legislation was thought to be problematic. As such, the scope of the combined definitions and powers in the *EA* was intended to be broad enough to allow for an effective government response to unexpected future emergencies.¹⁰⁰⁸

b. Purposive interpretation of “threats to the security of Canada” in the context of a public order emergency

546. In the explanation tabled in the Houses of Parliament pursuant to section 58 of the *EA*, Canada explained that it declared a public order emergency based on threats to the security of Canada falling within subsection 2(c) of the *CSIS Act*.¹⁰⁰⁹

<p><i>threats to the security of Canada</i> means</p> <p>(c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and</p> <p>but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d).</p>	<p><i>menaces envers la sécurité du Canada</i> Constituent des menaces envers la sécurité du Canada les activités suivantes :</p> <p>c) les activités qui touchent le Canada ou s’y déroulent et visent à favoriser l’usage de la violence grave ou de menaces de violence contre des personnes ou des biens dans le but d’atteindre un objectif politique, religieux ou idéologique au Canada ou dans un État étranger;</p> <p>La présente définition ne vise toutefois pas les activités licites de défense d’une cause, de protestation ou de manifestation d’un désaccord qui n’ont aucun lien avec les activités mentionnées aux alinéas a) à d).</p>
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547. In determining that a public order emergency exists arising from a threat to the security of Canada, the Governor in Council can consider a broad range of activities. Leading up to the enactment of the *CSIS Act*, the McDonald Commission¹⁰¹⁰ identified many activities that could constitute “serious violence”, including intimidation tactics targeting political opponents, and plots to physically attack officials or government buildings.¹⁰¹¹ The provision expressly applies to threats and not just acts. During Committee discussions in the drafting of

¹⁰⁰⁶ *War Measures Act*, SC, 1914, c 2.

¹⁰⁰⁷ Emergency Preparedness Canada, *Annual Review 1987*, p 4; Emergency Preparedness Canada, *Working Paper – Bill C-77: An Act to Provide for Safety and Security in Emergencies* (1987), p 49.

¹⁰⁰⁸ Emergency Preparedness Canada, *Working Paper – Bill C-77: An Act to Provide for Safety and Security in Emergencies* (1987), p 50.

¹⁰⁰⁹ SSM.CAN.00000105_REL.0001, Explanation Pursuant to Subsection 58(1) of the Emergencies Act.

¹⁰¹⁰ The Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police (1977-1981) (“The McDonald Commission”) produced several reports (First Report, Second Report Vol. 1, Second Report Vol. 2, Third Report) that were instrumental in the formation of the *CSIS Act*.

¹⁰¹¹ The McDonald Commission, *Second Report* (1981) Volume 1, No. 3, p 438.

Bill C-77, the Solicitor-General observed that “[i]t would be ineffective if the government were empowered to deal with potentially dangerous gatherings only after the danger had physically manifested”.¹⁰¹²

548. In order to achieve the *EA*’s intended purpose, the Governor in Council must also apply the definition of “threats to the security of Canada” in an evolving manner to account for the development of modern threats.¹⁰¹³ This flexible interpretation is required because the parameters of any future emergency can never be known. The requirement for flexibility extends both to the identification of threats to the security of Canada, and the manner in which those threats can unfold.
549. With respect to the manner in which threats unfold, the interpretation must be flexible enough to encompass modern events that could not have been anticipated when the statute was enacted in the 1980s.¹⁰¹⁴ In *Canada (AG) v Commission of Inquiry into the Actions of Canadian Officials in relation to Maher Arar*, the Federal Court relied on a decision of the House of Lords to observe that concepts like national security are not limited to considerations of direct threats. It is appropriate to consider modern sophistication in means, speed of movement of persons/goods, and speed of communications to determine if there is a real possibility that national security may be at risk – either immediately or subsequently.¹⁰¹⁵ Threats can also reasonably contemplate, as with the convoy emergency, a number of related but distinct events which, taken together, amount to a threat to the security of Canada.
550. As Director Vigneault, stated in his evidence, the threat environment has evolved considerably since the *CSIS Act* was enacted in 1984.¹⁰¹⁶ As a result, to meet the purpose of the legislation, the meaning of the term “threats to the security of Canada” in the *EA* must be informed by, and interpreted in, the context of the current threat environment.

c. The interpretation of the *EA* does not depend on how “threat to the security of Canada” is applied in the *CSIS Act*

551. The interpretation of “threats to the security of Canada”, as used in defining a public order emergency does, not depend on how the term is applied by CSIS under the *CSIS Act*.

¹⁰¹² House of Commons Committees, Legislative Committee on Bill C-77, an Act to amend the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof, *Evidence*, 33-2, Vol. 1, No. 1, p 19 (Hon. Perrin Beatty, Minister of National Defence).

¹⁰¹³ House of Commons Committees, Standing Committee on Justice and Legal Affairs, *Evidence*, 32-2, Vol. 1, No. 11, p 79 (Hon. Bob Kaplan, Solicitor General of Canada); Ruth Sullivan, *The Construction of Statutes*, 7th ed. (Toronto: LexisNexis Canada, 2022) ss 6.01-6.02, 6.03[2].

¹⁰¹⁴ *R v 974649 Ontario Inc.*, [2001] 3 SCR 575, para 38.

¹⁰¹⁵ *Canada (Attorney General) v Commission of Inquiry into the Actions of Canadian Officials in relation to Maher Arar*, 2007 FC 766, paras 63-69.

¹⁰¹⁶ TRN00000027, Evidence of David Vigneault, p 99.

552. CSIS applies the term solely in accordance with the purposes of the *CSIS Act*, which created a civilian intelligence agency, with a clearly defined mandate, to investigate threats about which security intelligence is required, governed by appropriate safeguards.¹⁰¹⁷ CSIS primarily focuses on gathering security intelligence about “subjects of investigation” rather than widely gathering intelligence on evolving situations writ large.¹⁰¹⁸
553. In the *CSIS Act*, the phrase “threats to the security of Canada” operates as a threshold for CSIS to exercise its intelligence gathering mandate with respect to specific activities.¹⁰¹⁹ In order to act on its authorities in the intelligence gathering context, CSIS must have reasonable grounds to suspect that “activities” constituting a section 2 threat exist, and only collect, analyze or retain investigative information on individuals or groups to the extent strictly necessary.¹⁰²⁰ If CSIS’s investigations required intrusive means or covert activity intruding more than minimally on privacy interests protected by section 8 of the *Charter*, judicial authorization would be required pursuant to section 21.¹⁰²¹
554. In contrast, the subject-matter and purpose for possible orders and regulations issued in respect of a public order emergency includes the regulation of public assemblies, the securing of protected places, the control of public services, the compelling of essential services, and the imposition of penalties for the contravention of the orders and regulations.¹⁰²² These potential measures, and the purpose of responding to an urgent and critical situation, are very different from the intelligence gathering focus of the *CSIS Act*. Parliament intentionally chose the targeted measures in the *EA* to respond to an incident of public disorder. For example, the ability to regulate or prohibit public assembly in specific areas is limited to assemblies that may reasonably be expected to lead to a breach of the peace. The ability to compel essential services (for reasonable compensation) likewise imports a different balancing analysis than the ability to surveil Canadian citizens.

d. The Governor in Council is mandated to decide whether a public order emergency exists

555. Parliament designated the Governor in Council – not CSIS – as the decision maker who may declare that a public order emergency exists. CSIS does not have a mandate to respond to

¹⁰¹⁷ *House of Commons Debates*, 32-2, Vol. 2 (February 10, 1984), p 1273 (Hon. Bob Kaplan, Solicitor General of Canada); The McDonald Commission, *Second Report* (1981) Vol. 1, No. 2, pp 413, 423; The McDonald Commission, *Second Report* (1981) Vol. 2, No. 3, p 1067; *House of Commons Debates*, 32-2, Vol. 2 (February 10, 1984), pp 1271-1274 (Hon. Bob Kaplan, Solicitor General of Canada); House of Commons Committees, Standing Committee on Justice and Legal Affairs, *Evidence*, 32-2, Vol. 1, No. 9, p 5 (Hon. Bob Kaplan, Solicitor General of Canada).

