

# Public Order Emergency Commission

## Closing Submissions of the National Police Federation

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## **A. Overview**

1. The January-February 2022 protests represent a profound failure to maintain public order in our nation's capital. Among other factors, this failure was a result of the state's inability to surge adequate police resources to respond in Ottawa in a reasonable time. The evidence establishes the following facts:

- (a) within days of the protesters' arrival, the Ottawa Police Service ("OPS") was overwhelmed and urgently required a surge of additional police resources in order to restore and maintain public order;
- (b) the agency with primary responsibility for the security of Parliament Hill – the Parliamentary Protective Service – could not and did not provide material assistance to OPS in addressing the unlawful protest activity;
- (c) there was significant confusion, friction, and delay in OPS' efforts to obtain and deploy the police resources they so desperately needed; and
- (d) once adequate police resources were finally assembled in Ottawa (and once the RCMP, OPP, and OPS had established an integrated command team and operational plan), public order was restored through an efficient, professional, and safe enforcement operation.

2. The NPF is primarily interested in the lessons to be learned from these unfortunate events. Parliament Hill is an important symbol of the federal government and, as such, an inherent target for protest activity, lawful and otherwise. Steps must be taken to ensure that public order can be effectively and consistently maintained in and around Parliament

Hill, as well as other critical infrastructure in Canada. As stated by OPP Commissioner Thomas Carrique:

I think if we look back at the events that have transpired and we look forward, part of our responsibility is to mitigate something like this happening again in the future. This is the Parliament for our country. It's an extremely important critical infrastructure and there ought to be a pre-determined plan that can be exercised to shut that area down if there is a threat relying on hard security features and interoperability between the various security [...] agencies that have roles and responsibilities.<sup>1</sup>

3. The evidence demonstrates that, in many respects, the unacceptable delay in getting necessary “boots on the ground” in Ottawa was occasioned by shortcomings in the legal and institutional framework through which policing is administered in Ontario and, particularly, in our nation’s capital. To that end, the National Police Federation (“NPF”) is advancing four related recommendations for further study or review:

- (a) that existing jurisdictional boundaries be examined to re-establish the RCMP as police of jurisdiction in and around Parliament Hill, and to expand the RCMP’s jurisdiction at the border, to support the nimble and urgent supply of critical policing resources in times of crisis;
- (b) that the existing legislative framework for policing be amended to extend full policing authority to RCMP officers across all Canadian jurisdictions for the purposes of a municipal, provincial, or federal declared emergency;

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<sup>1</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the National Police Federation, p. 288, In. 13-21.

- (c) that a clear statutory process be developed for municipal police services to request police resources from the RCMP, particularly those services in close proximity to federal jurisdiction, and accounting for the primary role of provincial police services in supplementing municipal police services; and
- (d) that minimum national benchmarks be established for circumstances in which integrated command is the best practice, or potentially becomes mandatory, when a municipal police agency requires significant resources from external police agencies to respond to an incident.

4. The NPF provides these submissions for the purposes of both the fact-finding and policy mandates of the Public Order Emergency Commission (the “Commission”). In so doing, the NPF has limited its submissions to areas within the NPF’s experience and interest, to assist the Commission in its inquiry into the circumstances that led to the declaration of a public order emergency and, particularly, the efforts of police and other responders prior to and after the declaration.

## ***B. Factual Overview***

### ***1. Background – RCMP and the NPF***

5. The Royal Canadian Mounted Police (“RCMP”) is the police force for Canada.<sup>2</sup> It is currently composed of more than 19,000 police officers and over 11,000 civilians and

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<sup>2</sup> *Royal Canadian Mounted Police Act*, R.S.C., 1985, c. R-10 [“RCMP Act”], s. 3.

public servants. It has over 700 detachments across Canada and engages in policing activities in hundreds of communities.<sup>3</sup>

6. The NPF is the exclusive bargaining agent for regular members and reservists of the RCMP below the rank of Inspector. The NPF is party to a collective agreement with the Treasury Board Secretariat governing the terms and conditions of employment for its members.<sup>4</sup>

7. The RCMP provides policing services in different ways in different contexts. Across the country, the RCMP is responsible for federal policing, which includes issues of national security, transnational serious and organized crime, cybercrime, and financial crime.<sup>5</sup> For the purpose of the RCMP's federal policing mandate, its members across the country have the full responsibilities of peace officers under the *Criminal Code*,<sup>6</sup> and also enforce laws under a diverse array of authorities under more than 250 federal statutes.<sup>7</sup>

8. As part of its federal policing mandate, the RCMP is responsible for maintaining Canada's border integrity between ports of entry. In this regard, the RCMP works with Canada Border Services Agency ("CBSA"), whose border services officers are responsible for securing ports of entry.<sup>8</sup>

9. The RCMP also provides community policing services pursuant to Police Service Agreements with every province and territory of Canada except Ontario and Quebec, as

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<sup>3</sup> Institutional Report of the Royal Canadian Mounted Police ["RCMP IR"], DOJ.IR.00000011, p. 4, para. 1.

<sup>4</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 2.

<sup>5</sup> RCMP IR, DOJ.IR.00000011, pp. 5-6, para. 8.

<sup>6</sup> *RCMP Act*, s. 11.1.

<sup>7</sup> RCMP IR, DOJ.IR.00000011, p. 5, para. 6.

<sup>8</sup> RCMP IR, DOJ.IR.00000011, p. 6, para. 8; Transcript, Day 24, November 16, 2022, TRN00000024, Examination of John Ossowski by the Commission, p. 3, ln. 13 to p. 5, ln. 13.

well as in more than 150 municipalities.<sup>9</sup> It has been held that, unless a province contracts with the RCMP for the use of its officers, members of the RCMP have no inherent authority to enforce provincial laws within that province.<sup>10</sup>

10. In Ontario there is no Police Service Agreement in place, and the RCMP is not a “police force” for the purposes of the Ontario *Police Services Act*.<sup>11</sup> Consequently, RCMP officers do not have police authorities in Ontario, other than under the *Criminal Code* and other federal statutes. RCMP officers must first be sworn in as provincial or municipal special constables in order to enforce provincial and municipal laws in Ontario.<sup>12</sup>

## **2. Policing Jurisdiction in Ottawa**

11. Responsibility for policing in Ottawa is divided among a complex patchwork of police and security agencies with vastly different authorities and mandates.

12. OPS is police of jurisdiction in the municipality of Ottawa. In accordance with section 4 of the *Police Services Act*, OPS is responsible to provide adequate and effective policing services for Ottawa, including, at a minimum, public order maintenance.<sup>13</sup>

13. The OPP is police of jurisdiction for provincial roadways in Ottawa, including Highway 417, which runs through the downtown core.<sup>14</sup>

14. The RCMP does not currently have a frontline policing role in Ottawa. Instead, the RCMP maintains a presence in Ottawa for the purpose of carrying out its general federal

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<sup>9</sup> RCMP IR, DOJ.IR.00000011, pp. 4-5, paras. 3-5. *RCMP Act*, s. 20.

<sup>10</sup> *R v Seguin*, [2016 ONCJ 441](#) at para. 74.

<sup>11</sup> *Police Services Act*, R.S.O. 1990, c. P.15 [“PSA”], s. 2(1) “police force” means the Ontario Provincial Police or a municipal police force; (“corps de police”).

<sup>12</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 2.

<sup>13</sup> *PSA*, s. 4.

<sup>14</sup> Institutional Report of the Ontario Provincial Police [“OPP IR”], OPP.IR.00000001, p. 7; OPS IR, OPS.IR.00000001, p. 6, para. 14.

policing mandate, including matters of national security.<sup>15</sup> In addition, the RCMP has a significant protective services mandate in Ottawa, pursuant to which the RCMP ensures the safety and security of designated major events, Canadian officials, and international dignitaries, including the Prime Minister, the Governor General, and Supreme Court of Canada justices, as well as their residences.<sup>16</sup> As part of its protective mandate, the RCMP protects various federal properties, and enforces traffic on a small number of federal roadways, in the National Capital Region.<sup>17</sup>

15. Despite its status as police of jurisdiction for Ottawa, the OPS is not responsible for ensuring the physical security of Parliament Hill.<sup>18</sup> Prior to 2014, three different agencies shared responsibility for Parliament Hill:

- (a) The RCMP policed the Parliament Hill grounds outside the walls of Centre Block. Between 120 and 200 RCMP officers were assigned permanently to Parliament Hill. The RCMP was responsible for planning for and responding to demonstrations or other events taking place on

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<sup>15</sup> RCMP IR, DOJ.IR.00000011, pp. 5-6, para. 8; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 9, ln. 1-6; p. 11, ln. 20 to p. 12, ln. 3.

<sup>16</sup> RCMP IR, DOJ.IR.00000011, p. 5, para. 7; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 12, ln. 10-23; Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 3.

<sup>17</sup> RCMP IR, DOJ.IR.00000011, p. 5, para. 7; OPS IR, OPS.IR.00000001, p. 6, para. 13.

<sup>18</sup> Institutional Report of the Ottawa Police Service ["OPS IR"], OPS.IR.00000001, p. 6, paras. 12-15; RCMP IR, DOJ.IR.00000011, p. 11, para. 28; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by Former Chief Peter Sloly, p. 145, ln. 8-22.

Parliament Hill and, where events were also anticipated to impact the streets of Ottawa (e.g. Canada Day), the RCMP worked jointly with OPS.

- (b) Security guards reporting to the Speaker of the House of Commons, known as the House of Commons Security Service, managed security for the House of Commons portion of Centre Block.
- (c) The Senate Protective Services, a separate group of security guards reporting to the Speaker of the Senate, were responsible for security in the Senate portion of Centre Block.<sup>19</sup>

16. In October 2014, Michael Zehaf-Bibeau fatally shot Corporal Nathan Cirillo at the National War Memorial and then charged into Parliament and continued shooting until he was incapacitated. This tragic event exposed the limited training of the House of Commons Security Service and the Senate Protective Services relative to the RCMP, as well as the challenge of effective policing across divided jurisdiction.<sup>20</sup>

17. Following the 2014 shooting, there was a review of the security posture on Parliament Hill.<sup>21</sup> The House of Commons and the Senate determined that there should be “fully integrated security throughout the Parliamentary precinct and the grounds of Parliament Hill”.<sup>22</sup> However, they also expressed an interest in “respecting the privileges, immunities and powers of the respective Houses, and ensuring the continued

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<sup>19</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 20, In. 22 to p. 21, In. 18; p. 22, In. 8-10; Interview Summary: RCMP Panel, WTS.00000069, p. 8; Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 4.

<sup>20</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 4.

<sup>21</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 21, In. 19-21.

<sup>22</sup> Institutional Report of the Parliamentary Protective Service [“PPS IR”], PPS.IR.00000001, p. 4.



employment of our existing and respected Parliamentary Security staff”.<sup>23</sup> To that end, in 2015, the *Parliament of Canada Act* was amended to establish the Parliamentary Protective Service (“PPS”),<sup>24</sup> which amalgamated the two prior security units into a single security service aimed at protecting Parliament.<sup>25</sup> The creation of PPS corresponded with a significant reduction in the RCMP's jurisdiction and role in Ottawa.<sup>26</sup>

18. Today, PPS is “responsible for all matters with respect to physical security throughout the parliamentary precinct and Parliament Hill”, including both the grounds and buildings.<sup>27</sup> PPS’ jurisdiction is exclusive; OPS, the police of jurisdiction for the municipality, cannot even enter the parliamentary precinct without the permission of one of the Speakers.<sup>28</sup>

19. PPS is a parliamentary entity under the joint direction of the Speakers of the House of Commons and the Senate. It is a separate and distinct agency from the RCMP and the

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<sup>23</sup> PPS IR, PPS.IR.00000001, p. 4.

