

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

**FINAL SUBMISSIONS AND RECOMMENDATIONS OF THE OTTAWA POLICE
SERVICE**

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I. OVERVIEW

1. As the Nation's Capital, the City of Ottawa is home to over one hundred protests annually. As the police of jurisdiction, the Ottawa Police Service ("OPS") is experienced and adept at managing protests. The OPS has always respected the right to peaceful protest while at the same time successfully maintaining public order and preserving the peace.

2. The Freedom Convoy 2022 (the "**Convoy**") was an unprecedented event in protest history in Canada and a challenge no law enforcement agency had ever previously experienced. An event that was being promoted as a peaceful demonstration by law abiding persons became an occupation in the City of Ottawa. The protesters and their vehicles held the community hostage.

3. The OPS had a robust operational plan in place in advance of the arrival of the Convoy, one which accommodated the ability of thousands of vehicles and protesters to enter the city in order to exercise their lawful right to protest. However, thousands more vehicles descended upon the City than anyone ever predicted and the protesters refused to comply with the directions of the police. The resources of the OPS were overwhelmed.

4. Once the trucks were ensconced within the City, the task of dismantling the occupation became a herculean feat. Tow trucks were not available and the size and swell of the protest made their immediate removal dangerous. Ultimately, it took the effort of the entire OPS and thousands of other police officers from across the country to safely dismantle the occupation. This took time.

5. The entire OPS and all of their law enforcement partners worked tirelessly and in extremely challenging conditions to maintain public safety during the occupation. The OPS made consistent efforts to enforce the law and protect the community, but the residents and businesses nonetheless suffered. The efforts by the police, and the reasons why action was or was not taken, were not always understood or communicated. Misinformation and criticism contributed to a loss of confidence.

6. This Commission has provided the OPS with the opportunity to let the community know the efforts made by the OPS and their law enforcement partners to maintain public safety during the occupation and to return the city to normalcy. The OPS learned valuable lessons from the events that transpired. These lessons have resulted in changes that have already proved to be invaluable in ensuring safety and well-being of the entire community.

II. BACKGROUND TO THE OTTAWA POLICE SERVICE (“OPS”)

i) *OPS Experience*

7. The OPS is experienced at handling large events and protests and, in doing so, has always respected the right to lawful protest, while ensuring public safety. Then Acting Deputy Chief Ferguson (“**Deputy Chief Ferguson**”) testified that the OPS knows “what demonstrations generally look like, how long they last and the type of behaviour we see”¹. This is no surprise given the approximately 100 protests per year that occur in Ottawa which vary greatly in size, ideology, level of cooperation with the police, and level of disruption to the city². The OPS is also experienced in handling protests involving vehicles and farm equipment. In some of these protests, the participants remained in the City of Ottawa (and on Wellington Street) for lengthy periods, without any major impact on the community. The OPS had never previously prohibited access to protest sites.³ It was also never the practice to request the City to close streets in order to create vehicular exclusion zones, which require significant resources⁴.

8. Demonstrative of OPS’ experience with protests involving large vehicles is the recent United We Roll convoy. On February 14, 2019, the United We Roll convoy left Alberta and arrived in Ottawa two days later. The protesters parked their two hundred trucks (which included

¹ Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 8 (*PDF page 14*).

² OPS.IR.00000001 at pg. 9, para 28.

³ Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 8 (*PDF page 14*).

⁴ Evidence of Deputy Chief Bell – TRN00000008 at pg. 255-257 (*PDF page 261-263*)

eighteen wheelers) on and around Wellington Street. The protesters demonstrated for two days and then left Ottawa.⁵

9. OPS' level of experience in this regard is well known by its policing partners. Chief Superintendent Pardy of the OPP praised the OPS and its first-class reputation in managing and responding to large scale events and demonstrations.⁶ The OPS also had a history of excellent collaboration and work with the RCMP, the OPP, and the City of Ottawa.⁷

ii) Relevant Resource Concerns

10. The OPS (based on the most recent data available) is the least resourced of all municipal police services in Ontario serving a population of at least 100,000. It is important to note that in addition to its responsibilities as the police of jurisdiction in a major city, the OPS also has unique responsibilities as the police of jurisdiction in the National Capital Region, including responsibilities relating to protests and demonstrations on issues of national concern.⁸

11. The OPS was severely under resourced at the time of the Convoy. It had approximately 1480 sworn members with 1155 sworn members (inclusive of all ranks) available for deployment at any given time. Approximately 599 officers were available for operational duties. The Convoy required the OPS to pull investigative officers from other duties and utilize them in an operational capacity.⁹ This under resourcing was attributable to budgetary constraints. The OPS had been subject to a hiring freeze in 2021. The only police officers hired in 2021 were to cover attrition. Even so, there were fewer police officers in 2022 than there were in 2019.¹⁰

12. It was uncontradicted that even prior to the arrival of the Freedom Convoy, OPS had inadequate staffing to meet the needs of the City of Ottawa. This staffing was further taxed by

⁵ Presentations of Overview Report – Vol 1, pg. 83 – TRN00000001 (Note that the transcript refers to the United We Roll protest in 2014. This is an error. The United We Roll Protest was in **2019**); COM00000446; COM00000447.

⁶ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 112 (*PDF pg. 118*).

⁷ *Ibid.*

⁸ OPS Institutional Report – OPS.IR.00000001 at pgs. 17-19, paras 51-54.

⁹ Witness Statement of Deputy Chief Steve Bell – WTS00000029 at pg. 1.

¹⁰ Evidence of Diane Deans – TRN00000005 at pg. 133 (*PDF pg. 139*).

the COVID-19 pandemic, which at the time of the events in question, had entered its sixth wave.¹¹ Additionally, the OPS had lost a significant number of experienced officers to retirement.

13. At the time of the Convoy, OPS was in the midst of significant increases in crime and calls for service¹². In light of these demands and inadequate staffing levels, OPS was struggling to maintain the adequate number of frontline officers per shift.

14. The occupation of the City of Ottawa by the Convoy was brought to a successful conclusion as a result of the efforts of the entirety of OPS and thousands of other police officers from across Canada. The Royal Canadian Mounted Police (“**RCMP**”) supplied 1015 officers. The Ontario Provincial Police (“**OPP**”) provided 948 officers. An additional 270 police officers came from other municipal police services.¹³

15. The evidence in this Commission has unanimously demonstrated that the Convoy was an unprecedented event in Canadian history. No other police service in Canada has ever been faced with an event of this magnitude. The Convoy was also unique in that the protesters leveraged the community in support of their objectives, creating unique challenges for law enforcement.

III. INFORMATION AVAILABLE PRIOR TO THE ARRIVAL OF THE CONVOY

i) Hendon Reports: What they say

16. The first indication that the OPS had of the existence of the Convoy was in a Hendon report on January 13, 2022.¹⁴ The information was scant, and the overall situation was noted as

¹¹ OPS Institutional Report – OPS.IR.00000001 at pg. 17, para 51.

¹² OPS Institutional Report – OPS.IR.00000001 at pg. 17, para 52.