¹⁰¹⁸ DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, pp 7, 11; TS.NSC.CAN.001.00000160_REL_0001, Public Safety Convoy Key Messages: CSIS Input.

¹⁰¹⁹ *CSIS Act*, ss 12(1), 21(1).

¹⁰²⁰ *CSIS Act*, s 12(1).

¹⁰²¹ *CSIS Act*, s 21 requires the higher threshold of “reasonable grounds to believe”.

¹⁰²² *EA*, s 19.

national emergencies. Because each decision maker applies the term in a different context, it is reasonable that they may reach different reasonable interpretations.¹⁰²³

556. Given the role of the Governor in Council, it necessarily applies a broader perspective than do individual departments or agencies. It would undermine Parliament's intent if the Governor in Council could not act to respond to a national emergency because CSIS, an agency with a limited mandate and restrictive powers, could not also trigger a new investigation. In *League for Human Rights of B'nai Brith Canada v Canada*, the Federal Court of Appeal explained the significance of decisions given to the Governor in Council:

In assessing the scope of a decision-maker's discretion, sometimes it is helpful to consider the nature of the body that is exercising the discretion. In subsection 10(1), Parliament has nominated the Governor in Council as the body to receive the report.

The Governor in Council is the "Governor General of Canada acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada": *Interpretation Act*, R.S.C. 1985, c. I-23, subsection 35(1), and see also the *Constitution Act, 1867*, sections 11 and 13. All the Ministers of the Crown, not just the Minister, are active members of the Queen's Privy Council for Canada. They meet in a body known as Cabinet. Cabinet is "to a unique degree the grand co-ordinating body for the divergent provincial, sectional, religious, racial and other interests throughout the nation" and, by convention, it attempts to represent different geographic, linguistic, religious, and ethnic groups [...].

In practical terms, then, a statute that vests decision-making in the Governor in Council implicates the decision-making of Cabinet, a body of diverse policy perspectives representing all constituencies within government.¹⁰²⁴

557. The authority provided to the Governor in Council to declare a public order emergency is discretionary and is in the context of enabling the Governor in Council to respond swiftly and effectively to a temporary, urgent and critical situation by taking a wide range of measures.¹⁰²⁵ The authority should be interpreted with the flexibility to permit the necessary measures to be taken.
558. In accordance with the broad perspective of the Governor in Council in dealing with public order emergencies, the *EA* does not impose any limits on the information and intelligence that can be considered in arriving at reasonable grounds to believe that a public order emergency

¹⁰²³ *Canada v Vavilov*, 2019 SCC 65, paras 68, 72, 110 and 129-132.

¹⁰²⁴ *League for Human Rights of B'nai Brith Canada v Canada*, 2010 FCA 307, paras 76-79.

¹⁰²⁵ *EA* preamble, s 3; Department of National Defence, *Challenges and Commitment: A Defence Policy for Canada* (1987), p 73; *House of Commons Debates*, 33-2, Vol. 12 (April 25, 1998), p 14764 (Mr. Bud Bradley, Parliamentary Secretary to the Minister of National Defence).

exists. The Governor in Council may consider information that CSIS would not be permitted to use for its own activities, by virtue of its statutory limitations, purpose and mandate.¹⁰²⁶

559. In the context of the Declaration of Public Order Emergency, the Governor in Council is entitled to rely on any relevant information, including:

- Criminal intelligence and information;
- Expertise, advice and information received from federal government departments and senior public servants (e.g. the CBSA, Transport Canada, the RCMP, Public Safety Canada, the Department of National Defence, the Department of Finance, the NSIA, the Emergency Preparedness and COVID-19 Recovery Secretariat, the Department of Justice and the Clerk of the Privy Council);
- Expertise, advice and information provided by Provincial, Territorial and Municipal officials and elected representatives; and
- Open-source, traditional or social media information, among other sources.

560. Any input provided by CSIS to the Governor in Council with respect to potential invocation of the *EA* is but one factor that will be considered together with information from other sources. To restrict the Governor in Council to interpret section 2 of the *CSIS Act* in the same narrow manner as CSIS does according to its statutory mandate would be contrary to Parliament's decision to grant decision making authority to the Governor in Council, and would be inconsistent with the broader context in which the *EA* must be applied.

561. In authorizing the Governor in Council to declare a public order emergency when it believes on reasonable grounds that one exists, Parliament indicated that Governor in Council's decisions responding to an emergency situation are entitled to deference.¹⁰²⁷ This deference is consistent with that given in other emergency situations,¹⁰²⁸ or to decisions about the assessment of national security threats, where the emphasis is on prevention and avoiding being "too late".¹⁰²⁹ That is why "reasonable grounds to believe" requires there to be an objective basis for the belief, based on compelling and credible information,¹⁰³⁰ while still permitting necessary judgment calls to be made. As the then Minister of National Defence Beatty explained during the discussions before the Legislative Committee on Bill C-77:

When the country is threatened by serious and dangerous situations, the decision whether to invoke emergency powers is necessarily a judgment call, or more accurately a series of judgment calls. It depends not only on an assessment of the

¹⁰²⁶ Examples of statutory limitations imposed on CSIS collection activities include conditions on the collection of datasets under s 11.05 of the *CSIS Act* and the restriction in s 12 to only collect, analyze and retain information / intelligence "to the extent strictly necessary".

¹⁰²⁷ *EA*, s 17.

¹⁰²⁸ *Reference re Anti-Inflation Act*, [1976] 2 SCR 373.

¹⁰²⁹ See for example, *Suresh v Canada* [2002] 1 SCR 3 at para. 85; *Charkaoui (Re)*, 2003 FC 1419, paras 126-128.