<sup>24</sup> *Parliament of Canada Act*, RSC, 1985, c. P-1 [“*Parliament Act*”], s. 79.51-79.59.

<sup>25</sup> PPS IR, PPS.IR.00000001, p. 4.

<sup>26</sup> RCMP IR, DOJ.IR.00000011, p. 12, para. 36; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 21, ln. 19 to p. 22, ln. 25.

<sup>27</sup> *Parliament Act*, s. 79.53(1). The *Parliament Act*, s. 79.51, defines the “parliamentary precinct” to mean the premises used by the Senate, House of Commons, Library of Parliament, Parliamentary committees, among other premises. “Parliament Hill” is defined to mean the grounds in the City of Ottawa bounded by Wellington Street, the Rideau Canal, the Ottawa River and Kent Street; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the National Police Federation, p. 233, ln. 12-16; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the City of Ottawa, p. 60, ln. 27 to p. 61, ln. 1.

<sup>28</sup> PPS IR, PPS.IR.00000001, p. 4; RCMP IR, DOJ.IR.00000011, p. 12, para. 36; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 224, ln. 5-14.

Government of Canada, although by statute its Director must be a member of the RCMP.<sup>29</sup>

20. Today, PPS is independently responsible for planning for and responding to events taking place on Parliament Hill. While the RCMP assisted in such planning immediately following the transition, PPS is now completely autonomous.<sup>30</sup> Where events have the potential to impact the streets outside the parliamentary precinct, PPS works with the OPS (as the RCMP had done previously).<sup>31</sup>

21. Despite their critical public safety role, PPS officers have extremely limited authority or capacity to address unlawful activity. PPS is not a law enforcement agency; its officers are not police officers with the authorities granted by the *Police Services Act*, nor are they peace officers for the purposes of the *Criminal Code*.<sup>32</sup> PPS officers have no authority to lay a criminal charge.<sup>33</sup> When a *Criminal Code* offence or other major incident occurs on Parliament Hill, PPS depends upon the police of jurisdiction to attend and address the situation.<sup>34</sup>

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<sup>29</sup> PPS IR, PPS.IR.00000001, p. 5; RCMP IR, DOJ.IR.00000011, p. 12, paras. 33-34. *Parliament Act*, s. 79.56.

<sup>30</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 21, In. 17-25.

<sup>31</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by Former Chief Peter Sloly, p. 145, In. 8-22; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 23, In. 5-13.

<sup>32</sup> PPS IR, PPS.IR.00000001, p. 6; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the National Police Federation, p. 233, In. 20-27.

<sup>33</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the National Police Federation, p. 233, In. 28, to p. 234, In. 3.

<sup>34</sup> PPS IR, PPS.IR.00000001, p. 4; OPS IR, OPS.IR.00000001, p. 6, para. 15; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the National Police Federation, p. 234, In. 4-27; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by Former Chief Peter Sloly, p. 145, In. 8-22; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 223, In. 13-28.

### **3. Arrival and Entrenchment of Protester Vehicles in Ottawa**

22. As police of jurisdiction, the OPS was the lead agency responsible for maintaining public order during the Freedom Convoy protests in Ottawa. OPS was responsible for planning for the protesters' arrival and the policing response.<sup>35</sup> PPS was not an active participant nor contributor to any tactical police planning for the response to the Convoy.<sup>36</sup>

23. The OPP and RCMP also were not involved in the development or evaluation of the OPS' plan.<sup>37</sup> The OPP did, however, offer resources and other advance support to OPS, and coordinated with them regarding the traffic expected to move through OPP jurisdiction to Ottawa.<sup>38</sup> Similarly, the OPS, RCMP, and PPS collaborated with respect to the security of Parliament Hill and the protection of people working there.<sup>39</sup> The RCMP also offered its support to OPS but, as discussed below, the OPS did not request resources from the RCMP until after the Convoy was entrenched in Ottawa.<sup>40</sup>

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<sup>35</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 7; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Acting Deputy Chief Patricia Ferguson, by the Ontario Provincial Police, p. 117, ln. 17 to 22. For a discussion of the meaning of "police of jurisdiction", and its exclusive nature, see Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the Commission, p. 12, ln. 15 to p. 13, ln. 12.

<sup>36</sup> PPS IR, PPS.IR.00000001, p. 8.

<sup>37</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 7; Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the Commission, p. 21, ln. 9 to p. 23, ln. 18; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 213, ln. 8-17.

<sup>38</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the Commission, p. 20, ln. 11-23; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 204, ln. 9 to p. 205, ln. 9.

<sup>39</sup> Interview Summary, Inspector Russell Lucas, WTS.00000024, p. 4; RCMP IR, DOJ.IR.00000011, p. 35, para. 143-145.; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 24, ln. 9-28; Ministerial Briefing, January 26, 2022, PB.NSC.CAN.00000992\_REL.001.

<sup>40</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 4.

24. In advance of the Convoy's arrival, the OPS planned to allow up to 3,000 protester trucks into downtown Ottawa and park there, including on Wellington Street.<sup>41</sup> The Chief of Police at the time, Peter Sloly, testified that this decision was based on legal advice to the effect that the *Charter* prevented OPS from blocking vehicle access to downtown.<sup>42</sup> In contrast, Interim Chief Steve Bell described the OPS' decision as having been informed by its prior experience in Ottawa:

That is something we had not exercised prior as an organisation. When we had vehicle born demonstrations, protests, or events in what is the downtown core we had always allowed them because our experience was they had come and they had left and we had managed them. And that was a regular occurrence for us, and that happened many, many times, usually many, many times a year. So although the Charter doesn't protect the vehicles, I do know that our experience had been that we would allow those type of vehicles.<sup>43</sup>

25. OPS' prior experience contrasts with that of the RCMP. Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme testified that, in advance of major events such as G7 or G20 summits, the RCMP will frequently direct protesters to park at a distance and arrange for buses to transport them on foot to the summit location.<sup>44</sup>

Witnesses on behalf of the NPF elaborated on this approach and rationale:

Mr. Madden observed that placing heavy fuel trucks near Parliament Hill posed an unacceptable risk because of the potential for those trucks to explode, whether by accident or design. Mr. Miller agreed and mentioned that by allowing

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<sup>41</sup> Interview Summary: Interim Chief Steve Bell, p. 9; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 211, In. 21-23; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the City of Ottawa, p. 56, In. 1-8.

<sup>42</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Commission, p. 233, In. 8-15.

<sup>43</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the Commission, p. 57, In. 25 to p. 58, In. 5.

<sup>44</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 221, In. 14-28.

the trucks into the downtown core, Freedom Convoy protestors were able to entrench themselves there. [...] Mr. Miller stated that he had policed three previous G20 summits where RCMP directed protestors to park at a distance from the summit location and then arranged for buses to transport protestors from the parking location to the protest site.<sup>45</sup>

26. OPP Commissioner Thomas Carrique testified that, prior to the Convoy's arrival, he had understood that the OPS would be taking the same approach; commercial motor vehicles would be directed to park in a designated area and protestors would be shuttled to the protest site.<sup>46</sup> He stated that, had he known the OPS intended instead to allow such vehicles into downtown, he would have asked additional questions, and could have offered advice and guidance, if appropriate. However, Commissioner Carrique was careful to note that it was not the OPP's role or responsibility to sit in judgment of an operational plan by OPS, the police of jurisdiction.<sup>47</sup>

27. The evidence is clear, and the NPF submits that the Commission should find as fact, that the OPS should not have permitted the Convoy protestors to bring large commercial vehicles and heavy equipment into Ottawa's downtown core. The presence of such large vehicles meant that protestors quickly became entrenched and immobilized, introduced the risk of fire or explosion from fuel, and made any police operation to clear the area significantly more complex.<sup>48</sup> As Deputy Minister, Department of Public Safety

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<sup>45</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 5.

<sup>46</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the Commission, p. 21, In. 15-25. RCMP Deputy Commissioner Michael Duheme was under the same understanding: Interview Summary: RCMP Panel, WTS.00000069, p. 9.

<sup>47</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique, by the Commission, p. 22, In. 2 to p. 23, In. 8.

<sup>48</sup> Interview Summary: Superintendent Craig Abrams, WTS.00000013, p. 8; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Ottawa Coalition, p. 89, In. 21 to p. 90, In. 10; Transcript, Day 13, October 31, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Ottawa Coalition, p. 161, In. 1-5; Interview

and Emergency Preparedness, Rob Stewart observed, the situation in Ottawa “was out of control the moment the trucks were allowed to park in the downtown core”.<sup>49</sup>

#### **4. Urgent Need for More Police Resources**

28. Protesters began to arrive in Ottawa on Friday, January 28, 2022<sup>50</sup> and, by Monday, January 31, 2022 at the latest, it was apparent that OPS was overwhelmed and in urgent need of the assistance of external police agencies.

29. The evidence in support of this inference is extensive and virtually undisputed. By way of example only, it includes the following:

- (a) OPS Deputy Chief Patricia Ferguson testified that the OPS had “very poor” staffing for a number of years before the Convoy’s arrival in Ottawa. She described it as a “challenge every day to make sure that we had all the shifts covered” under regular circumstances, and identified staffing as the OPS’ “number one Achilles heel” during the protests.<sup>51</sup> This longstanding state of affairs was confirmed by various senior members of the OPS.<sup>52</sup>

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Summary: RCMP Panel, WTS.00000069, p. 24; Interview Summary: RCMP Deputy Commissioner Michael Duheme, WTS.00000068, pp. 3-4.

<sup>49</sup> Interview Summary: Department of Public Safety and Emergency Preparedness Panel, WTS.00000066, p. 14.

<sup>50</sup> Overview Report: Timeline of Certain Key Events, COM.OR.00000004, p. 5.

<sup>51</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by the Commission, p. 28, In. 12 to p. 30, In. 2.

<sup>52</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by Former Chief Peter Sloly, p. 131, In. 24 to p. 132, In. 8; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Commission, p. 28, In. 21-25; Transcript, Day 13, October 31, 2022, TRN00000013, Re-Examination of Former Chief Peter Sloly by the Commission, p. 280, In. 9-22; OPS IR, OPS.IR.00000001, pp. 17-18, paras. 51, 53.