¹³ OPS Institutional Report – OPS.IR.00000001 at pg. 18, para 55.

¹⁴ All Hendon reports were sent by the OPP to Chief Sloly and Superintendent Drummond. Superintendent Drummond had previously been the Superintendent in charge of intelligence. However, he had assumed a new position in January 2022. Accordingly, he requested that all Hendon reports be directed to Superintendent Patterson who assumed responsibility for the Intelligence Director in January 2022. All Hendon reports from January 13th onwards were sent to Chief Sloly, Superintendent Drummond, Superintendent Patterson, and the Special Events unit. Deputy Chief Bell began to receive them on January 27th.

being fluid. There was no indication of the size of the Convoy, the support for the Convoy, the expected date of arrival in Ottawa or what would occur once the Convoy arrived.¹⁵

17. The first indication that the OPS had that the Convoy would be arriving in Ottawa during the weekend of January 29-30, 2022, was in the Hendon report of January 20 – a week prior to the Convoy’s actual arrival. This left a very short window for planning, given that major events typically require many months of advance planning.¹⁶

18. The January 20, 2022 Hendon report is broken down into different sections. The first part of the report is entitled “Information”.¹⁷ This section notes that the number of people supporting the event in Ontario is unknown. The same section indicates that OPP Police Liaison Team (“**PLT**”) members have reported that the organizers are framing the event as “safe, lawful and peaceful protests”. The “Information” section of the report also indicates that open-source research has identified some social media posts suggesting that the Convoy will block access to the city and Parliament until all mandates are lifted (This did not occur.). This “Information” portion of the report also notes that PLTs have reported that the intent appears to be to remain in Ottawa until mandates are lifted.¹⁸

19. The Assessment section of the January 20, 2022 Hendon report contains an analysis of the information. It noted that the Convoys will disrupt the movement of vehicular traffic. (This is a typical feature of most protests and therefore not unexpected.) The Assessment also notes that the available information does not enable the OPP to predict the number of vehicles or participants in the event. This section of the report indicates the stated intent of *some* Convoy participants to remain at **Parliament Hill**, until mandates are lifted. The report also indicates that this goal is likely to be unrealistic in the long term. It also noted that a small number of tractor-trailers parked at **Parliament Hill** will be disruptive (No tractor-trailers were ever parked on

¹⁵ OPP00001176.

¹⁶ OPP0001024; Evidence of Inspector Lucas – TRN00000009 at pg. 36 (*PDF pg. 42*); Evidence of Superintendent Bernier – TRN00000010 at pg. 39 (*PDF pg. 45*).

¹⁷ “Information” is not necessarily “intelligence”.

¹⁸ OPP00001024.

Parliament Hill.). The report does not contain any indication of the number of vehicles in the Convoy.¹⁹

20. The Hendon reports of January 22 to 25, 2022, consistently contain the following information in the Assessment section of the reports:

- a. The intention of the Convoy organizers is to conduct a lawful protest;
- b. Relations between organizers and the OPP are cooperative;
- c. There is a lack of information about the events scheduled in Ottawa *during the period of January 28-30, 2022;*
- d. There is an “intelligence gap” regarding the plans for departing Ottawa²⁰;
- e. Participant numbers online are unreliable. There is an intelligence gap regarding the number of participants.²¹

21. The first Hendon report to provide information on the total number of vehicles in the Convoy is that of January 26, 2022. The total count on that date (which included commercial and passenger vehicles) was 471. This report was also the first which contained a reliability index. Information was either noted as reliable, unreliable or of unknown reliability. This report notes that there continues not to be any concrete, specific or credible threats regarding the Convoy.²² The January 26, 2022 Hendon report also continues to note that there are intelligence gaps regarding participant numbers and there remains an intelligence gap regarding plans for departure from Ottawa. Significantly, this intelligence gap is not expressed as a priority in the Hendon report.²³

22. The January 27, 2022 Hendon report – the day before the arrival of the first group in the Convoy – indicates that the total number of vehicles is now 551 based upon PLT counts. The report notes that obtaining reliable numbers is challenging for many reasons, including vehicles

¹⁹ OPP00001024.

²⁰ An “intelligence gap” has been explained as referring to the absence of any knowledge. This intelligence gap meant there was no information on whether the Convoy would stay or leave on January 30, 2022, or some other date. See Evidence of Commissioner Carrique – TRN00000011 at pg. 214 (*PDF page 220*).

²¹ OPP00001603, OPP00001604, OPP00001605, OPP00001476, OPP00000833, OPP00000835, OPP00001108.

²² OPP00000811.

²³ OPP00000811.

joining and leaving at different points during travel. Additional convoys are noted, but the number of vehicles is stated to be unknown. The January 26, 2022 Hendon report continues to note that there are no concrete, specific or credible threats and that Convoy organizers have repeatedly stated their intention to conduct a lawful protest and a desire to work with police.²⁴

23. The January 27, 2022 Hendon report continues to note that there is an intelligence gap regarding plans for departing Ottawa. Once again, this intelligence gap is not noted to be a priority. This report also notes an intelligence gap about the contents of trailers in the Convoy and whether they *possibly* contain items to support an extended stay in Ottawa.²⁵

24. The Hendon report of January 28, 2022 – the day that the Convoy began arriving in Ottawa – provides an estimate of 1352 vehicles. Again, these figures are noted as estimates and subject to change, given the many challenges of obtaining reliable counts. The open-source information in this report continues to be rated on a reliability scale. Some of the information is noted to be unreliable or of unknown reliability.²⁶

25. The Assessment section of the January 28, 2022 Hendon report for the first time provides specific information about the intended length of stay of the protestors. The first paragraph in this section reads as follows: “The available information indicates that the protestors plan to remain in Ottawa at least until 2022-02-04. We continue to identify indicators to support at least **some** protestors remaining beyond the weekend of 2022-01-29/30. These indicators include collecting donations of cash, food, and water from supporters along the route” (emphasis added). This paragraph was interpreted as indicating that the protestors will leave at the end of the weekend (January 30), although some will remain until Friday, February 4, 2022.²⁷

26. Even the January 29, 2022 Hendon report indicates that there remains an intelligence gap regarding the plans for departing Ottawa. Again, however, this intelligence gap is not noted to be a priority. This report also advises that the GoFundMe account has been frozen and that this

²⁴ OPP00000813.

²⁵ OPP00000813.

²⁶Evidence of Deputy Chief Bell – TRN00000008 at pg. 265-266 (*PDF page 271-272*).