¹⁰³⁰ *Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40, paras 114-16; *Canada (Citizenship and Immigration) v Harkat*, 2014 SCC 37, para 30.

current facts of the situation, but even more on judgments about the direction events are in danger of moving and about how quickly the situation could deteriorate. Judgments have to be made, not just about what has happened or is happening, but also about what might happen. In addition, to decide about invoking exceptional measures, judgments have to be made about what the government is capable of doing without exceptional powers, and on whether these capabilities are likely to be effective and sufficient.¹⁰³¹

562. In the *EA*, the grant to the Governor in Council of the authority to make the necessary judgments required to declare a public order emergency and enact exceptional and temporary measures is coupled with distinctive safeguards and accountability mechanisms. The invocation of the *EA* is subject to: Parliamentary oversight through the requirement of House and Senate confirmation; the possibility of direct revocation or amendment of regulations and orders by parliamentarians; consideration by a Parliamentary Review committee; and this Inquiry into the circumstances leading to the Declaration of Emergency. Parliament may also make a motion to revoke the declaration of emergency on its own initiative.¹⁰³² Furthermore, the *EA* is also subject to the constitutional safeguards of the *Charter*.
563. It is always possible, with the luxury of time and the benefit of hindsight, for counsel to imagine alternative ways that an emergency could have been managed.¹⁰³³ However, such hindsight must be guarded against and the actions of the Governor in Council assessed in the context that existed at the time of the decision.

e. Application of “threat to the security of Canada”

564. Between January 29 and February 14, 2022, Canada faced an urgent and volatile situation of escalating, unlawful protests and illegal blockades across the country that included acts or threats of serious violence to persons or property linked with a stated purpose of achieving a change in government policy. These circumstances constituted reasonable grounds for the Governor in Council to believe that a threat to the security of Canada existed. The requirement that the activities be “for the purpose of achieving a political or ideological objective” in subsection 2(c) of the *CSIS Act* reasonably includes efforts to change government policy through threats of violence.¹⁰³⁴

¹⁰³¹ House of Commons Committees, Legislative Committee on Bill C-77, *Evidence*, 33-2, Vol. 1, No. 1, pp 13-14 (Hon. Perrin Beatty, Minister of National Defence).

¹⁰³² *EA*, ss 58-59, 61-63.

¹⁰³³ *Taylor v Newfoundland and Labrador*, 2020 NLSC 125, para 455.

¹⁰³⁴ The McDonald Commission, *Second Report* (1981) Vol. 1, No. 3, pp 416, 438.

i. Threats of serious violence against persons

565. Acts of “serious violence” as defined in subsection 2(c) of the *CSIS Act* include both the threat of, or use of, serious violence. Serious violence is broader than just activities causing death. However, as CSIS officials’ testified, typically the threat-related activities they investigate in the IMVE context feature a willingness to kill or to inspire others to kill.¹⁰³⁵ In applying a purposive application of the definition, particularly for the purposes of the *EA*, the plain meaning of “serious violence” is broader than activities which cause death. The *EA* was clearly intended to permit the Government to protect Canadians from the harms caused by national emergencies that pose a threat of serious violence short of lethality.
566. In the context of the decision made under the *EA*, as outlined above, there were considerable cumulative threats of serious violence to individuals, including in some cases, as demonstrated by the arrests in Coutts, the threat of lethal violence.¹⁰³⁶ Actual threats of violence and death against law enforcement and elected officials, along with the atmosphere of intimidation, harassment and lawlessness, also comprise threats of serious violence at the illegal blockades and protests.¹⁰³⁷ Furthermore, the threat to the economic security of Canadians, by cutting off the main supply line of essential goods, food, fuel and medicine to all parts of the country, also creates a threat that could have easily lead to unrest and serious violence through retaliation and counter-protests which were developing near the Ambassador Bridge POE.¹⁰³⁸

ii. Threats of serious violence against property

567. The public order emergency identified by the Governor in Council included the blockade of critical infrastructure leading to serious economic harm, particularly if it continued.
568. The concept of “serious violence” to property should not be restricted to physical damage. “Violence” must be interpreted in the context in which it is used.¹⁰³⁹ Here, that context includes the purpose of the *EA* being to protect the safety and security of Canadians.¹⁰⁴⁰ There is no effective difference between rendering critical infrastructure unusable through physical damage or through the blockade of that infrastructure such that its function is completely frustrated for an extended period. Rendering critical infrastructure unusable creates the same danger to the safety and security of Canadians as physical damage to that infrastructure and amounts to “serious violence” with respect to property. The incapacity of that infrastructure harms Canadians due to the impacts on the economy, directly affected businesses and their employees, and Canada’s international reputation for trade and investment.

¹⁰³⁵ WTS.00000079, Public Summary – CSIS *in camera*, *ex parte* Hearing, p 4; TRN00000027 Evidence of Michelle Tessier, pp 21-26, 29; DOJ.IR.00000001, Unclassified Institutional Report – CSIS-ITAC, pp 7, 11.

¹⁰³⁶ See above, Coutts, Alberta, Section III(d).

¹⁰³⁷ See above, Escalating Threats to Ministers and Public Officials, Section IV(b)(xii).

¹⁰³⁸ TRN00000025, Evidence of Rhys Mendes, pp 17-18; DOJ.IR.00000005, Institutional Report – Transport Canada, para 83; TRN00000026, Evidence of Janice Charette, p 294; TRN00000019, Evidence of Dana Earley, pp 43-44, 83-84; OPP00004550, Notebook 4 of Dana Earley, dated February 11, 2022, p 21.

¹⁰³⁹ *R v Steele*, 2014 SCC 61, para 44.

¹⁰⁴⁰ *EA*, preamble.

569. The fact that such blockades could constitute a national security threat is not novel. In discussion at the Legislative Committee on Bill C-77, MP Patrick Crofton raised a prescient example of a situation to which the new legislation might apply: a longstanding blockade at Canada's busiest port in Vancouver, which reaches the point that police capacity is outstripped, public order and public safety are not being maintained, there are increasing impacts on economic activity, and there is growing public hysteria.¹⁰⁴¹

f. Determination that a national emergency existed

570. In the same way that "threat to the security of Canada" for CSIS's purposes is not used in isolation in the *CSIS Act*, in the *EA*, it is used within the context of a national emergency.¹⁰⁴² The threshold for declaring a public order emergency not only requires the Governor in Council to believe on reasonable grounds that there is a threat to the security of Canada, but also that the emergency is so serious as to be a national emergency.

571. "National emergency" is defined in section 3 of the *EA* as:

<p>an <u>urgent and critical situation of a temporary nature that</u></p> <p>(a) <u>seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or</u></p> <p>(b) <u>seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada</u></p> <p>and that <u>cannot be effectively dealt with under any other law of Canada.</u></p>	<p><u>résulte d'un concours de circonstances critiques à caractère d'urgence et de nature temporaire, auquel il n'est pas possible de faire face adéquatement sous le régime des lois du Canada et qui, selon le cas :</u></p> <p>a) <u>met gravement en danger la vie, la santé ou la sécurité des Canadiens et échappe à la capacité ou aux pouvoirs d'intervention des provinces;</u></p> <p>b) <u>menace gravement la capacité du gouvernement du Canada de garantir la souveraineté, la sécurité et l'intégrité territoriale du pays.</u></p>
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572. This definition requires the Governor in Council to make a number of assessments focused on the effects of the events at issue and their national significance, based on information known at the time.
573. The Governor in Council's assessment of the urgent and critical situation created by the convoy emergency is supported by the extensive evidence heard by the Commission. The Commission heard about the transformation of the Ottawa protests into a well-financed and volatile illegal occupation that by February 14 was increasing in size and had become more entrenched, and was expanding to multiple locations across the country, including at critical POEs. In several locations

¹⁰⁴¹ House of Commons Committees, Legislative Committee on Bill C-77, *Evidence*, 33-2, Vol. 1, No. 7, p 32 (Mr. Crofton).

¹⁰⁴² House of Commons Committees, Legislative Committee on Bill C-77, *Evidence*, 33-2, Vol. 1, No 1, pp 19-20 (Hon. Perrin Beatty, Minister of National Defence).

there had been additional ongoing threats, including to airports and railway lines.¹⁰⁴³ In addition to the harassment, hate speech and intimidation against racialized persons, there was escalating online IMVE rhetoric and threats to the lives of police and elected officials happening at the same time. There was also the discovery of weapons and a hard-core group of individuals willing to die for their cause at the Coutts blockade.