- (b) On Saturday, January 29, 2022, OPP Superintendent Craig Abrams was informed by his colleague in the NCRCC, OPP Inspector Dawn Ferguson, that the OPS Incident Commander, Inspector Russell Lucas, was “yelling profanities” and the other OPS members were “in a panic and crisis mode”. Inspector Ferguson’s assessment was that this event was “clearly beyond their capabilities”.<sup>53</sup> Similarly, it was clear to Superintendent Abrams by that day that OPS did not have the resources on the ground to bring the incident to an end.<sup>54</sup> Nevertheless, later that same day, the OPS declined Superintendent Abrams’ offer of 18 frontline officers from their Ottawa Detachment (the most that were available and proximate for immediate deployment).<sup>55</sup>
- (c) Inspector Lucas’ direct evidence was consistent with the information relayed to Superintendent Abrams at the time. He described the OPS as becoming “progressively overwhelmed” to the point that, by Sunday, January 29, 2022, he and the NCRCC were “drinking from a firehose”. He described the atmosphere in the NCRCC as “chaotic” and that it was “facing more needs than it had resources to respond to”.<sup>56</sup> He reported

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<sup>53</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 218, ln. 15 to p. 219, ln. 28; Will Say of Superintendent Craig Abrams, OPP00000773, p. 2.

<sup>54</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Ottawa Coalition, p. 89, ln. 21 to p. 93, ln. 1-5; Interview Summary: Superintendent Craig Abrams, WTS.00000013, p. 2.

<sup>55</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 221, ln. 4 to p. 222, ln. 8; Will Say of Superintendent Craig Abrams, OPP00000773, p. 2; OPP IR, OPP.IR.00000001, p. 33.

<sup>56</sup> Interview Summary: Inspector Russell Lucas, WTS.00000024, p. 8; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by Former Chief Peter Sloly, p. 47, ln. 4-15.

that, over the course of that first weekend, the OPS “lost the capacity to engage in proactive enforcement” and was focussed instead on maintaining public safety and attempting to stabilize the situation.<sup>57</sup>

- (d) Similarly, then Chief of Police, Peter Sloly, testified that by 11:00 a.m. on Sunday, January 29, 2022, the protesters were “significantly embedded, clearly beginning to occupy, and in some cases fortify” downtown Ottawa, and the OPS’ “staffing and reserve staffing was significantly, if not already, fully exhausted”.<sup>58</sup>
- (e) Inspector Lucas reported that due to under-staffing, on Sunday, January 29, 2022, some dayshift officers were on duty for more than 15 hours straight, and some officers were not accounted for or relieved by replacement shifts that evening.<sup>59</sup> An OPS colleague reported to Inspector Lucas on Sunday, January 30, 2022 that officer morale was already low as a result of the long shifts.<sup>60</sup> Inspector Lucas described struggling to maintain sufficient officers just for foot patrol<sup>61</sup> and deploying OPS’ limited resources in such a manner to attempt to conceal their staffing shortages from protesters.<sup>62</sup>

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<sup>57</sup> Interview Summary: Inspector Russell Lucas, WTS.00000024, p. 8; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Commission, p. 38, In. 7-11.

<sup>58</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Commission, p. 53, In. 25 to p. 54, In. 5.

<sup>59</sup> Interview Summary: Inspector Russell Lucas, WTS.00000024, p. 8.

<sup>60</sup> Email from Inspector François D’Aoust, January 30, 2022, OPS00004765.

<sup>61</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by Former Chief Peter Sloly, p. 47, In. 16-19.

<sup>62</sup> Interview Summary: Inspector Russell Lucas, WTS.00000024, p. 8; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Ottawa Police Service,



- (f) On Sunday, January 30, 2022, the OPS reversed course and advised the OPP that they did in fact want the 18 OPP officers they had declined the previous day. Ten officers were sent to Ottawa right away but, approximately four hours after their arrival, only two had been deployed; the other eight officers were sitting at OPS Headquarters waiting for direction and, as a result, were called back by the OPP.<sup>63</sup>
- (g) Deputy Chief Ferguson identified the evening Sunday, January 30, into the morning of Monday, January 31, 2022, as the point at which OPS realized it had to “pivot”, to re-assess their response, in light of the fact that the protesters had not departed and Ottawa was now facing an “occupation”.<sup>64</sup> After that first weekend, however, Deputy Chief Ferguson also described the OPS as “floundering” in terms of its staffing and its ability to move forward and come up with a plan to address the situation.<sup>65</sup>
- (h) During an 8:00 a.m. OPS executive briefing on Monday, January 31, 2022, staffing was identified as the “#1 risk”. Challenges with staffing were reported, particularly at night, where staffing was described as “at

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p. 91, ln. 6-12; Transcript, Day 9, October 25, 2022, TRN00000009, Re-Examination of Inspector Russell Lucas by the Commission, p. 96, ln. 5-11.

<sup>63</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 222, ln. 17-28; Will Say of Superintendent Craig Abrams, OPP00000773, p. 2; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the Commission, p. 74, ln. 12 to p. 75, ln. 8.

<sup>64</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by the Commission, p. 27, ln. 9-13; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by Former Chief Peter Sloly, p. 125, ln. 19-27; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by City of Ottawa, p. 158, ln. 9-17.

<sup>65</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by the Commission, p. 103, ln. 918-28.

[a] critical level”.<sup>66</sup> Deputy Chief Ferguson testified that, by this point, OPS’ frontline officers were exhausted and needed to be able to take time off.<sup>67</sup> Former Chief Sloly testified that the “number one thing at that point was staffing, staffing, staffing, staffing”.<sup>68</sup>

- (i) Superintendent Abrams testified that, on Monday, January 31, 2022, then Deputy Chief Steve Bell advised that OPS was now “planning for a protracted event and we really don’t know our way out of this” but would “need substantial assistance from police partners”. Superintendent Abrams described that conversation as the “first indication to me ... that we were going to be in for a long haul to assist them”.<sup>69</sup> He reported back to his incident command team that the OPP might need to “switch operations to supporting” OPS and that “they’re going to be relying on us and other services to help them”.<sup>70</sup>
- (j) OPS’ staffing challenges were apparent to its external partners. For example, during this early stage (between January 29 and February 2), the OPP began supplying additional resources to support OPS in frontline policing in the downtown core. However, Superintendent Abrams learned

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<sup>66</sup> Email from Robin Millbrank to Peter Sloly et al, January 31, 2022, OPS00004976.

<sup>67</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by the Commission, p. 30, ln. 3-11.

<sup>68</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Commission, p. 63, ln. 22-27.

<sup>69</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 224, ln. 17-25; Will Say of Superintendent Craig Abrams, OPP00000773, p. 2.

<sup>70</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 224, ln. 26 to p. 225, ln. 4.

that during night shifts OPS failed to provide an adequate number of OPS officers to support the number of officers provided by the OPP. Superintendent Abrams contacted Deputy Chief Bell, who reported that “he would work on it” and that OPS was already struggling with staffing and members calling in sick.<sup>71</sup>

30. The NPF wishes to emphasize that the evidence clearly shows that individual OPS police officers on the ground were generally doing their best to maintain public order and protect the citizens of Ottawa despite extremely challenging conditions.<sup>72</sup> They were exhausted and outnumbered, working very long shifts outside with average temperatures of -25 to -30 degrees during the day and -35 degrees at night, without days off.<sup>73</sup> Due to the OPS’ staffing challenges, some of these officers were brand new recruits.<sup>74</sup> From the outset, the protesters were volatile and aggressive; officers who attempted enforcement action were often swarmed and forced to retreat because of the risk of escalating violence, injury, or death.<sup>75</sup>

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<sup>71</sup> Will Say of Superintendent Craig Abrams, OPP00000773, p. 3; Interview Summary: Superintendent Craig Abrams, WTS.00000013, p. 3; Interview Summary of Deputy Chief Steve Bell, WTS.00000029, p. 10.

<sup>72</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Commission, p. 69, In. 13-23; Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Commission, p. 59, In. 4-23.

<sup>73</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the Commission, p. 165, In. 9-23; Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by his counsel, p. 258, In. 19-26.

<sup>74</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Re-Examination of Former Chief Peter Sloly by the Commission, p. 293, In. 8.

<sup>75</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the City of Ottawa, p. 132, In. 13 to p. 133, In. 2; Transcript, Day 13, October 31, 2022, TRN00000013, Re-Examination of Former Chief Peter Sloly by the Commission, p. 292, In. 1 to p. 293, In. 24; Notes of Christine Huneault, January 31, 2022, OPS00014454, p. 6.

31. While individual Convoy protesters suggested that their efforts were supported and even assisted by police, the NPF submits that their evidence should be assessed narrowly and with caution. It is likely that many Convoy protesters exaggerated (intentionally or otherwise) legitimate and appropriate efforts by police officers to build rapport and de-escalate tensions with a view to maintaining public safety.<sup>76</sup>

### **5. *Inconsequential Assistance by PPS***

32. The NPF submits that the Commission should find as fact that PPS, the agency tasked with exclusive responsibility for the security of Parliament Hill, did not provide material assistance to OPS in addressing the protests and restoring public order in the city of Ottawa. To the contrary, PPS served only as a further draw on the OPS' scarce resources.

33. As described above, PPS is not a law enforcement agency; its officers lack basic police authorities. Consequently, the OPS could not rely on PPS to protect the security of Parliament Hill, its area of exclusive jurisdiction. OPS and its policing partners had to plan and allocate resources for the eventuality that, if unlawful activity occurred on Parliament Hill, PPS could not address it independently.<sup>77</sup>

34. Steps were taken in advance of the protesters' arrival to ensure that PPS had external police resources in reserve in case they needed law enforcement assistance to maintain the security of Parliament Hill. During the first weekend, the OPP had two public

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<sup>76</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Government of Canada, p. 71, ln. 12-22.

<sup>77</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 83, ln. 5-10; Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 236, ln. 1-5.

order units in Ottawa; they were originally assigned to assist the OPS but, on PPS' request, they were diverted solely to supporting the PPS. However, during the evening of January 30, 2022, as the situation on the ground deteriorated, those OPP resources were redirected again to support OPS in the city of Ottawa.<sup>78</sup> At the same time, the RCMP had brought three public order units to Ottawa, at least one of which was assigned to Parliament Hill, to sit on standby should it be needed to assist PPS.<sup>79</sup> OPS also had rotating public order units available to provide support to PPS on Parliament Hill as required.<sup>80</sup>

35. Unsurprisingly, PPS officers were not directly involved in the extremely difficult policing response to the protests on Wellington Street. Instead, PPS officers remained holed up on Parliament Hill, to address any spillover of protesters.<sup>81</sup>

36. Fortunately, there never was significant spillover of protester activity on to Parliament Hill. This is likely because at the time there was construction fencing located in front of Centre Block.<sup>82</sup> Had it not been for this fortuitous construction fencing, and had

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<sup>78</sup> Email from Joseph Vargas, January 30, 2022, OPP00001593, p. 3; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by the Commission, p. 222, In. 8-22; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams, by Former Chief Peter Sloly, p. 54, In. 4-25; Interview Summary, Inspector Russell Lucas, WTS.00000024, p. 4; Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 83, In. 19-20.

<sup>79</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 226, In. 27 to p. 227, In. 19; Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 235, In. 23-28; Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 101, In. 1-14.

<sup>80</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 83, In. 11-28.

<sup>81</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 82, In. 8-13.