²⁷ OPP00000815.

could curtail the ability of the participants to remain in Ottawa for an extended period or to pay for material support needed for the protest. Finally, this report continues to note the absence of any concrete, specific of credible threat.²⁸

ii) Hendon Reports: What they do not say

27. There is no indication in any of the Hendon reports that the Convoy participants will engage in anti-social behaviour, block emergency lanes, fail to comply with municipal bylaws or detrimentally impact the residential and business community in downtown Ottawa.

iii) OPP Evidence Regarding the Convoy

28. It is notable that from August 2021 until the end of the year, the OPP regularly reported on efforts to organize a convoy to Ottawa. These efforts did not come to fruition.²⁹

29. Superintendent Morris, who was in charge of intelligence for the OPP, testified that although the stated goal of some Convoy participants to remain at Parliament until the mandates were lifted was not realistic, he was beginning to schedule and plan for “two weeks, three weeks, a month, etc...”. This categorical statement however is not entirely consistent with the answer given by Superintendent Morris to the question of what was the expectation of the POIB on January 25, 2022, when he said “...I can’t give a day. I can say this. We saw significant support” and “... when I say long term, I’m going to say, you know, certainly a week, probably two weeks, et cetera”.^{30 31}

30. When it was pointed out to Superintendent Morris that there was nothing in the Hendon reports specifying the number of weeks that some of the protesters would stay in Ottawa, he

²⁸ OPP00001215.

²⁹ Evidence of Superintendent Morris – TRN00000005 at pg. 192 (*PDF pg. 198*).

³⁰ It is submitted that there is nothing in the Hendon reports however which substantiates the assertion that the Convoy participants would remain in Ottawa for several weeks. (Hindsight bias refers to the not uncommon tendency of people to convince themselves after an event has occurred to assert that they predicted it in advance.)

³¹ Evidence of Superintendent Morris – TRN00000005 at pgs. 198 and 208–209 (*PDF pages: 204 and 214-215*).

noted that this was a good point and perhaps something to take away to improve the OPP's intelligence products in the future.³²

31. Moreover, the actions of the OPP are inconsistent with the belief that the Convoy would become an illegal occupation in Ottawa. The OPP was in communication with the Convoy as soon as it crossed into Ontario. The OPP also assisted the Convoy in safely entering the City of Ottawa. The OPP was also part of the NCRCC and was aware of the operational plans of the OPS. It strains credulity to believe that the OPP would have taken no steps to stop the Convoy enroute to Ottawa and would have ushered the Convoy participants into Ottawa, if it believed that the protest would turn into an illegal occupation.

32. Superintendent Abrams and Commissioner Carrique in their witness statements (WTS00000013 and WTS00000039, respectively) as well as their *viva voce* testimony, reference the notation in the Hendon reports that there was no exit strategy and that there was an intent to remain in Ottawa until the mandates were lifted. The OPP therefore suggests that it was clear from January 20th onwards that the Convoy participants would be in Ottawa for a lengthy period.

33. OPS does not agree. Moreover, this assertion appears to be largely based on the January 20th Hendon report (OPP00001024). This assertion disregards the following:

- a. The reference to the protestors remaining in Ottawa and not having an exit strategy appears in the section of the report headed "Information". The January 20th Hendon report contains no indication of the reliability or validity of the information contained therein.³³
- b. This language is not found in the Assessment section of the January 20th Hendon report.
- c. There was an evolution of the information provided in subsequent Hendon reports.
- d. The Hendon reports of January 22 (OPP00001603), January 23 (OPP00001605), January 24 (OPP00000835), January 25 (OPP00001108)

³² Evidence of Superintendent Morris – TRN00000005 at pg. 209 (*PDF pg. 215*).

³³ Reliability and validity of information first appeared in the Hendon report for January 26, 2022 (OPP00000811).

and January 26 (OPP00000811), do not conclude that the protesters will stay in Ottawa; rather, they indicate that there is an *intelligence gap* to the plans for departure. Commissioner Carrique agreed that this meant that the OPP did not know when the Convoy would be departing. It could be Sunday January 30th, Monday, January 31st, or some other date.³⁴

- e. The January 27th Hendon report, on page 4, which notes the presence of heavy equipment states that this *may* indicate that *some* participants intend long-term occupation. On page 5 of this report, there is reference to this *possibility* of an extended stay, although this is noted as unconfirmed (OPP00000813).
- f. The January 28th Hendon report, on page 7 under the heading “Assessment”, suggests that *some* protesters may remain beyond the weekend until Friday, February 4, 2022 (OPP00000815).
- g. The January 29th Hendon report, on page 3 under the heading “Assessment”, notes that there is no indication of any plans of the protesters beyond Monday, January 31, 2022, while noting that previous information was that they would remain for one week (OPP00001215).
- h. Chief Superintendent Abrams testified that he was aware of many different views as to what might happen in Ottawa. Some reports said several hundred vehicles would arrive in Ottawa, while elsewhere, he read of a possibility of 34,000 vehicles. It is evident that there was considerable misinformation and intelligence gaps regarding the Convoy.³⁵

34. The actions of Superintendent Abrams of the OPP belie the statement by Superintendent Morris that he envisaged the Convoy remaining in Ottawa for several weeks. Superintendent Abrams was appointed as the OPP Strategic Superintendent for the Convoy on January 24, 2022. It was his responsibility to develop the OPP operational plans for this event. To this end, Superintendent Abrams arranged OPP resources. He agreed that he had not prepared logistically, or assembled any other resources, for an event that would exceed the weekend. Only after

³⁴ Evidence of Commissioner Carrique – TRN00000011 at pg. 214 (*PDF pg. 220*).

³⁵ Evidence of Superintendent Abrams – TRN00000006 at pg. 210 (*PDF pg. 216*).

January 29 (or later) did Superintendent Abrams begin to assemble OPP resources for an extended event. This occurred at around the same time the OPS realized that the event would continue beyond the weekend.³⁶

iv) The Convoy Organizers

35. The organizers of the Freedom Convoy prepared a Code of Conduct which participants were required to sign and agree to observe. The stated intent of the Convoy organizers was that the protest would be peaceful and that the individuals would not contravene bylaws, harass people or block emergency lanes.³⁷

36. According to Ms. Lich, the Convoy organizers were not encouraging anti-social behaviour prior to its arrival in Ottawa. To this end, Ms. Lich told Mr. King (who had a reputation for saying inflammatory things) to not go to Ottawa.³⁸

37. Mr. Barber testified that it was difficult for the Convoy organizers to get a sense of the number of trucks that would arrive in Ottawa. This is because some vehicles would join the Convoy for short periods. The number of participants exceeded his “wildest dreams”. Mr. Barber never put thought into whether the protest would go beyond the weekend. Although the Convoy organizers were in regular communication with the OPP PLTs enroute to Ottawa, he had no discussions with the police about how long the protest would last, until after the first weekend.³⁹

38. Mr. Wilson testified that a lot of the truckers never planned to stay as long as they did.⁴⁰ Similarly, Mr. Dichter stated that there were more protesters than expected by anyone.⁴¹

³⁶ Evidence of Superintendent Abrams – TRN00000007 at pgs. 43-44 and 48-53 (*PDF pgs. 49-50 and 54-59*).

³⁷ HRF00001346 at pg. 51 (*PDF pg. 51*); Evidence of Tamara Lich – TRN00000017 pgs. 31-33 (*PDF pgs. 38-40*), and TRN00000016, pg. 322 (*PDF pg. 328*).

³⁸ Evidence of Tamara Lich – TRN00000016 at pgs. 316 and 320 (*PDF pgs. 322 and 326*).