574. By February 14, the cities of Ottawa and Windsor along with the province of Ontario had declared states of emergency. There was extensive evidence to support the conclusion that the situation as it existed on February 14 had reached the point that it was seriously endangering the lives, health or safety of Canadians. Notable among these impacts were ongoing disruptions to the supply of critical goods, and massive economic impacts to vulnerable sectors of the Canadian economy.
575. Where there is clear evidence that the lives, health and safety of the population are at risk, it would be unreasonable, and contrary to the purpose of the *EA*, to require that the Governor in Council wait for the situation to manifest itself into actual violence and injury, or to reach a point where the situation becomes irremediable. The assessment of whether a “national emergency” exists has a necessary prospective component. As recognized in the Parliamentary debates, the nature of emergency situations continue to evolve, and the government must assess both the current situation and how circumstances may worsen in the future.¹⁰⁴⁴
576. The Working Paper drafted in advance of the consideration of Bill C-77 observed that among the common factors in all emergencies is the “need for prompt, often extraordinary measures to mitigate their effects and recover from them”.¹⁰⁴⁵ As DM Sabia testified, had the blockades and border disruptions continued for a longer, they threatened very severe long-term consequences on the economy.¹⁰⁴⁶ The Governor in Council recognized the risk that protest events could worsen, re-emerge or suddenly appear at new critical locations.
577. While the capacity of a province to deal with the situation is a necessary consideration in determining whether a national emergency exists pursuant to section 3 of the *EA*, provincial capacity must be understood in relation to a province’s ability to resolve the national emergency as a whole. At various points in the evidence, it was put to witnesses that local efforts could or would have resolved some of the incidents taking place across the country.¹⁰⁴⁷ However,

¹⁰⁴³ See for example, PB.NSC.CAN.00002561_REL.0001, GOC Update: Key Points on Impacts to Critical Infrastructure, dated February 10, 2022, p 3; PB.CAN.00000868_REL.0001, ONT – ISSO Update Slow Roll Convoy – Windsor, dated February 14, 2022.

¹⁰⁴⁴ House of Commons Committees, Legislative Committee on Bill C-77, *Evidence*, 33-2, Vol. 1, No. 1, pp 13-14 (Hon. Perrin Beatty, Minister of National Defence).

¹⁰⁴⁵ Emergency Preparedness Canada, *Working Paper – Bill C-77: An Act to Provide for Safety and Security in Emergencies* (1987), p 3; *EA*, Preamble.

¹⁰⁴⁶ TRN00000025, Evidence of Michael Sabia, p 10.

¹⁰⁴⁷ For example, at the Ambassador Bridge by February 14, or at Emerson or at Coutts. It was also suggested that the Integrated Planning Cell was close to finalizing or beginning its enforcement operation in the City of Ottawa, and that negotiations with protesters remained a viable solution to the crisis.

the relevant question in the context of an emergency causing national effects is not whether local capacity or authority can resolve one aspect of the situation in only one jurisdiction, but what is needed to resolve the national emergency. To take one example, the economic measures needed to have effect on a national level because money is fungible, and easily transferred between jurisdictions.¹⁰⁴⁸

578. The assessment that the situation cannot be effectively dealt with under any other law of Canada must similarly be assessed with sensitivity to the national dimension of the event. The Governor in Council need only determine that the situation is beyond what the existing laws of Canada, taken together, can effectively and practically deal with. This is supported by the French version of the provision: “il n’est pas possible de faire face adéquatement sous *le régime des lois* du Canada.” To that end, even if other laws that might address an emergency situation exist, the Governor in Council is entitled to consider whether they are effective. In doing so, the Governor in Council can consider whether the resources to enforce them do not exist or are stretched to their limits,¹⁰⁴⁹ their scope is uncertain,¹⁰⁵⁰ or they may not be effective in a timely way,¹⁰⁵¹ among other reasons.

III. The obligation to consult provinces about a potential declaration of emergency

579. Section 25 of the *EA* requires the Governor in Council to consult the Lieutenant Governor in Council of each province directly affected, prior to declaring a “public order” emergency.¹⁰⁵² This consultation requirement was incorporated into the *EA* to respond to criticisms of the *War Measures Act*, which had no formal legal mechanism to consult with provinces.¹⁰⁵³
580. Each of Alberta, Saskatchewan and Manitoba take the position that Canada’s consultation with the provinces was inadequate. They variously allege that their views were “ignored”,¹⁰⁵⁴ could not have been taken into account in the time given to them, or that the decision to issue a declaration of public order emergency had already been made by the time the FMM took place.¹⁰⁵⁵
581. Apart from it being “with respect to the proposed action”, the *EA* does not prescribe either the elements or the procedure for the consultation requirement. In this circumstance, the scope of

¹⁰⁴⁸ TRN00000025, Evidence of Michael Sabia, pp 46, 147-148.

¹⁰⁴⁹ TRN00000011, Evidence of Thomas Carrique, p 72; TRN00000012, Evidence of Peter Sloly, pp 70, 146, 193, 197-198.

¹⁰⁵⁰ TRN00000010, Evidence of Robert Bernier, pp 114-115; TRN00000007, Evidence of Steve Bell, p 251.

¹⁰⁵¹ For example, while it is an offence under paragraph 129(b) of the *Criminal Code* to fail to assist a peace officer without reasonable excuse, charging an individual who refuses to assist does not offer a timely solution for obtaining towing assistance.

¹⁰⁵² *EA*, s 25.

¹⁰⁵³ Emergency Preparedness Canada, *Working Paper – Bill C-77: An Act to Provide for Safety and Security in Emergencies* (1987), p 31.

¹⁰⁵⁴ ALB.IR.00000001, Institutional Report – Alberta, para 103.

¹⁰⁵⁵ ALB.IR.00000001, Institutional Report – Alberta, para 104; TRN00000001, Opening Remarks of Government of Saskatchewan, p 29.

the consultation must be determined based on the modern principle of statutory interpretation, which requires that courts read legislative provisions in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.¹⁰⁵⁶ While the “relative effects of ordinary meaning, context and purpose on the interpretive process may vary,” in all cases “the court must seek to read the provisions of an Act as a harmonious whole”.¹⁰⁵⁷ Reading the *EA*’s provisions in that manner compels the conclusion that section 25 does not confer a power of veto on the provinces, and that the consultation through the FMM and other means was adequate.

a. An urgent and critical national emergency does not permit a lengthy consultation process

582. The *EA* gives no express textual parameters on how long the provinces should have to provide input in the consultation stage, nor how long the federal government must take to consider provincial feedback. However, it contemplates that the federal government may, and in some cases must, act very quickly. The purpose of the *EA* is to enable the federal government to respond expeditiously to a national emergency that is in progress and has reached a state that is urgent, critical, and seriously endangering the lives and safety of Canadians.¹⁰⁵⁸ It is self-evident that a lengthy consultation process is neither required nor, in many cases, advisable.
583. The reality that consultations may be especially time-sensitive is implicit in subsection 25(2) of the *EA*, which recognizes that in some emergencies, the consultation may not be able to occur before the declaration is issued without unduly jeopardizing the effectiveness of the proposed action.¹⁰⁵⁹ By contrast, the *EA* does not provide for such an alternative to the required consultation process before a declaration of a public welfare emergency.¹⁰⁶⁰ Rather than an inflexible interpretation of the consultation requirement, the scheme of the *EA* favours one that is sensitive to the fact that public order emergencies need to be resolved as expeditiously as possible. The scheme of the *EA* further accounts for this by including elements that permit the benefits of consultation to continue to be realized after the issuance of the declaration of public order emergency and even after the tabling of the s. 58(1) report.
584. Furthermore, the *EA* recognizes that emergency management is best served by ongoing FPT consultation and collaboration. For instance, ensuring that regulations/orders do not unduly interfere with how provinces themselves manage the emergency is an ongoing concern that is addressed by continuing consultation with the provinces throughout the emergency period.¹⁰⁶¹

¹⁰⁵⁶ *Democracy Watch v Canada (Attorney General)*, 2018 FC 1290, paras 77-78 referring to *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27, p 41, quoting Elmer Driedger, *Construction of Statutes*, 2nd ed. (Toronto: Butterworths, 1983).