<sup>82</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the Government of Canada, p. 70, In. 23 to p. 71, In. 3; Transcript, Day 9, October 25, 2022,

there been significant unlawful protest activity on Parliament Hill, Inspector Lucas of the OPS agreed that it was virtually certain that PPS would require support from OPS and/or other police partners.<sup>83</sup>

37. Marco Mendicino, the Minister for Public Safety and Emergency Preparedness, described one incident in which the PPS was nearly overwhelmed by protesters, seriously risking the safety of protesters, PPS officers, and the individuals working inside Parliament Hill:

I was, again, extremely concerned that by sheer size of the crowd, that they would try to impose themselves on the PPS. And if memory serves, there were a couple of what I would describe as brushes with law enforcement on the Hill, where PPS was there on the stairs trying to, I think, urge calm and to hold back from allowing the crowds to walk up towards Centre Block, and I think, actually, this is -- might have been closer to West Block, but the PPS officer was completely overwhelmed. And the concern -- the very real concern that I had at the time, was that that could immediately spill over into serious violence that would jeopardize the safety of everybody involved.<sup>84</sup>

38. PPS even required external support to obtain food rations for its officers in the red zone.<sup>85</sup>

39. In their evidence to the Commission, the NPF's witnesses described PPS officers as "lost bodies", incapable of assisting the OPS with restoring public order in Ottawa.<sup>86</sup>

The OPS and RCMP witnesses were not prepared to put it so bluntly. However, when it

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TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 81, ln. 20-25; p. 82, ln. 8-20.

<sup>83</sup> Transcript, Day 9, October 25, 2022, TRN00000009, Examination of Inspector Russell Lucas by the National Police Federation, p. 81, ln. 20-25; p. 82, ln. 21 to p. 83, ln. 4.

<sup>84</sup> Transcript, Day 28, November 22, 2022, TRN000000028, Examination of Minister Marco Mendicino by the Government of Canada, p. 221, ln. 1-11.

<sup>85</sup> Institutional Report of the Department of Public Safety and Emergency Preparedness, DOJ.IR.000000008, p. 23, para. 80.

<sup>86</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.000000038, p. 11.

was put to them that PPS officers were not a resource available to assist OPS in the convoy response, the highest those witnesses could describe PPS' contributions was that PPS was present in the NCRCC<sup>87</sup> and could have provided situational awareness updates.<sup>88</sup> Former Chief Sloly also speculated that, had he requested PPS assistance (which he did not), there "potentially could have been a member of the PPS that had a background in investigations and crime analysis who could have - who had a background in some form of skill that could have helped with mass arrests and processing of prisoners".<sup>89</sup> Former Chief Sloly offered that PPS was at least of more assistance in maintaining public order than a condominium building with no security.<sup>90</sup>

40. It is understandable, even commendable, that the RCMP and OPS witnesses were inclined to be so generous in describing the assistance provided by their security colleagues. That is particularly the case in respect of Deputy Commissioner Duheme, who served as the first Director of PPS at the time of its founding.<sup>91</sup>

41. However, the NPF submits that the trivial and hypothetical PPS contributions identified by OPS and RCMP witnesses serve only to support the NPF's factual submission: PPS did not provide any material assistance to OPS in addressing the protests and restoring public order in the city of Ottawa. To the contrary, as set out above,

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<sup>87</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the National Police Federation, p. 239, In. 7-15; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 225, In. 25 to p. 226, In. 6.

<sup>88</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 234, In. 7-28.

<sup>89</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 235, In. 20-23.

<sup>90</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 236, In. 1-11.

<sup>91</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 22, In. 17-18.

PPS required that precious public order resources be held in reserve on Parliament Hill, and therefore unavailable to OPS when it needed them the most.<sup>92</sup>

## **6. Friction, Confusion, and Delay in Obtaining Crucial Police Resources**

42. As set out above, within mere days of the protesters' arrival, it was clear that the OPS needed a surge of external police resources before it could restore public order in Ottawa. The OPS began to request more resources from its policing partners as early as January 31, 2022.<sup>93</sup> That day, Chief Sloyly conveyed to both the RCMP and the OPP that OPS would need hundreds of additional officers to clear the protests safely.<sup>94</sup>

43. Remarkably, however, despite the increasingly desperate, emergent conditions on the ground, OPS did not obtain the resources it needed until February 17, 2022, more than two weeks later.<sup>95</sup> This unacceptably long delay was a result of several factors.

### **(a) Disagreement Regarding Process for Requesting Resources**

44. The evidence indicates that there was confusion among police and government stakeholders as to the proper process by which the OPS was to request and obtain external police resources, particularly from the RCMP.

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<sup>92</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloyly by the National Police Federation, p. 237, In. 1-6.

<sup>93</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloyly by the Commission, p. 64, In. 18-21; RCMP-OPP Briefing, January 31, 2022, OPS00004927, p. 1.

<sup>94</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloyly by the Commission, p. 138, In. 10 to p. 139, In. 16; Notes of Christine Huneault, January 31, 2022, OPS00014454, p. 1.

<sup>95</sup> Interview Summary: Superintendent Robert Bernier, WTS.00000030, p. 21; Transcript, Day 10, October 26, 2022, TRN00000010, Examination of Superintendent Robert Bernier by the Commission, p. 41, In. 24-28.



45. Initially, the resource requests were piecemeal, and somewhat informal, flowing directly from the OPS to other police agencies. For example, on January 31, 2022, the OPS requested additional resources from the OPP, which Chief Sloly discussed with OPP Commissioner Carrique; as a result, the OPP began supplying thirty frontline officers per day to OPS for traffic control purposes, and also assigned six Police Liaison Team members to assist.<sup>96</sup> Within approximately three to four days, Deputy Chief Steve Bell informed OPP Superintendent Abrams that the OPS' request would be increasing to sixty frontline OPP officers per day; this request was also fulfilled.<sup>97</sup>

46. During the same period, the OPS was requesting resources from the RCMP. On February 2, 2022, the OPS made a formal request for 50 frontline officers and three public order units.<sup>98</sup> The RCMP provided the requested frontline resources to OPS (starting with approximately 30, and increasing to 50, within days of the request), but did not initially provide public order support directly to OPS.<sup>99</sup> The RCMP already had three public order units in Ottawa supporting PPS and the RCMP's protective services mandate.<sup>100</sup> The

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<sup>96</sup> OPP IR, OPP.IR.00000001, p. 34; Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams by Former Chief Peter Sloly, p. 57, In. 7-12.

<sup>97</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams by Former Chief Peter Sloly, p. 58, In. 14-28; Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by Former Chief Peter Sloly, p. 199, In. 17-25.

<sup>98</sup> Emails exchanged between Former Chief Peter Sloly and Commissioner Brenda Lucki, February 2, 2022, PB.NSC.CAN.00001743\_REL.0001, pp. 2-3; Interview Summary: RCMP Panel, WTS.00000069, p. 8; Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 102, In. 26 to p. 103, In. 4.

<sup>99</sup> RCMP IR, DOJ.IR.00000011, p. 36, para. 149; Interview Summary: RCMP Panel, WTS.00000069, pp. 7-8; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 28, In. 6-13; Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 107, In. 4-7.

<sup>100</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 226, In. 27 to p. 227, In. 19; Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloly by the National Police Federation, p. 235, In. 23-28; Transcript, Day 13, October

RCMP's public order resources were also needed to respond to convoy protests elsewhere across the country. In addition, as discussed below, Commissioner Lucki had concerns about the OPS' plan to deploy those public order resources.<sup>101</sup>

47. It was quickly apparent that the OPS' initial requests were insufficient; its resource needs were extraordinary. Chief Sloly requested the assistance of the Ottawa Police Services Board and Mayor's Office to advance and amplify the OPS' requests through political channels. On February 7, 2022, letters were sent to both the Prime Minister's office and the Ontario Premier's office to request that the RCMP and OPP collectively supply the OPS with a "dramatic and immediate injection" of 1,800 additional resources (approximately 100 of which were civilian staff) for the purpose of OPS' Convoy response.<sup>102</sup> Chief Sloly agreed that it was not normal to request police resources through political channels but indicated that he wished to signal that Ottawa was "under very unique and different circumstances".<sup>103</sup>

48. This request triggered a new concern within the RCMP. OPS was required to request resources from the OPP first; the RCMP should only provide resources where the OPP was unable to satisfy the request.<sup>104</sup> Commissioner Lucki explained that she had initially provided frontline resources to OPS as an exception to this requirement, because

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31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 101, ln. 1-14.

<sup>101</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 9.

<sup>102</sup> Letter to Prime Minister Justin Trudeau and Minister Marco Mendicino, February 7, 2022; SSM.CAN.00000084\_REL.0001; Letter to Premier Doug Ford and Minister Sylvia Jones, February 7, 2022, OPP00002000.

<sup>103</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 108, ln. 17 to p. 109, ln. 4.

<sup>104</sup> Interview Summary: RCMP Deputy Commissioner Michael Duheme, WTS.00000068, pp. 5-6,8; Interview Summary: RCMP Panel, WTS.00000069, pp. 7-8.

OPS' request was modest and the RCMP had a history of cooperating with OPS, owing to its historical presence and jurisdiction in Ottawa.<sup>105</sup> When she received this request for significantly more resources, however, she conferred with Commissioner Carrique and they agreed that OPS was required to look first to the OPP.<sup>106</sup>

49. The RCMP's position in this regard was confirmed by Rob Stewart, Deputy Minister of Public Safety and Emergency Preparedness.<sup>107</sup> Federal Minister of Emergency Preparedness, Bill Blair, expressed that Ottawa's failure to follow the proper process for requesting resources first from the OPP was a "problem".<sup>108</sup>

50. Chief Sloly, in contrast, testified that in his experience resource requests were generally informal; municipal police services would typically look first to request resources from the services in closest proximity, with whom they had an existing working relationship and rapport.<sup>109</sup> In any event, Chief Sloly emphasized that in the urgent circumstances, he was simply trying to get the resources OPS needed, and did not have a particular priority order in mind as to the source.<sup>110</sup> Mayor Jim Watson's perspective was similar; Ottawa was pushing simultaneously on both "tracks" to get the resources it needed.<sup>111</sup> As discussed further below, however, Mayor Watson went further to say that,

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<sup>105</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 8.

<sup>106</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 34, ln. 21 to p. 35, ln. 24.

<sup>107</sup> Interview Summary: Public Safety Panel, WTS.00000066, p. 12.

<sup>108</sup> Interview Summary: Minister Bill Blair, WTS.00000048, pp. 5-6; Transcript, Day 27, November 21, 2022, TRN00000027, Examination of Minister Bill Blair by the Commission, p. 191, ln. 25 to p. 193, ln. 1.

<sup>109</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 103, ln. 19-23.

<sup>110</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Canadian Constitutional Foundation, p. 204, ln. 18 to p. 205, ln. 4.

<sup>111</sup> Transcript, Day 4, November 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commission, p. 63, ln. 12 to p. 64, ln. 7.

as a result of Ottawa's uniquely federal character, he viewed the provincial and federal governments as equal partners in the responsibility for its policing.<sup>112</sup>

51. Ultimately, the evidence is unclear as to what extent this divergence of views about the proper process and sequence for requesting federal resources impeded OPS' efforts to obtain those resources. What is clear, however, is that the current statutory framework does not contain sufficient direction regarding the process by which federal resources may be requested by municipal police services in times of crisis.

**(b) The RCMP's Lack of Policing Authorities**

52. RCMP officers' lack of provincial and municipal policing authorities in Ontario served as an additional barrier delaying and complicating their deployment during the Convoy protests.