³⁹ Evidence of Chris Barber – TRN00000014 at pgs. 30 and 35 (*PDF pgs. 37 and 42*).

⁴⁰ Evidence of Keith Wilson – TRN000000015 at pgs. 43 and 106 (*PDF pgs. 49 and 112*).

⁴¹ Evidence of Benjamin Dichter – TRN00000016 at pg. 144 (*PDF pg. 150*).

v) *Information Provided by Other Law Enforcement Partners*

39. The RCMP was in receipt of the Hendon reports. The RCMP viewed the Convoy as an event that the OPS appeared to have under control and one which did not cause them any particular concern. The RCMP had followed the Convoys across the country and provided information to the OPP which was then funneled through a joint intelligence group that included the OPS.⁴²

40. The RCMP was part of the group working with the OPS at the NCRCC. The RCMP would also have been in receipt of the operational plans of the OPS.⁴³

41. The readout from a call with the Privy Council Office (“PCO”) reflects the information that the RCMP was reporting as of the evening of January 26, 2022. The document indicates that the Parliamentary Precinct Services, the OPS and the RCMP were all seeing the Convoy as a peaceful event. It was also reported at that time that protesters had indicated they would not be blocking lanes.⁴⁴

42. A report from National Security Intelligence Advisor (“NSIA”), Jody Thomas, on January 27, 2022, indicates that the RCMP, OPP, OPS and PPS were actively planning and collaborating to ensure public safety.⁴⁵ Similarly, on January 26, 2022, Mr. MacDonald (who reports to the NSIA) advised that public communication was emphasizing the lawful nature of the protest.⁴⁶

43. Both Commissioner Lucki and Deputy Commissioner Duheme testified that their belief was that there was an expectation that *some* protesters might stay in Ottawa until Monday, January 31, 2022 when Parliament returned to session.⁴⁷

⁴² Evidence of Commissioner Lucki and Deputy Commissioner Duheme – TRN00000023 at pgs. 25, 156 (*PDF pgs. 31, 162*).

⁴³ Evidence of Commissioner Lucki and Deputy Commissioner Duheme – TRN00000023 at pgs. 155-156 (*PDF pgs. 161-162*)

⁴⁴ SSM.CAN.NSC.00002951_REL.0001; Evidence of Commissioner Lucki and Deputy Commissioner Duheme – TRN00000023 at pgs. 158-160 (*PDF pgs. 164-166*).

⁴⁵ PB.NSC.CAN.00000577_REL.0001; Evidence of Jody Thomas – TRN00000025 at pg. 259 (*PDF pg. 266*).

⁴⁶ Evidence of Jody Thomas – TRN00000025 at pg. 261 (*PDF pg. 268*).

⁴⁷ Evidence of Commissioner Lucki and Deputy Commissioner Duheme – TRN00000023 at pg. 158 (*PDF pg. 164*).

44. Deputy Commissioner Brennan from the RCMP noted that although there was some social media messaging saying that the Convoy would not leave until the mandates were lifted, the RCMP had concerns about the reliability of that messaging in light of the practice of many protest groups which use social media messaging as a diversion.⁴⁸

45. The report from the Integrated Terrorism Assessment Centre (“ITAC”) of January 26, 2022, indicated that the majority of the truckers were exercising their right to peaceful protest. The ITAC report of the following day, January 27, 2022, indicates that the protest is expected to be peaceful and that a dedicated group could prolong the protest until January 31, 2022.⁴⁹

46. On February 1, 2022, the NSIA notes that although there has been some disturbing behaviors, the protest has largely remained peaceful and that all levels of law enforcement have worked together to plan a safe protest.⁵⁰

47. Information provided by the Government Operations Centre (based on information received from the RCMP) and disseminated by the Prime Minister’s Office, provided the following information about the Convoy in the period of January 25th to 28th, 2022.

*January 25, 2022 at 7:13 p.m.*⁵¹

- Law enforcement is learning more about Convoy as they interact with them.
- Different provincial police interacting with them and sharing information. So far, RCMP reporting that Convoy is peaceful.

*January 26, 2022 at 7:38 p.m.*⁵²

- Peaceful, non-threat event to take place.
- “Liaison officers walking with Convoy are getting good results”.
- “Organizers of the convoy are aware of “undesirables” and in some cases have kicked them out”.

⁴⁸ Evidence of Commissioner Lucki and Deputy Commissioner Duheme – TRN00000023 at pg. 157 (*PDF pg. 163*); Witness Statement of RCMP Panel – WTS00000069 at pg. 6.

⁴⁹ Evidence of Jody Thomas – TRN00000025 at pgs. 259-260 (*PDF pgs. 266-267*); PB.CAN.00001237_REL.0001

⁵⁰ Evidence of Jody Thomas – TRN00000025 at pg. 262 (*PDF pg. 269*).

⁵¹ SSM.CAN.NSC.00002795_REL.0001 at pgs. 32-33.

⁵² SSM.CAN.NSC.00002795_REL.0001 at pgs. 26-28.

- RCMP still staying peaceful.
- Number of participants unknown.

January 27, 2022 at 5:39 p.m. ⁵³

- “OPP said that it is working with those involved to minimize the impact to the public and ensure public safety”.
- “Organizers of the protest have expressed the intent for a peaceful event which is consistent with what has been seen in other areas where the Convoy has stopped so far”.

48. Ms. Telford agreed that even law enforcement could not predict exactly what occurred. Mr. Clow noted that law enforcement could not be faulted for this.⁵⁴

49. Deputy Chief Chow (on behalf of the Canadian Association of Chiefs of Police) had stated that gathering intelligence for protests is challenging and that it can be difficult to determine if a protest will have one hundred or ten thousand participants. In regard to the Convoy, he noted that the amount of open-source information was such that it was difficult to determine what information was reliable.⁵⁵

50. Deputy Minister Stewart testified that the RCMP was privy to information in the Hendon reports and fed information to them. The expectation was that this was a weekend event. He understood that the RCMP was aware that some protesters may stay, that trucks were coming downtown, but that this never raised any alarm bells for the RCMP or him personally. Additionally, there was no warning that the protesters would disregard social norms or act in contravention of the law.⁵⁶

⁵³ SSM.CAN.NSC.00002795_REL.0001 at pgs. 15-18.

⁵⁴ Evidence of Brian Clow, Katherine Telford and John Brodhead – TRN00000030 at pg. 243 (*PDF pg. 250*).

⁵⁵ Witness Statement of Howard Chow – WTS00000056 at pg. 2.