¹⁰⁵⁷ *Canada Trustco Mortgage Co v Canada*, 2005 SCC 54, para 10.

¹⁰⁵⁸ *EA*, s 16; *House of Commons Debates*, 33-2, Vol. 12, p 14764 (Bud Bradley, Parliamentary Secretary to the Minister of National Defence).

¹⁰⁵⁹ *EA*, s 25(2).

¹⁰⁶⁰ *EA*, s 14(1); TRN00000028, Evidence of Minister LeBlanc, pp 263-264; TRN00000031, Evidence of the Prime Minister, pp 172-173.

¹⁰⁶¹ *EA*, s 19(3).

585. In this case, the federal government continued to consult with provinces after the FMM and after the announcement that a public order emergency would be declared. Implicit in providing for parliamentarians to have an informed and complete picture of the federal government's response, and its efforts to collaborate with the provinces, is the idea that consultations can reasonably continue to take place after the declaration is issued, including up to the tabling of that report. There is a continuous ability to consult with the provinces and to implement consultation advice, and any consultations "with respect to" the declaration will inform consideration by parliamentarians of the measures taken by the executive branch¹⁰⁶².
586. Whether the consultation takes place before the public order emergency is declared or after, the *EA* provides for accountability and a mechanism for the continuous management of the emergency to be supervised by the Houses of Parliament. Subsection 58(1) of the *EA* requires that a "report on any consultation with lieutenant governors in council of the provinces with respect to the declaration" be tabled within seven sitting days after the declaration is issued.¹⁰⁶³ The *EA*'s strict mechanisms for Parliamentary oversight are a unique feature of the legislation and acknowledge the significance that legislative powers are conferred on the executive branch for a temporary period.

b. The federal government consulted appropriately with the provinces

587. Considered in context and in the overall scheme of the *EA*, the federal government's consultation with premiers at the FMM was entirely appropriate. The ordinary and grammatical meaning of the word "consultation" is a meeting arranged to consult or the act of instance of consulting.¹⁰⁶⁴ The expressed intent of the FMM was to inform provincial premiers about the steps the federal government considered necessary to address the emergency situation, and to seek their advice and perspectives as provinces who were affected by the situation and would be affected by the proposed response.¹⁰⁶⁵
588. The detailed review given of the specific measures the federal government was considering is consistent with subsection 25(1)'s requirement that the provinces be consulted "with respect to the proposed action".
589. The evidence that premiers were asked what if any additional measures the provinces recommended is consistent with a reading of subsections 25(1) and 19(3) taken together. Subsection 19(3) provides that:

¹⁰⁶² *EA*, s 19(3) and 25(1).

¹⁰⁶³ *EA*, s. 58(1); SSM.CAN.00002392_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, issued on February 16, 2022.

¹⁰⁶⁴ *Democracy Watch v Canada (Attorney General)*, 2018 FC 1290, para 84.

¹⁰⁶⁵ TRN00000026, Evidence of Janice Charette, p 157.

<p>(3) The power under subsection (1) to make orders and regulations, and any powers, duties or functions conferred or imposed by or pursuant to any such order or regulation, shall be exercised or performed</p> <ul style="list-style-type: none"> • (a) in a manner that will not unduly impair the ability of any province to take measures, under an Act of the legislature of the province, for dealing with an emergency in the province; and • (b) with the view of achieving, to the extent possible, concerted action with each province with respect to which the power, duty or function is exercised or performed. 	<p>(3) Les décrets et règlements d'application du paragraphe (1) et les pouvoirs et fonctions qui en découlent sont appliqués ou exercés :</p> <ul style="list-style-type: none"> • a) sans que soit entravée la capacité d'une province de prendre des mesures en vertu d'une de ses lois pour faire face à un état d'urgence sur son territoire; • b) de façon à viser à une concertation aussi poussée que possible avec chaque province concernée.
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590. The provinces were expressly invited to speak to whether their capacities or authorities to deal with the emergency had been exceeded.¹⁰⁶⁶ However, section 25 of the *EA* does not require that the Governor in Council ultimately agree with the views expressed by the provinces on this point. This is in contrast to subsection 25(3), which applies in cases “where the effects of the emergency are confined to one province”, in which case, the Governor in Council is required to have an indication from its provincial counterpart that the emergency exceeds the capacity or authority of the province to deal with it”.¹⁰⁶⁷ Where a national emergency affects more than one province, it is the federal government that must ultimately decide whether the thresholds for a national emergency exist.

591. Although there is no jurisprudence considering the *EA*, courts have considered statutory consultation requirements in other contexts. These cases make clear that a failure to agree does not mean that consultation was inadequate or that it was not meaningful.¹⁰⁶⁸ Reading the consultation requirement under the *EA* as requiring unanimity or even consensus could easily risk preventing the Governor in Council from acting swiftly in response to an emergency, or giving too much weight to the views of provinces that disagree. Again, the urgency inherent in a decision whether to issue a declaration of a public order emergency, and the deference afforded to federal exercises of the emergency power, as discussed above, inform the interpretation of the consultation requirement in subsection 25(1).

¹⁰⁶⁶ DOJ.IR.00000013, Institutional Report – Privy Council Office, para 95.

¹⁰⁶⁷ *EA*, s 25(3).

¹⁰⁶⁸ *Gardner v Williams Lake (City)*, 2006 BCCA 307, paras 28-29; *Lakeland College Faculty Association v Lakeland College*, 1998 ABCA 221, para 38.

592. In this case, even though not all the premiers were in agreement with the proposed approach, consideration was given to their perspectives.¹⁰⁶⁹ In fact, the measures ultimately enacted by the federal government reflected the discussions held during the FMM as they were focused on targeted areas, were time-limited, and were subject to ongoing engagement with the provinces and territories.¹⁰⁷⁰
593. Finally, it is implicit in subsection 19(3) of the *EA* that the federal government would benefit from input on how the federal government can work collaboratively with the provinces under the declaration so as not to unduly interfere with their ability to deal with the emergency and to ensure concerted action. This is consistent with the legislative history, which indicates that the consultation requirement was incorporated into the *EA* in order to reflect the spirit of federalism in the new legislation and to establish effective means of ensuring consultation and cooperation between the two orders of government.¹⁰⁷¹
594. To be effective, emergency management in a national context requires cooperation and information sharing. In addition to the formal consultations with premiers, the Commission has heard extensive evidence of the consultation and continuous and effective engagement between federal and provincial ministers and officials from the beginning of the crisis to discuss how, working together, it might be resolved, and what particular measures may be required.¹⁰⁷²

c. The decision to declare a public order emergency was made by the Governor in Council, following a meaningful consultation process

595. The final and legal decision to declare a public emergency was made by the Governor in Council on February 14, after the completion of the consultation process. The suggestion made by some parties that the decision to declare a public order emergency was effectively made at the Cabinet meeting of February 13 is both legally and factually wrong.