53. As discussed above, the RCMP does not provide contract policing in Ontario and, consequently, its officers do not possess inherent statutory authority to enforce provincial and municipal laws and regulations. To address this gap, prior to their deployment, each RCMP officer deployed in Ottawa was sworn in under the *Police Services Act* as a Special Constable of the Ottawa Police Service. Officers were appointed as Special Constables both prior to and after the invocation of the federal *Emergences Act*.<sup>113</sup>

54. At a high level, to swear in a Special Constable, the Ottawa Police Service was required to complete appointment forms for each RCMP officer that arrived in Ottawa. Those appointments were approved and executed in batches by both the Chair of the

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<sup>112</sup> Transcript, Day 4, November 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commissioner, p. 305, ln. 3-14.

<sup>113</sup> RCMP IR, DOJ.IR.00000011, pp. 13-14, para. 41; Interview Summary: RCMP Panel, WTS.00000069, p. 10; Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 8.

Board and the Ministry of the Solicitor General. The Chief Administrative Officer of the Ottawa Police Service would then administer the formal swearing in process; during the Convoy protests, this was done in groups, at the 9:00 a.m. and 9:00 p.m. daily shift changes, and more frequently as needed.<sup>114</sup> OPS Deputy Chief Bell, who had previously served as the Service's Chief Administrative Officer, described it as a "labour-intensive administrative process that has several checks and balances and layers to it" which, under normal circumstances, would take "days" to complete.<sup>115</sup>

55. During the protests in Ottawa, both the Ottawa Police Service and the Office of the Solicitor General took steps to streamline and expedite their swearing in processes; Board Chair Diane Deans estimated that "a day or less" elapsed between the time that the OPS received the officer's name from the RCMP, the appointment was approved by the Ministry, and the OPS administered the swearing in process.<sup>116</sup> Nevertheless, when Ottawa so desperately needed officers on the ground working to protect public safety and restore public order, this was an unnecessary and time-consuming administrative obstacle.<sup>117</sup>

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<sup>114</sup> Transcript, Day 5, October 19, 2022, TRN00000005, Examination of Former Chair Diane Deans by the Commission, p. 54, In. 6 to p. 55, In. 14; Transcript, Day 5, October 19, 2022, TRN00000005, Examination of Former Chair Diane Deans by the Government of Canada, p. 174, In. 2-5; Province of Ontario Institutional Report, ONT.IR.00000001, p. 8.

<sup>115</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the Democracy Fund, p. 247, In. 23 to p. 248, In. 8.

<sup>116</sup> Text messages exchanged between Former Chair Diane Deans and Serge Arpin, February 12, 2022, OTT00010554, p. 3.

<sup>117</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloy by the Government of Canada, p. 111, In. 26 to p. 112, In. 2; Interview Summary: Commissioner Thomas Carrique, WTS.00000039, p. 9; Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the Democracy Fund, p. 248, In. 9-17.

**(c) Confusion as to Resources Available to OPS**

56. Several witnesses described confusion and discrepancies in the number of resources that were actually available to be deployed by the OPS in the Convoy response. The testimony and contemporaneous documents confirm that this was a source of frustration, tension, and conflict among senior police and government leaders.<sup>118</sup> Chief Sloly described this state of affairs as a “huge challenge” for the OPS, and frankly acknowledged that he could not confirm the accuracy of any of the resource numbers, including those emanating from the OPS:

That was a huge challenge for us...[D]ifferent police services call things differently, they count things differently, they account for things differently. And there wasn't a day that – while I was in office that I had a report from anyone, including my own folks, that anybody could say was 100 percent accurate...But this was a problem right from the beginning when everyone was trying to figure out how many people Ottawa Police Service actually had in our theatre under our ability to direct through Incident Command system.<sup>119</sup>

57. The evidence points to at least two sources for the discrepancies. First, different police agencies counted resources differently for different purposes. For example, on

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<sup>118</sup> By way of example only, see: Transcript, Day 3, October 17, 2022, TRN00000003, Examination of City Manager Steve Kanellakos by the Commission, p. 62 In. 3 to p. 63, In. 7; Transcript, Day 5, October 19, 2022, TRN00000005, Examination of Former Chair Diane Deans by the Commission, p. 39, In. 10-22; Transcript, Day 4, October 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commission, p. 50, In. 2-18; Transcript, Day 21, November 10, 2022, TRN00000021, Examination of Deputy Solicitor General Mario Di Tommaso by the Commission, p. 177, In. 4 to p. 178, In. 22; Interview Summary: Former Chair Diane Deans, WTS.00000010, p. 3; Interview Summary: Department of Public Safety and Emergency Preparedness, WTS.00000066, p. 12; Interview Summary: Serge Arpin, WTS.00000015, p. 3; Email from Blair Dunker to Former Chair Diane Deans, February 13, 2022, OPB00001013 and Ottawa Truck Demonstration 2022 – Deployments, OPB00001014; Email from Elizabeth Siwicki to Patrick Champagne et al., February 7, 2022, OTT00004774.0001; Text messages exchanged between Serge Arpin and Mike Jones, February 11 to 15, 2022 OTT00030055.0001, pp. 1-8; Minutes to February 12, 2022 Meeting with RCMP and OPP Commissioners, OPS00010373, p. 2.

<sup>119</sup> Transcript, Day 13, October 31, 2022, TRN00000013, Examination of Former Chief Peter Sloly by the Government of Canada, p. 115, In. 14 to p. 116, I. 2.

February 6, 2022, the Ministry of the Solicitor General announced publicly that “1,500 OPP personnel” had been made available to support the OPS.<sup>120</sup> In reality, the OPP only deployed approximately 1,000 officers in Ottawa by the end of the protests, long after this statement was issued.<sup>121</sup> Under cross-examination, Deputy Solicitor General Mario Di Tommaso acknowledged that the 1,500 figure did not refer to individual officers, and was instead a cumulative total over a 10-day period. By the Ministry’s math, a single officer working in Ottawa for a 10-day period counted as ten “OPP personnel”.<sup>122</sup>

58. Second, there was confusion as to what RCMP resources were in Ottawa to support the OPS, as opposed to other RCMP functions. As discussed above, a significant aspect of the RCMP’s mandate in Ottawa is the protection of certain federally designated persons and assets, including the Prime Minister and other Parliamentarians. The Convoy protests in Ottawa significantly increased the complexity and demands of the RCMP’s protective services mandate, necessitating an influx of resources for that purpose. In some statements, federal government and RCMP sources included officers in Ottawa for protective services purposes, even though those officers were not in fact available to the OPS in restoring public order.<sup>123</sup>

59. This lack of clarity was so pervasive that even after 36 days of evidence from dozens of witnesses, and the production of tens of thousands of documents, there

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<sup>120</sup> National Capital Protest and Regional Echo Protests, Key Messages, ONT00001912, p. 1.

<sup>121</sup> Interview Summary: Thomas Carrique, WTS.00000039, p. 3.

<sup>122</sup> Transcript, Day 21, November 10, 2022, TRN00000021, Examination of Deputy Solicitor General Mario Di Tommaso by the Commission, p. 176, ln. 14 to 177, ln. 3, and p. 306, ln. 7 to 14.

<sup>123</sup> Transcript, Day 23, November 15, 2022, Examination of Commissioner Brenda Lucki by the Commission, p. 28, ln. 6 to 31, ln 19.

remains no definitive evidence as to how many external police resources were available to the OPS at what times.

**(d) Concerns Regarding OPS' Plans for Deployment of Resources**

60. Extensive evidence was tendered as to the development and suitability of the OPS' operational plan to address and, ultimately, clear the Convoy protests in Ottawa. The NPF does not intend to review this evidence, which will no doubt be addressed by other parties.

61. For the NPF's purposes, the important point is that witnesses from both the OPP and the RCMP expressed reluctance to deploy substantial resources in Ottawa in the absence of what they assessed to be a clear plan for how those resources would be used. The apparent inadequacy of OPS' operational plan further delayed its efforts to obtain the police resources it required.<sup>124</sup> These concerns by the OPP and RCMP were confirmed by several government sources.<sup>125</sup>

62. In the NPF's submission, it is reasonable for a police agency to be concerned about granting a significant number of their officers, to be deployed under the command of another agency, in the form of a blank cheque. The OPP and the RCMP needed to understand the size, scope, and functions required for the operation, to ensure that they

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<sup>124</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams by the Commission, p. 263, ln. 9-24; Interview Summary: Thomas Carrique, WTS.00000039, p. 4; Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Commission, p. 44, ln. 9-26; p. 59, ln. 6 to p. 60, ln. 18; Interview Summary: RCMP Panel, WTS.00000069, pp. 10-11; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 33, ln. 6 to p. 34, ln. 20; p. 57, ln. 12-24.

<sup>125</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Dominic Leblanc by the Government of Canada, p. 332, ln. 23 to p. 334, ln. 4; Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the Canadian Constitution Foundation, p. 144, ln. 3-13; Transcript, Day 21, November 10, 2022, TRN00000021, Examination of Deputy Solicitor General Mario di Tommaso by the Commission, p. 172, ln. 19 to p. 173, ln. 25.



were providing the right people, with the right skills and equipment, and also to arrange appropriate coverage for the departing officers' regular duties.<sup>126</sup> Further, both the OPP and the RCMP identified the protection of the interests and safety of their officers as an important reason to require basic plan details in advance.<sup>127</sup> For example, OPP Superintendent Abrams summarized the kind of information that he would want to have before agreeing to send OPP officers to serve under the command of another service:

They need to have an understanding of what their members are going to do. We're protecting our members; we're not going to send them several hours away and say, "Go to Ottawa. I really don't know what you're going to do. I really don't know how long you're going to be there. I don't know what to tell you to pack. Just show up there and we'll figure it out when we get there." That's just not how we operate.<sup>128</sup>

**(e) Conclusion on Police Resources**

63. As set out above, it took weeks for sufficient resources to be assembled for the police to restore public order in the city of Ottawa. All of the factors described above – disagreements regarding the process for requesting federal resources, the RCMP's lack of policing authorities in Ontario, divergent reports of the number of resources available to OPS, and concerns as to the adequacy of the OPS' operational plan – likely contributed to this delay.

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<sup>126</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 34, ln. 5-20; Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Commission, p. 130, ln. 7-19.

<sup>127</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Commission, p. 87, ln. 16-24; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by Former Chief Peter Sloly, p. 181, ln. 13-26.

<sup>128</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Superintendent Craig Abrams by the Commission, p. 250, ln. 18-25.

64. Ultimately, however, it is important to recall that the OPP and RCMP both moved heaven and earth to gather a massive number of public order resources from across the country. By the end, each agency assembled more than 1,000 officers in Ottawa, solely to support the OPS.<sup>129</sup> The evidence was remarkably consistent that, once adequate police resources were gathered in Ottawa, and once an integrated command system was instituted and empowered, those resources were deployed in an integrated, strategic, and measured manner.<sup>130</sup> The operation to clear the Convoy protests, belated as it may have been, was executed safely, efficiently, and professionally.<sup>131</sup> This event required unprecedented national collaboration to prevent injury, preserve life, and protect critical infrastructure.<sup>132</sup>

## **7. Response to Protests at Ports of Entry**

65. During the Convoy protests in Ottawa, similar protests and blockades occurred across the country, including at international border crossings and ports of entry. Given the RCMP's community policing function outside of Ontario and Quebec, many of these other protests occurred within RCMP jurisdiction and, consequently, were resolved efficiently and without any friction or delay in the surging of necessary resources. This was not always the case outside of the RCMP's jurisdiction.