⁵⁶ Evidence of Deputy Minister Stewart and Associate Deputy Minister Dominic Rochon – TRN00000022 at pgs. 25, 130-132 and 135-136 (*PDF pgs 32, 137-139 and 142-143*).

vi) ***Hotel Information***

51. Commission counsel led evidence to suggest that protesters had booked hotels for a duration of thirty to ninety days in the City of Ottawa to accommodate 10,000 to 15,000 individuals. In this regard, reference was made to an email from Steve Ball (Ottawa Gatineau Hotel Association) to Mathieu Gravel at the City of Ottawa to which was attached the text of an email message from an ***unnamed individual*** purportedly inquiring about booking hotels. Mr. Gravel then forwarded this information to Steve Kanellakos at the City of Ottawa and added to the narrative by noting that the truckers had now started to reach out to hotels to book stays for at least 30 days.⁵⁷

52. The inference that the protesters booked hotels for periods of at least 30 days was proven to be incorrect. The information from Mr. Ball had been verified by the OPS. On Wednesday, January 26, 2022, Mr. Ball confirmed that only a few days of hotel reservations had been made. On Saturday, January 29, 2022, Deputy Chief Bell further confirmed that the hotels had been reserved for Friday and Saturday night only and that the groups were leaving on Sunday. There were no long-term bookings.⁵⁸

IV. **OPS ANALYSIS OF AVAILABLE INFORMATION**

53. Commissioner Carrique agreed in his testimony that, in general, the number of people attending an event cannot be the subject of confirmed intelligence. Rather, it is a matter of logic and extrapolation of information based on precedent, social media and weather. The OPS is in agreement with this statement. The OPS relied on these factors in its planning for the Convoy.⁵⁹

54. Inspector Lucas has been a member of the OPS for twenty-two years. In the period of 2016-2018, he was the Staff Sergeant in the Special Events section and was the lead planner for the 2016 North American Leaders Summit. Inspector Lucas has completed incident command

⁵⁷ OTT00000101; Evidence of Steve Kanellakos – TRN00000003 at pg. 8 (*PDF pg. 15*).

⁵⁸ OPS00014930; OPS00014525 at pg. 3; Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 43 and 253 (*PDF pgs 49 and 259*).

⁵⁹ Evidence of Commissioner Carrique – TRN00000011 at pg. 222 (*PDF pg. 228*).

training as well as critical incident commander training. He had also served as Incident Commander for major events. On January 21, 2022, he was appointed as the Incident Commander for the Convoy.⁶⁰

55. Inspector Lucas was aware of the messaging that some convoy members' stated goal was to remain in Ottawa until the mandates were lifted. Inspector Lucas testified that the threat by protesters not to leave the City was something that had occurred with previous truck protests, but had not materialized.⁶¹

56. Inspector Lucas tracked the number of vehicles in the Convoy while enroute to Ottawa. It was in a continual state of flux as the group travelled. Trucks would join the Convoy in some locations, while others would break off.⁶²

57. The majority of information received was to the effect that the Convoy Organizers were promoting a peaceful event and had been cooperative with law enforcement enroute to Ottawa.⁶³ Although the event was expected to be large in size, the existence of a large peaceful protest was not a concern. OPS was adept at dealing with large protests.⁶⁴

58. Deputy Chief Ferguson was the Major Incident Commander (“**MIC**”) during the Convoy. Deputy Chief Ferguson was trained in emergency management as well as in critical incident command.⁶⁵ Superintendent Rheume assumed the role of Event Commander, given his position (as of January 2022) as the Superintendent in charge of Specialized Policing.

59. The bulk of the information received by the OPS prior to the arrival of the Convoy was open-source information, rather than intelligence. The event planning team at OPS had regard to an unprecedented and almost inundating amount of information, including Hendon reports and information obtained about the Convoy from other police services in other jurisdictions. The

⁶⁰ Witness Statement of Inspector Lucas – WTS00000024 at pg. 1.

⁶¹ Evidence of Inspector Lucas – TRN00000009 at pg. 9 (*PDF pg. 15*).

⁶² Evidence of Inspector Lucas – TRN00000009 at pg. 18 (*PDF pg. 24*).

⁶³ Inspector Lucas did begin to have concerns about some of the online rhetoric that began to appear and the possibility that some individuals might promote violence or a January 6th type event. Consequently, the OPS operational plans were scaled up to address such possibility. Fortunately, this violence did not occur, although OPS was prepared for same. This is discussed below.

⁶⁴ Evidence of Inspector Lucas – TRN00000009 at pg. 21 (*PDF pg. 27*).

⁶⁵ Witness Statement of Deputy Chief Ferguson – WTS00000023 at pg. 1.

information confirmed that the Convoy members were cooperative with police and acting lawfully.⁶⁶

60. There was a lot of misinformation, disinformation and false information about the Convoy coming from a number of sources. The police analyzed all of this information and also relied on their own previous history and experience in policing demonstrations in Ottawa. However, no one had experience with the type of protest and the nature of the protesters in this case. It was unprecedented.⁶⁷

61. Based on all the information received and the prior history and experience of OPS, it was believed that the protest was largely going to be peaceful and that the bulk of the protesters would depart after two or three days, but that a small number of protesters would stay beyond that period. OPS planned accordingly. To this end, the operational plan provided for the possibility that not all individuals would leave at the same time. There were contingency plans for staffing beyond the weekend⁶⁸.

62. As it turned out, the vast majority of the protesters and the vehicles did depart from Ottawa after the first weekend. Approximately five percent of the protesters and ten percent of the vehicles remained as of Monday. However, it must be noted that the number of trucks was well beyond what had been expected—as many as 5000 trucks were estimated to have been present that weekend. In addition, it had never been expected that once trucks left after the first weekend, new convoys would return the following weekend. There still however remained a substantial number that did not leave the city. Moreover, because of the volume of trucks and the unanticipated refusal of the truckers to comply with the staging instructions, as well as the mass arrival of truckers over a very short period of time upon arrival in Ottawa, the footprint of the protest did not significantly shrink after the first weekend.⁶⁹

⁶⁶ Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 10 (*PDF pg. 17*); Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 24 and 32 (*PDF pgs. 30 and 38*).

⁶⁷ Evidence of Deputy Chief Ferguson – TRN00000006 at pgs. 8 and 11 (*PDF pgs. 14 and 17*); Evidence of Deputy Chief Steve Bell – TRN00000008 at pg. 42 (*PDF pg. 48*).

⁶⁸ Evidence of Deputy Chief Bell – TRN00000008 at pg. 138 (*PDF page 144*)

⁶⁹ Evidence of Chief Sloly – TRN00000013 at pg. 255 (*PDF pg. 261*).

63. It is important to emphasize that what caused the problem in Ottawa was **not** the number of protesters who originally came or the remainder who were left behind. As noted by Deputy Chief Bell (and echoed by others) a large protest that was lawful was anticipated and could have been managed. What was not identified in any of the information or intelligence was the ***unlawful behaviour*** of the protesters and their use of the community as leverage to their demands. That was, again, unprecedented.⁷⁰

64. The suggestion was made that Acting Superintendent Bernier (“**Superintendent Bernier**”) expressed concern over whether the OPS plans matched the intelligence. Superintendent Bernier confirmed however that the concerns he expressed were coming from a place of surprise as to the detailed nature of the Hendon reports (which he noted he had never previously seen) and that he lacked the benefit of much of the information to which the planners were privy.⁷¹

65. Minister Mendicino noted that on January 28, 2022, his thinking was that it was necessary to allow space for lawful protest, recognizing that in a democracy, people can take opposing views and that lines of communication with the protesters should be kept open.⁷²

V. OPS’ PLANNING PROCESS

i) General

66. The planning for the Convoy was the responsibility of the Special Events office. Upon his appointment as Incident Commander, Inspector Lucas tasked planners in Special Events to prepare an operational plan and to reply upon subject matter experts to prepare supporting subplans.⁷³

⁷⁰ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 17 and 33 (*PDF pgs. 23 and 39*).