¹⁰⁶⁹ TRN00000028, Evidence of Minister LeBlanc, pp 268-269, 273; TRN00000031, Evidence of the Prime Minister, p 62.

¹⁰⁷⁰ SSM.CAN.00002392_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, issued on February 16, 2022, p 8, referring to SSM.CAN.00000111_REL.0001, February 15, 2022 Letter from the Prime Minister to Provincial and Territorial Premiers on the *EA*.

¹⁰⁷¹ CCF00000031, House of Commons Committees, Legislative Committee on Bill C-77, Vol. 1 No. 1, p 14 (Hon. Perrin Beatty (Minister of National Defence); Emergency Preparedness Canada, “Bill C-77: An Act to Provide for Safety and Security in Emergencies” Emergency Preparedness Canada, *Working Paper – Bill C-77: An Act to Provide for Safety and Security in Emergencies* (1987), pp 31-33.

¹⁰⁷² SSM.CAN.00002392_REL.0001, Report to the Houses of Parliament: Emergencies Act Consultations, issued on February 16, 2022, pp 2-5, 7-9.

596. Legally, it ignores the important distinction between the Governor in Council, as the formal executive body, and the Cabinet, as a forum for political deliberation. Both are part of the decision-making process, but only the Governor in Council makes legal decisions.
597. In Canada, executive authority is vested in the King as represented by the Governor General.¹⁰⁷³ The Governor in Council is “the real initiator”,¹⁰⁷⁴ for the exercise of much of that executive authority. The Governor in Council is the Governor General acting on the advice of the King’s Privy Council for Canada.¹⁰⁷⁵
598. By contrast, Cabinet has no legal status and therefore exercises no legal powers. Rather, Cabinet is a political body, acting as the policy-making organ of the government, representing all constituencies within government.¹⁰⁷⁶ In practical terms, the Cabinet shapes policy, and the Governor in Council makes formal legal decisions.¹⁰⁷⁷
599. In the case of the convoy emergency, Cabinet met on the evening of February 13 to discuss and to carefully and cautiously consider whether a public order emergency should be declared. This important discussion, around which the policy direction coalesced, was nevertheless not the final decision. The evidence is clear that the final decision was made the next day, following the meeting with the premiers, the open and considered discussion of all participant’s respective views, and the Prime Minister’s approval of the final policy direction based on the advice prepared by the Clerk of the Privy Council.¹⁰⁷⁸ There was no legal requirement that the final recommendation to the Governor General be on the advice of full Cabinet, or for another Cabinet meeting. After the Prime Minister approved the memorandum prepared by the Clerk of the Privy Council, the Governor in Council issued the Proclamation Declaring a Public Order Emergency.

CONCLUSION

600. The Prime Minister testified that the decision to invoke the *EA* followed the consensus reached at the IRG and Cabinet meetings of February 13 and the recommendation of the Clerk of the Privy Council. The collective advice received as of the date of the *EA*’s invocation was that it was necessary to protect the safety of Canadians:

¹⁰⁷³ *Constitution Act*, 1867, ss 9-10.

¹⁰⁷⁴ *Gitsaala Nation v Canada*, 2016 FCA 187, para 142.

¹⁰⁷⁵ *Gitsaala Nation v Canada*, 2016 FCA 187, para 142; *League for Human Rights of B’nai Brith Canada v Canada*, 2010 FCA 307, paras 76-78; *Constitution Act*, 1867, s 13; *Interpretation Act*, RSC 1985, c I-21, s 35.

¹⁰⁷⁶ *British Columbia (Attorney General) v Provincial Court Judges Association of British Columbia*, 2020 SCC 20, paras 95-96, citing Nicholas d’Ombrain, “Cabinet Secrecy” (2004), 47:3 Canadian Public Administration 332, at pp 334-335.

¹⁰⁷⁷ *British Columbia (Attorney General) v Provincial Court Judges Association of British Columbia*, 2020 SCC 20, paras 95-96, citing Nicholas d’Ombrain, “Cabinet Secrecy” (2004), 47:3 Canadian Public Administration 332, at pp 334-335.

¹⁰⁷⁸ TRN00000026, Evidence of Janice Charette, pp 163-164; TRN00000031, Evidence of the Prime Minister, p 62.

But it was a big thing, not a small thing, to have the head of the public service formally recommend the invocation of the *Emergencies Act* and the declaration of a public order emergency.

It's not something that had ever been done in Canada before. It was certainly not something that we undertook to do lightly. And as the Prime Minister, I get to sign off and agree with these notes or in some cases disagree with them, and that was a moment that I took with the weight of the decision I was about to take and I reflected briefly on, first of all, the reassurance that it gave me that the entire system, all the inputs in the system had come up to the Clerk of the Privy Council, the top public servant in Canada, impartial, professional public service making the recommendation to move forward on this. It was essential to me.

But I also reflected on, okay, what if I don't sign it? What if I say, okay, we now have advice from the professional public service to invoke a public order emergency and I decide, you know what, let's give it a few days? Where the professional public [service] had made a determination that the thresholds were met, that the use of it was appropriate and, you know, responsible and the measures were the right ones that we were going to put in it and I said, no, you know what; let's wait and see another few days, another week to see if we really need to do it.

First of all, what if the worst had happened in those following days? What if someone had gotten hurt? What if a police officer had been put in the hospital? What if when I had an opportunity to do something I had waited and we had the unthinkable happen over the coming days even though there was all this warning that it was possibly coming?

I would have worn that in a way that we would certainly be talking about it in a forum such as this. But more than that, the responsibility of a Prime Minister is to make the tough calls and keep people safe. And this was a moment where the collective advice of Cabinet, of the public service and my own inclination was that this was a moment to do something that we needed to do to keep Canadians safe and knowing full well that this was an inevitable consequence of me signing I agree on this note, I was very comfortable that we were at a moment where this was the right thing to do, and we did it.¹⁰⁷⁹

¹⁰⁷⁹ TRN00000031, Evidence of the Prime Minister, p 68.

ANNEX “A”
PUBLIC ORDER EMERGENCY COMMISSION
LIST OF GOVERNMENT WITNESS INTERVIEWS

National Capital Commission

- Tobi Nussbaum (Chief Executive Officer) (WTS.00000031.EN)
- Anne Ménard (Vice President, Capital Stewardship) (WTS.00000031.EN)
- Mathieu Brisson (Senior Manager, Operations and Lifecycle) (WTS.00000031.EN)
- Patrick Laliberté (Director, Ontario Urban Lands and Greenbelt) (WTS.00000031.EN)
- Ian Grabina (Land Manager) (WTS.00000031.EN)

Public Services and Procurement Canada

- Paul Thompson (Deputy Minister of Public Services and Procurement) (WTS.00000034)
- Lorenzo Leraci (Assistant Deputy Minister, Policy, Planning and Communications) (WTS.00000034)
- Catherine Poulin (Acting Assistant Deputy Minister, Departmental Oversight) (WTS.00000034)

Department of Finance Canada

- Michael Sabia (Deputy Minister of Finance) (WTS.00000059)
- Isabelle Jacques (Assistant Deputy Minister, Financial Sector Policy) (WTS.00000059)
- Rhys Mendes (Assistant Deputy Minister, Economic Policy) (WTS.00000059)