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<sup>129</sup> Interview Summary: Thomas Carrique, WTS.00000039, p. 3; OPS IR, OPS.IR.00000001, pp. 18-19, para. 55.

<sup>130</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Government of Canada, p. 177, In. 11-14; Interview Summary: Robert Bernier, WTS.00000030, pp. 20-21; Transcript, Day 27, November 21, 2022, TRN00000027, Examination of Minister William Blair by the Commission, p. 220, In. 1-24.

<sup>131</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Government of Canada, p. 273, In. 7-23.

<sup>132</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Government of Canada, p. 177, In. 18-21.

66. For example, the Windsor Police Service required a significant injection of experienced resources to respond to protests around the Ambassador Bridge.<sup>133</sup> It received public order resources from the OPP, with whom it immediately instituted unified command, as well as the RCMP and other municipal services.<sup>134</sup> As was the case in Ottawa, RCMP officers were required to be sworn in as Special Constables of the Windsor Police Service before they could enforce provincial and municipal laws and regulations. OPP Superintendent Dana Earley described significant confusion and delay arising from the need to swear in RCMP officers. Ultimately, Superintendent Earley gave up on this requirement; RCMP officers were instead deployed in partners with members of either the OPP or Windsor Police Service, who already had the requisite authorities. Superintendent Earley described the need to swear in RCMP officers as a distraction “at a time where really we should have just been left alone to focus on the incident itself”.<sup>135</sup>

67. Those barriers did not exist in areas of RCMP jurisdiction; those protests and blockades were resolved efficiently, with additional RCMP resources where necessary. For example, in response to the blockade of the port of entry at Coutts, Alberta, the RCMP initially attempted enforcement activity on February 1, 2022, but determined that additional resources were first required.<sup>136</sup> On February 3, 2022, RCMP Deputy Commissioner Curtis Zablocki requested authorization to pull additional RCMP resources

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<sup>133</sup> Interview Summary: Deputy Chief Jason Crowley, WTS.00000017, pp. 3, 5, 8-9.

<sup>134</sup> Transcript, Day 18, November 7, 2022, TRN00000018, Examination of Deputy Chief Jason Crowley by the Commission, p. 210, ln. 1-27; Interview Summary: Deputy Chief Jason Crowley, WTS.00000017, p. 4; Interview Summary: Superintendent Dana Earley, WTS.00000022, pp. 7-8.

<sup>135</sup> Transcript, Day 19, November 8, 2022, TRN00000019, Examination of Superintendent Dana Earley by the Commission, p. 71, ln. 21 to p. 73, ln. 5; Interview Summary: Superintendent Dana Earley, WTS.00000022, pp. 16-17.

<sup>136</sup> Interview Summary: RCMP Panel, WTS.00000069, pp. 16-17.

from the rest of Alberta and from British Columbia; those requests were immediately approved. Commissioner Lucki indicated that she was prepared to pull officers together from RCMP Divisions across Canada to deploy to Coutts if British Columbia did not have sufficient resources to spare.<sup>137</sup> Numerous RCMP witnesses remarked upon the “beauty” of the RCMP model for surging resources, and the seamless integration which results from consistent training, standards, equipment, and de-escalation techniques across the country.<sup>138</sup>

68. The situation in Coutts became significantly more complex when a significant cache of weapons and ammunition was identified and, ultimately, seized. Following those seizures and resulting arrests, the Coutts protesters departed on the morning of February 15, 2022.<sup>139</sup>

### ***C. The NPF’s Recommendations***

69. As a part of its mandate, the Commission has been tasked with setting out findings and lessons learned and to make recommendations as pertains to the matters examined, including the efforts of police and other responders prior to and after the declaration, as well as on areas for further study or review.<sup>140</sup>

70. The NPF has identified a number of recommendations for consideration by the Commission, each of which is discussed below. However, the NPF recognizes that, given

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<sup>137</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 17.

<sup>138</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Deputy Commissioner Curtis Zablocki by the Commission, p. 316, ln. 12-21; Interview Summary: RCMP Panel, WTS.00000069, p. 17; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 18, ln. 14 to p. 19, ln. 8.

<sup>139</sup> Interview Summary: RCMP Panel, WTS.00000069, pp. 18-19.

<sup>140</sup> *Order in Council*, P.C. 2022-392, April 25, 2022, para. (a)(iii).

the extreme time constraints under which the Commission has conducted its important work, some of these matters may not have been canvassed thoroughly during the evidentiary or policy hearings. While the NPF submits that all of these recommendations are amply supported by the record before the Commission, it may be appropriate to refer their specific implementation for further study or review.

**1. Expanded RCMP Jurisdiction in Ottawa and at Borders**

71. The NPF's primary recommendation is that existing jurisdictional boundaries be examined to re-establish the RCMP as police of jurisdiction in and around Parliament Hill, and to expand the RCMP's jurisdiction at the border, to support the nimble and urgent supply of critical policing resources in times of crisis.

**(a) The RCMP's Unique Capabilities in Emergent Circumstances**

72. The evidence demonstrates that the RCMP is uniquely well-placed to surge experienced and effective police resources in response to a public order emergency occurring in Canada.

73. As discussed above, the RCMP currently has more than 19,000 police officers in its ranks.<sup>141</sup> This significantly dwarfs the numbers available to every municipal police service in Ontario. For example, at the time of the Convoy protests, the Ottawa Police Service had less than 1,500 police officers.<sup>142</sup> The RCMP also has more than three times as many officers as the OPP, with approximately 6,000 officers on staff,<sup>143</sup> approximately

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<sup>141</sup> RCMP IR, DOJ.IR.00000011, p. 4, para. 1.

<sup>142</sup> OPS IR, OPS.IR.00000001, p. 6.

<sup>143</sup> Interview Summary: Thomas Carrique, WTS.00000039, p. 1.

3,000 of which are assigned to frontline constable duties.<sup>144</sup> The Convoy protests in Ontario “significantly challenged” the OPP’s staffing resources.<sup>145</sup>

74. The RCMP also has the experience and training necessary to manage major events, including where there is a risk of unlawful protest activity or other public order disturbances. As a part of its federal mandate, the RCMP is regularly tasked with policing major events such Canadian tours by foreign dignitaries (such as Pope Francis, members of the British royal family, etc.), the Vancouver 2010 Olympics, as well as G7, G8, and G20 summits.<sup>146</sup> As a result, the RCMP is resourced with a significant reserve of specialized teams and equipment, including bomb disposal teams, emergency response teams, liaison officers, and drone units.<sup>147</sup>

75. Given its national presence, the RCMP also has existing processes in place to draw upon resources from across the country and deploy them in the circumstances and locations where they are needed the most. This experience has been developed primarily in the context of provincial Police Service Agreements, pursuant to which the RCMP provides community policing services in every Canadian province and territory other than Ontario and Quebec.<sup>148</sup> Article 9 of each provincial Police Service Agreement sets out a mechanism and protocol by which RCMP resources may be transferred within and

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<sup>144</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Government of Canada, p. 6, ln. 15-22.

<sup>145</sup> Transcript, Day 27, November 21, 2022, TRN00000027, Examination of Minister William Blair by the Commission, p. 190, ln. 3-8; Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the Commission, p. 71, ln. 19-24.

<sup>146</sup> RCMP IR, DOJ.IR.00000011, p. 5, para. 7; Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, pp. 1, 5, 12.

<sup>147</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 12.

<sup>148</sup> RCMP IR, DOJ.IR.00000011, pp. 4-5, paras. 3-5.

between provinces and territories to respond to emergent circumstances.<sup>149</sup> The RCMP has used Article 9 transfers frequently over the last several years, including in response to fishery disputes in Atlantic Canada, Pope Francis' visit to Canada, and recent mass stabbings at the James Smith Cree Nation in Saskatchewan.<sup>150</sup> As described above, Article 9 was also invoked and successfully used to bring additional RCMP resources from British Columbia into Alberta for the purpose of the border blockades at Coutts.<sup>151</sup> Commissioner Lucki described Article 9 as part of the "beauty of our model" for policing.<sup>152</sup>

76. Given these factors, it is not at all surprising that Public Safety Minister, Marco Mendicino, agreed that the RCMP is uniquely positioned to provide necessary surge capacity in public order emergencies like the one that arose in Ottawa.<sup>153</sup> The NPF submits that the same conclusion is available to the Commission.

**(b) *The RCMP's Natural and Historic Role in the National Capital***

77. The Convoy protests in Ottawa conclusively demonstrate that the status quo approach to maintaining public order in and around Parliament Hill is unsustainable. PPS, the agency with primary responsibility for securing the area, has no policing authority or capacity whatsoever. The OPS cannot reasonably be expected to maintain a large reserve of police officers to draw upon in the inevitable event of significant protest activity targeting Parliament Hill. Instead, the OPS, and the citizens of Ottawa, need a real

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<sup>149</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the Ontario Provincial Police, p. 97, ln. 10 to p. 98, ln. 6.

<sup>150</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 3.

<sup>151</sup> Interview Summary: RCMP Panel, WTS.00000069, p. 17.

<sup>152</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 18, ln. 14 to p. 19, ln. 8.

<sup>153</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the National Police Federation, p. 207, ln. 1-9.

policing partner, with the experience and resources necessary to provide meaningful and immediate assistance in protecting public safety and avoiding public order crises. Given Ottawa's uniquely federal character, and given the RCMP's historic role and relationships in the area, the NPF submits that the RCMP should be re-established as police of jurisdiction for Parliament Hill.

78. Numerous witnesses identified the grounds and buildings of Parliament Hill as an important symbol of the federal government and, therefore, a frequent target for protest activity. For example, OPS Deputy Chief Ferguson stated that Parliament Hill is "obviously the place where [protesters] want to be. That's the whole point of their protesting the federal government".<sup>154</sup> Similarly, Deputy Chief Bell explained the OPS' longstanding experience and expectation that Parliament Hill is a frequent protest site:

We live in Ottawa. We're at the seat of Parliament. Protesting is something that – lawful protesting is something that our community accepts, and I believe our community appreciates. And they have an expectation on us to be able to appropriately manage and facilitate those protests. So for a large demonstration to come into the downtown core, in and around the seat of Parliament, and protest for a number of days would not be abnormal in this city, even with the traffic disruptions that would occur.<sup>155</sup>

79. The frequency of protest activity in Ottawa, and particularly around Parliament Hill, was confirmed by numerous witnesses from the city of Ottawa, including individual residents, who emphasized its uniquely federal character.<sup>156</sup>

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<sup>154</sup> Transcript, Day 6, October 20, 2022, TRN00000006, Examination of Deputy Chief Patricia Ferguson by the Commission, p. 17, In. 6-10.

<sup>155</sup> Transcript, Day 8, October 24, 2022, TRN00000008, Examination of Interim Chief Steve Bell by the Commission, p. 63, In. 4-12.