⁷¹ Evidence of Superintendent Bernier – TRN00000009 at pgs. 231-233, 243 (*PDF pgs. 237-239 and 249*) and TRN00000010 at pgs. 77-78 and 155 (*PDF pgs. 83-84 and 161*).

⁷² Evidence of Minister Mendicino – TRN00000028 at pgs. 14-15 (*PDF pgs. 20-21*).

⁷³ Witness Statement of Inspector Lucas – WTS00000024 at pg. 1.

67. The Intelligence section and Special Events section both received all of the Hendon reports. Additionally, the Intelligence section collected, analyzed and shared other information with the Special Events section and through the established chain of command.⁷⁴

68. OPS has a Major Events and Event Planning Policy which was applied to guide planning for the Convoy. The objectives set out in that policy, and which were followed in this case, are as follows:

“Ottawa Police Service will collaborate with law enforcement partners, other government agencies, community stakeholders and event participants to:

- a. maintain public order and preserve the peace;
- b. remain neutral where possible and facilitate the building of trust between police, participants and the community;
- c. ensure the safety and security of the public and the emergency services personnel;
- d. minimize disruption for Ottawa residents, businesses and visitors;
- e. identify and assess threat and risk and develop contingency plans to mitigate where required;
- f. provide security commensurate to the threat level; and
- g. enforce laws and investigate offences where warranted while respecting the democratic freedoms of thought, belief, opinion, expression and peaceful assembly”.⁷⁵

69. The initial focus in the planning was on the management of the large number of vehicles and the mitigation of risks to the community, bearing in mind that the Convoy organizers were cooperative and not displaying anti-social or disruptive behaviour enroute to Ottawa. The demonstration was expected to be peaceful.⁷⁶

⁷⁴ Evidence of Deputy Chief Steve Bell - TRN00000008 at pg. 3 (*PDF pg. 9*); Witness Statement of Inspector Lucas – WTS00000024 at pg. 7.

⁷⁵ Witness Statement of Deputy Chief Ferguson – WTS00000023 at pg. 4; OPS00014520.

⁷⁶ Evidence of Inspector Lucas – TRN00000009 at pgs. 15-16 (*PDF pgs. 21-22*).

70. Although Deputy Chief Bell only began to receive Hendon reports on January 27, 2022, he had regular discussions with Superintendent Patterson about intelligence and information and the need for this to be shared with the planning team.⁷⁷

71. By approximately January 25th or 26th, Inspector Lucas began to have concerns about some of the individuals who appeared to be attaching themselves to the convoys and the related online rhetoric. Inspector Lucas became concerned about a January 6th type of event occurring in Ottawa. Consequently, plans were adjusted, and arrangements were put in place to have an additional six public order units (“**POU**”) from other law enforcement partners deployed to Ottawa. The number one priority became public safety. As a result of the first weekend, this meant that there were approximately five hundred public order officers in Ottawa (two units from OPP, one unit each from York, Durham, London, Toronto, and Ottawa. Each POU had between 80-100 officers).⁷⁸

72. In the days immediately preceding the arrival of the Convoy, OPS received reports of heavy machinery possibly being transported with the Convoy. The purpose for this equipment was unknown. OPS took active steps to mitigate the risks associated with any heavy equipment. Consequently, vehicles transporting heavy equipment were diverted from the downtown core.⁷⁹

73. The operational plans for the first weekend evolved on a daily basis as new information and intelligence came in. The final operational plan included a traffic management plan, a tactical plan and a public order plan.⁸⁰

74. Inspector Lucas was aware that some protesters might stay beyond the first weekend. His assessment was that the most likely group to stay would come from the original core group of fifty vehicles from out west.⁸¹

⁷⁷ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 8 and 19 (*PDF pgs. 14 and 25*).

⁷⁸ Evidence of Inspector Lucas – TRN00000009 at pgs. 27-28 and 90-91 (*PDF pgs. 33-34 and 96-97*).

⁷⁹ Evidence of Deputy Chief Steve Bell – TRN00000008 at pg. 27 (*PDF pg. 33*).

⁸⁰ Evidence of Inspector Lucas – TRN00000009 at pg. 87 (*PDF pg. 96*); OPP00004262 is the Operational Plan. The Traffic Management Plan, Tactical Plan and POU/ESU plans are subplans referenced in the Index on page 5, as Appendices D, E, and I. A copy of the Traffic Management Plan is found at OPP00004261.

⁸¹ Evidence of Inspector Lucas – TRN00000009 at pg. 26 (*PDF pg. 32*).

75. The OPS recognized that in the worst-case scenario, a greater number of protesters could stay. Inspector Lucas noted however if the protestors had arrived based on the original schedule that OPS had been notified about and gone to the locations that had been planned for their staging, OPS would not have been overwhelmed in terms of its resources.⁸²

76. In recognition of the fact that the number of vehicles in the Convoy was continually changing, on Friday, January 28th, the OPS stood up the Service Command Centre to start looking at resourcing and succession planning to go forward^{83, 84}.

ii) The Threat Assessment

77. The gathering of intelligence on the Freedom Convoy was part of the responsibility of the Intelligence Unit. Sergeant Kiez (described by Former Chief Sloly (“**Chief Sloly**”) as someone he frequently interacted with and as one of the best intelligence operators)⁸⁵, was responsible for preparing the Threat Assessment which was then provided up the chain of command in the Intelligence Unit, as well as to Special Events and the command team.⁸⁶

78. The Threat Assessment notes that the most likely police matter concerns the number of vehicles on the road and the large crowd size. The Threat Assessment also notes concerns about lone wolf actors and online instigators.⁸⁷ The Threat Assessment does not predict the community impact that resulted from the Convoy. Deputy Chief Bell testified that this is understandable because there was no intelligence in this regard and never before had Ottawa experienced a similar situation.⁸⁸

79. The Convoy had seemingly been able to build grass roots support. Moreover, the activities that the Convoy had been engaged in were lawful and they had been cooperative with police. This led OPS to believe that the protest would not result in violence on the streets.

⁸² Evidence of Inspector Lucas – TRN00000009 at pg. 29 (*PDF pg. 35*).

⁸³ Inspector Lucas noted that the context of this plan was different because of the fluidity and the fact that the planning had to be done in a week. In contrast, the planning for the 2016 North American Leaders Summit involved months of planning and months to get resources in place.

⁸⁴ Evidence of Inspector Lucas – TRN00000009 at pgs. 33, 34, 35, 36 (*PDF pgs. 39-42*).