Financial Transactions and Reports Analysis Centre of Canada

- Sarah Paquet (Director and Chief Executive Officer) (WTS.00000055)
- Barry MacKillop (Deputy Director, Intelligence Sector) (WTS.00000055)
- Annette Ryan (Deputy Director, Partnership, Policy, and Analysis) (WTS.00000055)
- Donna Achimov (Deputy Director and Chief Compliance Officer, Compliance Sector) (WTS.00000055)

Canada Border Services Agency

- John Ossowski (Former President) (WTS.00000046)

- Ted Gallivan (Executive President) (WTS.00000046)
- Scott Harris (VP, Intelligence and Enforcement) (WTS.00000046)
- Brad Wozny (Regional Director General, Prairies) (WTS.00000043)
- Nina Patel, (Regional Director General, Pacific Region) (WTS.00000045)
- Christine Durocher (Regional Director General, Southern Ontario Region) (WTS.00000046)
- Lynne Lamarche (Director, Operational Guidance Division) (WTS.00000044)

Global Affairs Canada

- Marta Morgan (Deputy Minister of Foreign Affairs) (WTS.00000052)
- Cindy Termorshuizen (Associate Deputy Minister, Foreign Affairs) (WTS.00000052)
- Joseph Comartin (Consul General at the Detroit Consulate) (WTS.00000052)
- Martin Loken (Deputy Head of Mission for Foreign Policy and National Security at Embassy of Canada in Washington) (WTS.00000052)
- Sebastien Beaulieu, (Director General of Security and Emergency Management) (WTS.00000052)

Department of National Defence

- Bill Matthews (Deputy Minister of National Defence) (WTS.00000061)
- Stephanie Beck (Associate Deputy Minister of National Defence) (WTS.00000061)

Privy Council Office (Intergovernmental Affairs Secretariat)

- Michael Vandergrift (Deputy Minister, Intergovernmental Affairs and Deputy Secretary to the Cabinet, Plans & Consultations) (WTS.00000063)
- Louise Baird (Assistant Deputy Minister, Intergovernmental Affairs) (WTS.00000063)

Transport Canada

- Michael Keenan (Deputy Minister of Transport) (WTS.00000065)
- Kevin Brosseau (Assistant Deputy Minister, Safety and Security) (WTS.00000065)
- Melanie Vanstone (Director General, Multi-modal and Road Safety Programs) (WTS.00000065)
- Christian Dea (Director General of Economic Analysis and Chief Economist) (WTS.00000065)
- Duwayne Williams (Regional Director General, Ontario) (WTS.00000065)

Canadian Security Intelligence Service / Integrated Terrorism Assessment Centre

- David Vigneault (Director) (WTS.00000060)
- Michelle Tessier (Deputy Director, Operations) (WTS.00000060)
- Tricia Geddes (Former Deputy Director, Policy and Strategic Partnerships) (WTS.00000060)
- Marie-Hélène Chayer (Executive Director, Integrated Terrorism Assessment Centre) (WTS.00000060)

Privy Council Office (Intelligence)

- Jody Thomas (National Security and Intelligence Advisor to the Prime Minister) (WTS.00000071)
- Michael MacDonald (Assistant Secretary to Cabinet, Security and Intelligence) (WTS.00000071)
- Martin Green (Assistant Secretary to Cabinet, Intelligence Assessment) (WTS.00000071)

Royal Canadian Mounted Police

- Brenda Lucki (Commissioner) (WTS.00000069)
- Michael Duheme (Deputy Commissioner, Federal Policing) (WTS.00000068 and WTS.00000069)
- Curtis Zablocki (Deputy Commissioner, K Division) (WTS.00000069)
- Dwayne McDonald (Deputy Commissioner, E Division) (WTS.00000069)
- Brian Brennan (Deputy Commissioner, Contract and Indigenous Policing Program) (WTS.00000069)
- Liam Price (Director General, International Specialized Services) (WTS.00000069)
- Lisa Ducharme (Acting Director General, Federal Policing National Intelligence) (WTS.00000067)
- Nathalie Vinette (Divisional Intelligence Officer, National Division) (WTS.00000067)

Public Safety Canada

- Rob Stewart (Former Deputy Minister of Public Safety) (WTS.00000066)
- Talal Dakalbab (Assistant Deputy Minister, Crime Prevention) (WTS.00000066)
- Dominic Rochon (Senior Assistant Deputy Minister, National and Cyber Security) (WTS.00000066)
- Deryck Trehearne (Director General, Government Operations Centre) (WTS.00000066)

Privy Council Office (Emergency Preparedness and COVID recovery)

- Jacquie Bogden (Deputy Secretary to the Cabinet, Emergency Preparedness and COVID Recovery) (WTS.00000072)
- Jeffrey Hutchison (Senior Advisor) (WTS.00000072)

Privy Council Office

- Janice Charrette (Clerk of the Privy Council) (WTS.00000074)
- Nathalie G. Drouin (Deputy Clerk of the Privy Council) (WTS.00000074)

Office of the Prime Minister

- Katie Telford (Chief of Staff to the Prime Minister) (WTS.00000083)
- Brian Clow (Deputy Chief of Staff to the Prime Minister) (WTS.00000083)
- John Brodhead (Director of Policy) (WTS.00000083)
- Jeremy Broadhurst (Senior Advisor) (WTS.00000083)

Ministers

- The Right Honourable Justin Trudeau (Prime Minister) (WTS.00000084)
- The Honourable Filomena Tassi (Former Minister of Public Services and Procurement) (WTS.00000053)
- The Honourable Chrystia Freeland (Deputy Prime Minister and Minister of Finance) (WTS.00000078)
- The Honourable Melanie Joly (Minister of Foreign Affairs) (WTS.00000057)
- The Honourable Anita Anand (Minister of National Defence) (WTS.00000065)
- The Honourable Dominic LeBlanc (Minister of Intergovernmental Affairs, Infrastructure and Communities) (WTS.00000073)
- The Honourable Omar Alghabra (Minister of Transport) (WTS.00000075)
- The Honourable Marco Mendicino (Minister of Public Safety) (WTS.00000054)
- The Honourable Bill Blair (President of the King's Privy Council for Canada and Minister of Emergency Preparedness) (WTS.00000048)
- The Honourable David Lametti (Minister of Justice and Attorney General of Canada) (WTS.00000077)