<sup>156</sup> Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Zexi Li and Victoria De La Ronde by the Ottawa Coalition, p. 54, In. 1-5; Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Kevin McHale and Nathalie Carrier by the Commission, p. 65, In. 13-16; Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Kevin McHale and



80. The complete absence of a federal law enforcement role in Ottawa is impossible to reconcile with its federal character, and the significantly increased public order and safety risks posed to the citizens of Ottawa as a result of that federal character. Numerous witnesses expressed surprise and frustration at the RCMP lacking inherent jurisdiction to assist. By way of example only:

- (a) On February 2, 2022, Councillor Catherine McKenney wrote to Mayor Watson and Chief Sloy to urge them to request that the RCMP assume full operational control of the police response; they described the city as being in the unenviable position of “dealing with this federal problem without full federal assistance”.<sup>157</sup> On February 7, 2022, Councillor McKenney brought a motion to the same effect to Ottawa City Council, which carried, but did not have the intended effect.<sup>158</sup> Councillor McKenney described their efforts in this regard as “desperate” and “grappling at straws” to “find a way as a city to bring an end to what was a federal crisis”.<sup>159</sup>

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Nathalie Carrier by the Ottawa Police Service, p. 105, In. 24 to p. 106, In. 17; Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Councillor Mathieu Fleury and Councillor Catherine McKenney by the Commission, p. 175, In. 3-8; Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Councillor Mathieu Fleury and Councillor Catherine McKenney by Former Chief Peter Sloy, p. 175, In. 22-24.

<sup>157</sup> Email from Councillor Catherine McKenney to Mayor Jim Watson and Former Chief Peter Sloy, among others, February 2, 2022, OTT00014570.

<sup>158</sup> Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Councillor Mathieu Fleury and Councillor Catherine McKenney by the Commission, p. 217, In. 8 to p. 218, In. 21.

<sup>159</sup> Transcript, Day 2, October 14, 2022, TRN00000002, Examination of Councillor Mathieu Fleury and Councillor Catherine McKenney by the Commission, p. 225, In. 14-20.

- (b) Mayor Jim Watson expressed the view that the federal and provincial governments have equal responsibility for policing in Ottawa.<sup>160</sup> He linked the federal government's unique responsibility for Ottawa to its large presence in the city, and the reality that protests result from that presence. He expressed that there is a "special responsibility" to ensure that people feel "safe and secure" in the nation's capital. He described what he perceived to be a lack of urgency by both orders of government as "very frustrating".<sup>161</sup> In respect of the federal government, Mayor Watson described the frustration arising from the fact that Ottawa could not get RCMP officers to assist notwithstanding that "the protestors were protesting federal legislation right across Parliament Hill, the prime minister's office".<sup>162</sup>
- (c) Even Marco Mendicino, the Minister for Public Safety and Emergency Preparedness, frankly expressed his surprise at the incongruity of the federal government and police lacking jurisdiction to enforce the law in and around Parliament Hill:

So I was certainly trying to reconcile in my mind that these are federal democratic institutions, but we did not have total jurisdiction over that space. In other words, it wasn't at the sole or exclusive discretion of

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<sup>160</sup> Transcript, Day 4, November 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commissioner, p. 205, ln. 3-14.

<sup>161</sup> Transcript, Day 4, November 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commissioner, p. 203, ln. 4 to p. 204, ln. 18.

<sup>162</sup> Transcript, Day 4, November 18, 2022, TRN00000004, Examination of Mayor Jim Watson by the Commission, p. 93, ln. 19-22.

the RCMP, which is the federal police service, to go and assert itself on Wellington Street to bring the situation back into control.<sup>163</sup>

- (d) Similarly, the Clerk of the Privy Council, Janice Charette, recalled being surprised that the RCMP could not clear protests and encampment structures erected on federally owned land such as Confederation Park in Ottawa.<sup>164</sup>

81. Restoring the RCMP as the police of jurisdiction for the grounds and buildings of Parliament Hill would correct this recent jurisdictional anomaly. Further, in the event of a future public order emergency in the area, the OPS would have the benefit of a ready and willing policing partner with significant experience planning for and responding to major events, and with the capacity to surge trained and effective police officers, including specialized teams, into the area on an urgent basis. The NPF submits that, had the RCMP been police of jurisdiction for the Parliamentary Precinct during the events of January and February 2022, the circumstances would have looked very different.

82. The NPF explored this recommendation in its examination of Commissioner Lucki and Deputy Commissioner Duheme, for the RCMP. Unsurprisingly, Deputy Commissioner Duheme, the first Director of the PPS at the time of its founding, disagreed with the NPF's perspective. His evidence was that "it's been going fine".<sup>165</sup> Deputy Commissioner Duheme expressed this view despite his evidence that, currently, PPS are

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<sup>163</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the Commission, p. 24, ln. 14-19.

<sup>164</sup> Interview Summary: Clerk and Deputy Clerk of the Privy Council, WTS.00000074, p. 17.

<sup>165</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 222, ln. 4-28.

independently responsible for planning for any event that occurs on Parliament Hill<sup>166</sup> and despite the remarkable and undisputed failure to maintain public order in the area during the Convoy protests.

83. In response to questions from Commission counsel, Deputy Commissioner Duheme also suggested that the work being performed on Parliament Hill is “not a policing function, but more [of a] security function”.<sup>167</sup> The NPF does not disagree that, in the normal course, there are numerous duties that may be capably performed by civilian security agents, rather than sworn police officers. However, this is the seat of our federal government, and an inherent target for protest activity, not a condominium or a shopping mall. The events of January and February 2022 demonstrate that the status quo, whereby a security agency has *exclusive* jurisdiction in the area, is no longer defensible.

84. Indeed, the NPF notes that the OPP currently shares responsibility in respect of the Ontario equivalent, Queen’s Park, together with the Legislative Protective Services.<sup>168</sup>

85. Consideration of a permanent area of federal jurisdiction in Ottawa was expressly raised by Dr. Dwight Newman during the policy hearing on December 1, 2022, given the vulnerabilities that were identified during the Convoy protests.<sup>169</sup> While he identified other constitutional mechanisms for the federal government to assert temporary jurisdiction in emergent circumstances, he also suggested that “it could be in the form of federal

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<sup>166</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 21, ln. 17-25.

<sup>167</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commission, p. 21, ln. 19-27.

<sup>168</sup> Transcript, Day 11, October 27, 2022, TRN00000011, Examination of Commissioner Thomas Carrique by the National Police Federation, p. 287, ln. 15-23.

<sup>169</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Interjurisdictional Responses to Protests and Emergencies Roundtable, p. 98, ln. 12 to p. 100, ln. 25.

legislation taking further steps in regulating the National Capital Region and assuming a larger federal role in the National Capital Region as occurs in some other capital regions of other countries elsewhere in the world”.<sup>170</sup>

86. The NPF acknowledges that there was also some vague evidence tendered to the effect that the RCMP – like police services everywhere – is stretched to meet its current mandates with its existing complement of resources.<sup>171</sup> The NPF submits that the evidence in this regard was insufficiently precise or reliable for the Commission to make any findings in this regard. However, to the extent there is any concern about the RCMP’s resources, that is a funding issue that the Government of Canada has a direct ability to address, and which should not serve as a barrier to providing adequate policing to maintain public order and safety in our nation’s capital and at the seat of the federal government.

**(c) *Expansion of the RCMP’s Role at the Border***

87. Witnesses from the city of Windsor, and from the Windsor Police Service, provided significant evidence as to the extraordinary demands imposed upon the municipality, and the municipal police service, as a result of the blockade of the international border crossing. For example, Deputy Chief Crowley identified the Windsor Police Service’s lack of policing resources as a continuing challenge:

He explained that WPS lacked the resources to sufficiently staff the police response at the outset of the blockade. He further stated that WPS currently only has the capacity to police a public order event at the Ambassador Bridge

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<sup>170</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Interjurisdictional Responses to Protests and Emergencies Roundtable, p. 162, ln. 12 to p. 163, ln. 15.

<sup>171</sup> Transcript, Day 12, October 28, 2022, TRN00000012, Examination of Former Chief Peter Sloy by the Commission, p. 169, ln. 25 to p. 170, ln. 2.

involving less than 50 protestors, and that if 50 or more protestors appeared WPS would have to seek assistance from OPP and/or other police agencies. Deputy Chief Crowley questioned whether it was appropriate for WPS, a municipal police force, to be responsible for security at the Windsor-Detroit border crossings.<sup>172</sup>

88. Similarly, Windsor Mayor Drew Dilkens described the financial burden to the municipality resulting from the Ambassador bridge blockade, and his desire that the provincial and federal governments revisit the division of responsibilities before this kind of national, economic emergency reoccurs:

You know, so the City of Windsor has carried all of the water. We're paying all of the bills, \$5.3 million for the, you know, execution of this particular police action, which was absolutely necessary, but I would submit is completely unfair that the City of Windsor is shouldering those costs. It was not a typical municipal policing matter. In fact, it was a national, economic emergency. And we responded appropriately. The Windsor Police did a great job. The OPP did a great job. The RCMP, they all worked very well together, but we need to figure this out moving forward because the Ambassador Bridge is not going away, our municipal road's not going away and the 401 is not going away. So what does this look like in the future, and that was my request to them is to sit down and try and figure out how we do this together in the future to eliminate any sort of delays that might be inherent in the way we moved in February.<sup>173</sup>

89. As indicated above, the RCMP are currently responsible for maintaining Canada's border integrity between ports of entry; CBSA officers are responsible for securing the ports of entry themselves. The NPF submits that further review should be undertaken as to whether the current division of policing responsibilities at and around the border should be revisited, particularly in light of the experience in Windsor. In particular, the NPF submits that consideration should be given to the expansion of the RCMP's jurisdiction at

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<sup>172</sup> Interview Summary: Deputy Chief Jason Crowley, WTS.00000017, pp. 8-9.

<sup>173</sup> Transcript, Day 18, November 7, 2022, TRN00000018, Examination of Mayor Drew Dilkens by the Commission, pp. 79, ln. 19 to p. 80, ln. 6.

the border, to ensure that municipalities like Windsor have ready access to a policing partner with the experience and resources necessary to manage public order threats to the international border.

## **2. *Municipal and Provincial RCMP Authorities for Declared Emergencies***

90. The NPF's second recommendation is that the existing legislative framework for policing be amended to extend full policing authority to RCMP officers across all Canadian jurisdictions for the purposes of a municipal, provincial, or federal declared emergency.

91. It is neither reasonable nor appropriate for senior police leaders, facing a public order emergency, to be distracted and delayed by administrative and regulatory barriers to deploying necessary police resources. Nevertheless, the evidence shows that in both Ottawa and Windsor, RCMP officers' lack of inherent statutory authority to enforce provincial and municipal laws encumbered the deployment of those resources when they were needed the most.

92. The RCMP is the police force for Canada.<sup>174</sup> As discussed above, it is the best-placed agency to surge experienced and effective police resources in response to a significant public order emergency at any location in the country. The NPF submits that, where such an emergency exists, RCMP officers should arrive with full authority to assist the police of jurisdiction immediately, regardless of where that emergency may be. The NPF's recommendation – that a municipal, provincial, or federal emergency declaration in Canada automatically extend full policing authorities to RCMP officers for that purpose – would accomplish that goal.

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<sup>174</sup> *RCMP Act*, s. 3.