⁸⁵ Evidence of Chief Sloly – TRN00000012 at pg. 30 (*PDF pg. 36*).

⁸⁶ Witness Statement of Acting Superintendent Bryden – WTS00000028 at pg. 2.

⁸⁷ OPS00004039.

⁸⁸ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 13-15 (*PDF pgs. 19-21*).

Deputy Chief Bell testified that OPS would not have experienced difficulty with a large protest if it had been lawful.⁸⁹

80. The operational plan also contained a threat assessment section.⁹⁰ Although the threat assessment is accurate, Deputy Chief Bell agrees that with the benefit of hindsight, it should have referenced the possibility that some members of the Convoy would stay beyond the weekend.⁹¹

iii) Allowing Vehicles into Downtown

81. There has been some opinion evidence given before the Commission that OPS should not have allowed the trucks into the downtown core. These opinions are yet another example of hindsight bias. While all police services have learned lessons from the Convoy, and now routinely create vehicle exclusion zones, this was not the practice at the time of the Convoy.

82. Minister Blair agreed that “with the clarity of hindsight” it was a mistake to allow the trucks in.⁹² There is no doubt that had the OPP believed that the Convoy would turn into an illegal occupation, it would have taken steps to prevent it from entering the City of Ottawa, rather than assisting in ushering the Convoy safely into Ottawa.

83. The following matters are relevant to understanding the decision by the OPS to allow trucks into the downtown core:

- a. The legitimate right to protest;
- b. The prior experience of OPS;
- c. The intelligence available before the arrival of the convoy;
- d. The impact of not allowing the Convoy to enter downtown.

⁸⁹ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 16-17 (*PDF pgs. 22-23*).

⁹⁰ OPP00004262.

⁹¹ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 21, 23-26 (*PDF pgs. 27, 29-32*).

⁹² Evidence of Minister Blair – TRN00000027 at pg. 203 (*PDF pg. 210*).

a. The legitimate right to protest

84. OPS agrees that *Charter* protected rights belong to individuals and not trucks. However, in the period preceding the arrival of the Convoy, law enforcement parties, the City of Ottawa and politicians were focused on recognition of the right to peaceful protest. It is important to bear in mind that the intelligence preceding the arrival of the Convoy was that the protesters were law-abiding and would be engaging in peaceful protest.

85. The following evidence speaks to this issue:

- (i) The evidence of Mayor Watson is instructive:⁹³

MR. TOM CURRY: Besides quite apart from all of the events that are held by the City, and there are many of them, as the home to the nation's capital and Parliament, the City has a long tradition of respecting the democratic right to protest?

MAYOR JIM WATSON: That's correct.

MR. TOM CURRY: And including protests against mandates and restrictions that were imposed by provincial or federal government as a consequence of the pandemic?

MAYOR JIM WATSON: Correct.

MR. TOM CURRY: And in terms of the use of vehicles, or in the bringing to Ottawa, if I can put it that way, of vehicles by protesters, the City also has a long experience of allowing, facilitating vehicles to come to the city?

MAYOR JIM WATSON: Yes, on occasion there's been arrangements made where they'll park on Wellington Street. For instance, I know there was a farm protest sometime ago, and that was arranged in collaboration with the police liaison, and it worked well, and they left after they had their speeches.

- (ii) The City of Ottawa does not require protesters to obtain a permit.

⁹³ Evidence of Mayor Watson – TRN00000004 at pg. 140 (*PDF pg. 146*).

- (iii) A large protest was anticipated and could have been managed. None of the law enforcement parties believed that they had legal authority to deny the protesters access since there had been no indication of illegality.⁹⁴
- (iv) Deputy Chief Crowley noted that the Windsor Police were trying to find the balance to recognize the *Charter* right to protest and public safety and to not escalate a situation.⁹⁵
- (v) The ITAC reports note that the majority of truckers were exercising their rights to peaceful protest.⁹⁶
- (vi) On February 1, 2022, NSIA Jody Thomas noted that all levels of law enforcement had worked together to ensure a safe protest and that to date, it had largely remained peaceful.⁹⁷

b. The prior experience of OPS

86. OPS was recognized for its excellence in how it has managed protests over the years. Previous protests had seen the presence of vehicles on Wellington Street without incident. In some cases, protesters had remained for lengthy periods without major impact on the community.⁹⁸

c. The intelligence available before the arrival of the convoy

87. The OPS had a plan that accommodated 3000 trucks. The OPP referred to this plan as being “robust”. Superintendent Abrams knew of the OPS plan and expressed no concern about it.⁹⁹ No one anticipated that the volume of vehicles would reach the level that it did.¹⁰⁰

⁹⁴ Evidence of Deputy Chief Steve Bell – TRN00000008 at pgs. 17 and 59 (*PDF pgs. 23 and 65*).

⁹⁵ Evidence of Deputy Chief Crowley – TRN00000018 at pg. 178 (*PDF pg. 184*).

⁹⁶ Evidence of Jody Thomas – TRN00000025 at pg. 259 (*PDF pg. 266*).

⁹⁷ Evidence of Jody Thomas – TRN00000025 at pg. 262 (*PDF pg. 269*).

⁹⁸ Evidence of Deputy Chief Bell WTS.00000029 at pg. 4; Evidence of Inspector Lucas WTS00000024 at pg. 3.

⁹⁹ Evidence of Superintendent Abrams – TRN00000006 at pg. 213 (*PDF pg. 219*).

¹⁰⁰ OPP00004348; Evidence of Superintendent Morris – TRN00000005 at pgs. 270-271 (*PDF pgs. 276-277*).

88. All of the intelligence suggested that the protesters were law abiding and cooperative with police. Convoy organizers had engaged with PLTs and provided assurances that emergency lanes would be kept open and that they would move into the predesignated areas.¹⁰¹

d. The impact of not allowing the Convoy to enter downtown

89. In text messages exchanged between Commissioner Carrique and Deputy Commissioner Harkins on January 27, 2022, concern was expressed about the congestion that would be experienced in the City of Ottawa if trucks were prevented from entering the downtown core.¹⁰²

90. By January 28th, the sheer number of vehicles made it impossible to stop them from coming downtown. The amount of resources required to block all access would have been massive. Chief Sloly noted that probably an additional 2000 officers would have been needed. Deputy Chief Bell noted that it would have required massive planning and resources.¹⁰³

91. Inspector Lucas noted that given the number of trucks, the impact of closing the downtown core might have been to push the trucks out to other parts of the city. This would have had the potential to impact an even larger segment of the population. It would also have required more police resources to contain and manage such a situation.¹⁰⁴

92. Stopping the truckers and blocking them from entering the city had the potential to incite the protesters and create a volatile situation, especially given the distance that some truckers had travelled in order to exercise their right to protest.¹⁰⁵

93. While the OPS has empathy for the residents and community members impacted by the illegal occupation, it shares the view expressed by Mr. Kanellakos in a text message with Mr.

¹⁰¹ Evidence of Chief Sloly – TRN00000012 at pgs. 48 and 52 (*PDF pgs. 54 and 58*).