ANNEX “B”
PUBLIC ORDER EMERGENCY COMMISSION
LIST OF GOVERNMENT WITNESSES

1. Rob Stewart (Former Deputy Minister, Public Safety Canada) (Day 22 – November 14, 2022 – TRN00000022)
2. Dominic Rochon (Former Senior Assistant Deputy Minister of National and Cyber Security Branch, Public Safety Canada) (Day 22 – November 14, 2022 – TRN00000022)
3. Cindy Termorhuizen (Associate Deputy Minister of Foreign Affairs, Global Affairs Canada) (Day 22 – November 14, 2022 – TRN00000022)
4. Joe Comartin (Consul General at the Detroit Consulate, Global Affairs Canada) (Day 22 – November 14, 2022 – TRN00000022)
5. Brenda Lucki (Commissioner, Royal Canadian Mounted Police) (Day 23 – November 15, 2022 – TRN00000023)
6. Michael Duheme (Deputy Commissioner, Federal Policing, Royal Canadian Mounted Police) (Day 23 – November 15, 2022 – TRN00000023)
7. Curtis Zablocki (Deputy Commissioner, K Division, Royal Canadian Mounted Police) (Day 23 – November 15, 2022 – TRN00000023)
8. John Ossowski (Former President, Canada Border Services Agency) (Day 24 – November 16, 2022 – TRN00000024)
9. Michael Keenan (Deputy Minister, Transport Canada) (Day 24 – November 16, 2022 – TRN00000024)
10. Christian Dea (Director General of Economic Analysis and Chief Economist, Transport Canada) (Day 24 – November 16, 2022 – TRN00000024)
11. Michael Sabia (Deputy Minister, Department of Finance) (Day 25 – November 17, 2022 – TRN00000025)
12. Rhys Mendes (Assistant Deputy Minister, Economic Policy, Department of Finance) (Day 25 – November 17, 2022 – TRN00000025)
13. Isabelle Jacques (Assistant Deputy Minister, Financial Sector Policy, Department of Finance) (Day 25 – November 17, 2022 – TRN00000025)
14. Jody Thomas (National Security and Intelligence Advisor to the Prime Minister, Privy Council Office) (Day 25 – November 17, 2022 – TRN00000025)
15. Jacquie Bogden (Deputy Secretary to the Cabinet - Emergency Preparedness and COVID Recovery, Privy Council Office) (Day 26 – November 18, 2022 – TRN00000026)

16. Jeff Hutchinson (Senior Advisor, Privy Council Office) (Day 26 – November 18, 2022 – TRN000000026)
17. Janice Charette (Clerk, Privy Council Office) (Day 26 – November 18, 2022 – TRN000000026)
18. Nathalie Drouin (Deputy Clerk, Privy Council Office) (Day 26 – November 18, 2022 – TRN000000026)
19. David Vigneault (Director, Canadian Security Intelligence Service) (Day 27 – November 21, 2022 – TRN000000027)
20. Michelle Tessier (Deputy Director, Operations, Canadian Security Intelligence Service) (Day 27 – November 21, 2022 – TRN000000027)
21. Marie-Hélène Chayer (Executive Director, Integrated Terrorism Assessment Centre) (Day 27 – November 21, 2022 – TRN000000027)
22. Minister Bill Blair (Emergency Preparedness and President of the King's Privy Council) (Day 27 – November 21, 2022 – TRN000000027)
23. Minister Marco Mendicino (Public Safety) (Day 28 – November 22, 2022 – TRN000000028)
24. Minister Dominic LeBlanc (Intergovernmental Affairs, Infrastructure and Communities) (Day 28 – November 22, 2022 – TRN000000028)
25. Minister David Lametti (Justice) (Day 29 – November 23, 2022 – TRN000000029)
26. Minister Anita Anand (National Defence) (Day 29 – November 23, 2022 – TRN000000029)
27. Minister Omar Alghabra (Transport Canada) (Day 29 – November 23, 2022 – TRN000000029)
28. Deputy Prime Minister Chrystia Freeland (Finance) (Day 30 – November 24, 2022 – TRN000000030)
29. Katie Telford (Prime Minister's Office Staff) (Day 30 – November 24, 2022 – TRN000000030)
30. Brian Clow (Prime Minister's Office Staff) (Day 30 – November 24, 2022 – TRN000000030)
31. John Brodhead (Prime Minister's Office Staff) (Day 30 – November 24, 2022 – TRN000000030)
32. Prime Minister Justin Trudeau (Day 31 – November 25, 2022 – TRN000000031)

ANNEX “C”
PUBLIC ORDER EMERGENCY COMMISSION
LIST OF INSTITUTIONAL REPORTS FILED BY CANADA

1. Unclassified Canadian Security Intelligence Service (CSIS) and Integrated Terrorism Assessment Centre (ITAC)¹⁰⁸⁰ (DOJ.IR.00000001);
2. Global Affairs Canada (DOJ.IR.00000002);
3. Department of Finance (DOJ.IR.00000003);
4. National Capital Commission (DOJ.IR.00000004);
5. Transport Canada (DOJ.IR.00000005);
6. Canada Border Service Agency (DOJ.IR.00000006);
7. Public Service and Procurement Canada (DOJ.IR.00000007);
8. Public Safety Canada (DOJ.IR.00000008);
9. Department of Justice (DOJ.IR.00000009);
10. Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) (DOJ.IR.00000010);
11. Royal Canadian Mounted Police (DOJ.IR.00000011);
12. Department of National Defence (DOJ.IR.00000012);
13. Privy Council Office (DOJ.IR.00000013);
14. Prime Minister’s Office (DOJ.IR.00000014).

¹⁰⁸⁰ A Classified Canadian Security Intelligence Service Institutional Report was also prepared and provided to the Commission.

ANNEX “D”
EMERGENCIES ACT INQUIRY
ACRONYM LIST

Acronym	Full Name
ADM	Assistant Deputy Minister
ASHP	Alberta Sheriff Highway Patrol
ADMNSOPS	Assistant Deputy Minister National Security Operations Committee
BSO	Border Services Officer
CAF	Canadian Armed Forces
CBSA	Canada Border Services Agency
CEA	Canada Evidence Act
CEO	Chief Executive Officer
CFIA	Canada Food Inspection Agency
CME	Canadian Manufacturers & Exporters
CSIS	Canadian Security Intelligence Service
DEOC	Departmental Emergency Operations Centre
DM	Deputy Minister
DMOC	Deputy Ministers’ Committee on Operational Coordination
EA	Emergencies Act
EA Measures	Emergency Economic Measures Order and Emergency Measures Regulations
EEMO	Emergency Economic Measures Order
EMCPA	Emergency Management and Civil Protection Act
EMR	Emergency Measures Regulations
ERT	Emergency Response Team
FINTRAC	Financial Transactions and Reports Analysis Centre of Canada
FMM	First Ministers’ Meeting
FPT	Federal/Provincial/Territorial
GAC	Global Affairs Canada
GOC	Government Operations Centre
IMCIT	Ideologically Motivated Criminal Intelligence Team
IMVE	Ideologically Motivated Violent Extremism
IPC	Integrated Planning Cell
IRG	Incident Response Group
IRPA	Immigration and Refugee Protection Act
ITAC	Integrated Terrorism Assessment Centre
MOA	Memorandum of Agreement
MTO	Minister of Transport for Ontario
NCC	National Capital Commission
NCR	National Capital Region
NCRCC	National Capital Region Command Centre
NOTAM	Notice to Airmen
NSIA	National Security and Intelligence Advisor

Ontario IPA	Ontario Interprovincial Policing Act
Ontario PSA	Ontario Police Services Act
OPP	Ontario Provincial Police
OPS	Ottawa Police Service
PCO	Privy Council Office
PCMLTFA	Proceeds of Crime (Money Laundering) and Terrorist Financing Act
PLT	Provincial Liaison Team of the Ontario Provincial Police
POE	Port of Entry
POGG	Peace, Order and Good Government
POU	Public Order Unit
PPS	Parliamentary Protective Service
PSPC	Public Services and Procurement Canada
RCMP	Royal Canadian Mounted Police
SOIs	Subjects of Investigation
SSE	Cabinet Committee on Safety, Security and Emergencies
TD	TD Bank
VCCR	Vienna Convention on Consular Relations
VCDR	Vienna Convention on Diplomatic Relations
WPS	Windsor Police Service