93. Numerous witnesses expressed their support for expanding the policing authorities of RCMP officers in Ontario. For example, OPP Commissioner Carrique recommended that RCMP authorities be expanded even more broadly than the NPF is suggesting:

RCMP officers should have full police authority in all provinces or territories. As members of our federal police service, the need to swear them in was an administrative burden that should be eliminated going forward.<sup>175</sup>

94. Similarly, OPP Superintendent Dana Earley, who encountered this issue as a real barrier and distraction to her operation in Windsor, advanced detailed recommendations in this regard:

- Superintendent Earley stated that there should be a single point of contact for the authority-granting process.

- She stated that someone should be able to grant the RCMP officers the necessary authorities in a sweeping, overall manner before they arrived so that they are ready to be deployed upon arrival.

- She stated that the process to swear in RCMP members should be laid out and explained better so that the CIC does not need to determine how to swear members in while simultaneously managing the incident.<sup>176</sup>

95. Expanding RCMP policing authorities in Ontario, so as to streamline or eliminate the Special Constable appointment process, was also expressly supported by both Commissioner Lucki and Deputy Commissioner Duheme of the RCMP.<sup>177</sup> Minister Marco Mendicino similarly agreed that the swearing in requirement was a challenge when it

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<sup>175</sup> Interview Summary: Thomas Carrique, WTS.00000039, p. 9.

<sup>176</sup> Interview Summary: Superintendent Dana Earley, WTS.00000022, p. 17.

<sup>177</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Commissioner, p. 289, ln. 18 to p. 291, ln 10; Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the National Police Federation, p. 220, ln. 1-7.



came to deploying RCMP officers, one which the invocation of the *Emergencies Act* sought to address.<sup>178</sup>

96. During cross-examination by the Canadian Constitutional Foundation, it appeared to suggest that provincial and municipal enforcement powers were unnecessary, because RCMP officers already have the authority to enforce the federal *Criminal Code* across the country.<sup>179</sup> With respect, this line of inquiry reflects a misapprehension of the extremely delicate task of policing enforcement where constitutional rights of free expression and assembly are at play. It can be very difficult to assess the point at which *Charter*-protected protest activity becomes a criminal offence. Officers who only have recourse to the blunt tool of the *Criminal Code*, without authorities to enforce clear violations of the *Highway Traffic Act* or local noise bylaws, for example, would be left at significant risk of getting that assessment wrong. This very issue was addressed by the NPF witnesses in their evidence to the Commission:

Mr. Miller and Mr. Madden identified RCMP's lack of authority to enforce provincial and municipal laws as a barrier to using RCMP resources effectively to police protests in the National Capital Region. Mr. Miller mentioned that RCMP officers could only act if protestors were openly committing an offence under the *Criminal Code*, but would lack authority to act in the significantly more common circumstance of protestors committing provincial offences, such as under Ontario's *Highway Traffic Act*, or disobeying municipal orders or by-laws. He emphasized that it is not inherently criminal to protest. To the contrary, he explained that it can be very difficult to draw a clear line between a protestor exercising a constitutionally protected right of free expression and a protestor committing a *Criminal Code* offence. He expressed concern that RCMP members who were not sworn in as provincial or municipal special constables in Ontario would be exposed to risk if they arrested protestors who were clearly

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<sup>178</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the National Police Federation, p. 203, ln. 26 to p. 204, ln. 10.

<sup>179</sup> Transcript, Day 23, November 15, 2022, TRN00000023, Examination of Commissioner Brenda Lucki and Deputy Commissioner Michael Duheme by the Canadian Constitutional Foundation, p. 241, ln. 5 to p. 246, ln. 17.

committing provincial and municipal offences but may not have been committing *Criminal Code* offences.<sup>180</sup>

97. The evidence shows that the lack of provincial and municipal authorities for RCMP officers in Ontario served as a real barrier to their effective and efficient deployment in the urgent circumstances of the Convoy protests. This Commission should consider the NPF's recommendation to remove this barrier across the country.

### **3. New Process for Municipal Services to Request RCMP Resources**

98. The NPF's third recommendation is that a clear statutory process be developed for municipal police services to request police resources from the RCMP, particularly those services in close proximity to federal jurisdiction, and accounting for the primary role of provincial police services, where such exist, in supplementing municipal police services.

99. As set out above, during the protests in Ottawa, there was a distinct lack of clarity as to the process by which the OPS could request the support of the RCMP. Several witnesses remarked upon the RCMP's longstanding and important presence in Ottawa, and its excellent working relationships with the OPS.<sup>181</sup> However, at the same time, many witnesses were firmly of the view that, as a municipal police service in the province of Ontario, the OPS should have looked first to the OPP for resources.<sup>182</sup>

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<sup>180</sup> Interview Summary: Dennis Miller & Steve Madden, WTS.00000038, p. 3.

<sup>181</sup> Transcript, Day 27, November 21, 2022, TRN00000027, Examination of Minister William Blair by the Canadian Constitutional Foundation, p. 308, ln. 18-22; Interview Summary, Deputy Chief Patricia Ferguson, WTS.00000023, pp. 2-3.

<sup>182</sup> Interview Summary: Minister Bill Blair, WTS.00000048, pp. 5-6; Transcript, Day 27, November 21, 2022, TRN00000027, Examination of Minister William Blair by the Commission, p. 191, ln. 25 to p. 193, ln. 1; Interview Summary: RCMP Panel, WTS.00000069, p. 8.

100. For this reason, Minister Marco Mendicino sympathized that it was “not intuitive at all” for the OPS to get the additional resources they needed:

Minister Mendicino explained that the Convoy highlighted the complexity of the question of jurisdiction in the downtown core of Ottawa. There is no direct line of continuity between municipal, provincial, and federal law enforcement. It was not intuitive at all for the OPS to get the additional tools they needed to maintain public order on Wellington Street, since there were logistical obstacles.<sup>183</sup>

101. Minister Marco Mendicino elaborated on this lack of clarity in his *viva voce* evidence to the Commission, and expressed his support for the development of a protocol for a police service like the OPS to request resources from the RCMP.<sup>184</sup> He noted the success of the Article 9 process for transferring resources, under provincial Police Service Agreements, and suggested it could be a roadmap for ongoing discussion for a new protocol for municipal, provincial, and federal collaboration during future public order emergencies.<sup>185</sup>

102. The NPF agrees that additional clarity is needed as to the process by which municipalities may request the support of the RCMP, and supports the establishment of a clear statutory protocol in this regard. Such a protocol is particularly necessary for municipalities such as Ottawa, in which there is already a significant RCMP presence (and where the NPF submits the RCMP’s jurisdiction should be expanded). However, the NPF submits that any such protocol should account for the legitimate and appropriate

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<sup>183</sup> Interview Summary: Minister Marco Mendicino, WTS.00000054, p. 11.

<sup>184</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by Former Chief Peter Sloly, p. 117, ln. 17 to p. 118, ln. 5.

<sup>185</sup> Transcript, Day 28, November 22, 2022, TRN00000028, Examination of Minister Marco Mendicino by the National Police Federation, p. 205, ln. 6-19.

function of the provincial police service as a municipal service's first "port of call" where additional resources are needed.

#### **4. National Benchmarks for Integrated Command**

103. The NPF's fourth recommendation is that minimum national benchmarks be established for circumstances in which integrated command is the best practice, or potentially becomes mandatory, when a municipal police agency requires significant resources from external police agencies to respond to an incident.

104. During the policy hearing on November 29, 2022, Dr. Michael Kempa acknowledged that the current, *ad hoc* system of provincial services supporting municipal services works well where the event at issue is not particularly challenging, or where there is alignment among the opinions and personalities of the individual actors involved. However, it is silent on any thresholds for transferring decision-making authority automatically, in the absence of agreement.<sup>186</sup> He identified this as a gap which could potentially be explored following the events in Ottawa.<sup>187</sup>

105. Referring to the evidence of Commissioner Carrique for the OPP, Dr. Kempa agreed that it is reasonable for a police service to seek a greater degree of operational control where it is supplying significant resources to support another agency:

So we heard testimony from Commissioner Carrique of the OPP, for example, that there are over 200 requests of the OPP for various forms of assistance over the course of the year. Most of them are quite small in scope and size, and most of them come with very few strings attached on the part of the OPP. As the ask gets larger in terms of number of police officers, the OPP explains that it has a

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<sup>186</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Policing of Public Protests Roundtable, p. 96, ln. 10 to p. 97, ln. 16.

<sup>187</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Policing of Public Protests Roundtable, p. 97, ln. 17-21.

responsibility for influence over what will be done with its resources. And obviously, for reasons of collective agreement of having to ensure the safety of their officers and membership, they want influence over what will be used with their personnel resources.<sup>188</sup>

106. Accordingly, Dr. Kempa indicated that, in his discussions with police professionals, it has been suggested that, as a police agency provides a greater number resources to support another service, there should be thresholds by which the supplying police agency is able to assert a commensurate degree of control over the operation:

So for example, and I'm not sure what the thresholds would be, these would be open questions, if a municipal police service was asking for a percentage of officers relative to its own membership in greater of a certain threshold, it would come with automatic integration of OPP involvement in the planning stages. And if that threshold was to increase further to a certain percentage, it may then be an automatic threshold where the OPP would simply take over responsibility for operational planning entirely. The suggestion being that if these were automatic thresholds, and I'm not sure what they would be, this would remove the implication, implied or otherwise, that the municipal police service was in some way failing, and it was just the scope and nature of the operation and the request of the OPP that would dictate their level of influence over planning moving forward.<sup>189</sup>

107. Dr. Kempa clarified that such thresholds would only be necessary in the event that circumstances break down, where there is no agreement on an integrated or unified approach between the supplying and receiving police agencies.<sup>190</sup>

108. The NPF supports Dr. Kempa's recommendations in this regard. The events in Ottawa demonstrate how, unfortunately, effective police operations in times of crisis may

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<sup>188</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Policing of Public Protests Roundtable, p. 97, ln. 22 to p. 98, ln. 4.

<sup>189</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Policing of Public Protests Roundtable, p. 98, ln. 5-23.

<sup>190</sup> Transcript, Day 33, November 29, 2022, TRN00000033, Policing of Public Protests Roundtable, p. 154, ln. 10-16.

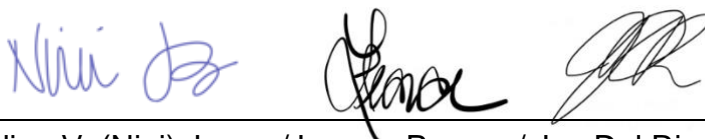
be stymied by individual personalities and egos. At the same time, the operations in both Ottawa and Windsor demonstrate the significant benefits of an integrated or unified command system, particularly where local police of jurisdiction are relying upon resources from outside agencies. For the interests and protection of their members, police services should legitimately seek a greater degree of operational control where they are supplying a significant number of resources externally. It should not be left merely up to the goodwill and professionalism of individual police leaders to work out the transfer of decision-making authority.

**D. Conclusion**

109. The NPF has listened carefully to the evidence with a view to learning from past mistakes and providing recommendations to improve officer and public safety in future public order events. It has advanced reasonable and focussed recommendations, all of which are grounded firmly in the evidence.

110. The NPF is grateful for the opportunity to participate and provide these submissions, which it hopes will assist the Commission in fulfilling its ambitious and important mandate.

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



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