¹⁰² Evidence of Commissioner Carrique – TRN00000011 at pg. 25 (*PDF pg. 31*).

¹⁰³ Evidence of Chief Sloly – TRN00000012 at pg. 50 (*PDF pg. 56*); Evidence of Deputy Chief Steve Bell – TRN00000008 at pg. 141 (*PDF pg. 147*).

¹⁰⁴ Evidence of Inspector Lucas – TRN00000009 at pgs. 85-86 (*PDF pgs. 91-92*).

¹⁰⁵ Evidence of Deputy Commissioner Duheme – TRN00000023 at pg. 164-165 (*PDF pgs. 170-171*); Evidence of Mario Di Tommaso – TRN00000020 at pg. 343 (*PDF pg. 349*).

Ayotte on January 30, 2022: “It’s a little naïve ... to believe that police and the City should have just prevented the protest from happening”.¹⁰⁶

94. The OPS also echoes the sentiments expressed by Mayor Watson: “And it’s easy to be, you know, talking about hindsight and looking in the rear-view mirror,” and further, “But you’re quite correct, you know, the challenge we all faced was that this thing came, we didn’t think it was going to be as big as it did. And I’ve had conversations with other mayors who said, “you know what, we learned lessons from you”.¹⁰⁷

95. Superintendent Abrams testified that the OPP PLTs were not messaging to the protesters in advance of their arrival that they should not come to Ottawa. Rather, the focus was on trying to establish relationships. Not only would closing the downtown core have affected the protesters, it would have caused massive disruption to all of the residents and businesses downtown.¹⁰⁸

VI. ARRIVAL OF THE FREEDOM CONVOY IN OTTAWA

96. As set out above, notwithstanding the cooperation seen from Convoy organizers in the days and weeks leading up to the arrival of the Freedom Convoy, the arrival of trucks and protesters in numbers far exceeding that which could have reasonably been anticipated represented both a marked shift in the behaviour of participants and a substantial challenge for OPS. The number of trucks, and the footprint of those trucks when participants failed to comply with OPS traffic direction, exceeded the capacity of any municipal police service, even one with OPS’ breadth of experience, to proactively manage.

97. On the morning of January 28th, the NCRCC was stood up to act as a coordinated operations centre throughout the event with representatives of the RCMP, OPP, Parliamentary Protective Services, the Sûreté du Québec, the Service de police de la Ville de Gatineau, OC Transpo, the Ottawa Fire Service, the City of Ottawa, and the Ottawa Paramedic Service. This operations centre

¹⁰⁶ OTT00029632.0001 at pg. 10 at 9:15:06 AM.

¹⁰⁷ Evidence of Mayor Watson – TRN00000004 at pgs. 73-74 (*PDF pgs. 79-80*).

¹⁰⁸ Evidence of Superintendent Abrams – TRN00000007 at pgs. 5 and 10 (*PDF pgs. 11-16*).

permitted an integrated response amongst all relevant institutions and operated nearly 24 hours per day throughout the duration of the Freedom Convoy¹⁰⁹.

98. As articulated in more detail above, as of the morning of January 28th, there remained limited information with respect to the likely number of vehicles travelling to Ottawa to participate in the Freedom Convoy. The January 27th Hendon Report¹¹⁰, for example, which was disseminated at 3:00PM on the 27th, listed 13 convoys from the various parts of Canada, 10 of which stated that the number of participants was (“TBD”). At that time, the best estimate from Project Hendon was 551 vehicles as the majority of the convoys had not yet departed their originating location. Separately, OPS learned that the convoy originating from British Columbia included approximately 480 vehicles, with only 50 of those being large trucks, and that another convoy of about 300 vehicles was anticipated¹¹¹. Even on January 28th, the Hendon Report (which was circulated after the convoys already began to arrive in Ottawa) estimated the total number of vehicles at 1352 vehicles.

99. Multiple witnesses confirmed that estimating the number of trucks and protesters that would arrive in Ottawa was very difficult and that information in that regard was frequently inconsistent and shifting. Notwithstanding this ambiguity, as set out above, OPS planned to accommodate up to approximately 3,000 vehicles¹¹², which notably far exceeded any estimate that was provided by Project Hendon even up until the date the Freedom Convoy events commenced in Ottawa, on several key roadways in and around the downtown core¹¹³. This plan was communicated to convoy organizers in advance of their arrival in Ottawa¹¹⁴, and was also made publicly available for the awareness of both protesters and the community¹¹⁵.

¹⁰⁹ Witness Statement of Inspector Lucas – WTS00000024 at pg. 7.

¹¹⁰ OPP00000813.

¹¹¹ OPS00014540 at pg. 10.

¹¹² HRF00001313.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ Affidavit of Superintendent Bernier – AFF.00000020 at pg. 26

100. In actuality, it is estimated that the first weekend of the Freedom Convoy brought approximately 5,000 vehicles to Ottawa¹¹⁶ in addition to 10,000 – 12,000 protesters on foot¹¹⁷. The number of participants exceeded the expectations of even the Convoy organizers. In one organizer’s words, the scope of the event exceeded his “wildest dreams”¹¹⁸. Further, the level of cooperation and respect shown by protesters shifted significantly upon their arrival in Ottawa.

101. Participants in the Freedom Convoy began to arrive in Ottawa in the morning of January 28th.¹¹⁹ The limited spots on Wellington Street, considered to be the prime spots given their proximity to Parliament Hill, were quickly taken by those who arrived early, leaving limited space for those who had started the event and had traveled the greatest distance¹²⁰. The OPP, relying on their PLT, as well as their authority to selectively close provincial roadways and exits (i.e. the 417 highway which led the majority of vehicles into the downtown core) where appropriate, assisted in safely ushering the vehicles into the downtown core¹²¹.

102. Initially, the arrival of participants in the Freedom Convoy was very effectively managed. Through the use of PLT and traffic officers, vehicles parked in appropriate designated areas pursuant to the traffic plan¹²², emergency lanes were maintained¹²³, protesters utilized the Coventry location to stage their trucks and carpool into the city,¹²⁴ and PLT were deployed to address ongoing concerns such as the prevention of heavy equipment from entering the downtown core¹²⁵.

103. As the number of vehicles increased, particularly into January 29th, OPS traffic and PLT members worked diligently to redirect vehicles to the designated areas; however, the unanticipated number of vehicles overwhelmed the limited resources of OPS on the ground and participants

¹¹⁶ Evidence of Inspector Lucas – TRN00000009 at pg. 55 (*PDF pg. 61*).

¹¹⁷ OPS.IR.00000001 at pg. 13.

¹¹⁸ Evidence of Chris Barber – TRN00000014 at pg. 30 (*PDF pg. 37*).

¹¹⁹ OPS00003602 at pg. 4: Inspector Lucas’ scribe notes indicate that by 11AM on the 28th the convoy from New Brunswick had arrived and the “South Convoy” was anticipated to arrive shortly.

¹²⁰ Evidence of Inspector Lucas – TRN00000009 at pg. 37 (*PDF pg. 43*).

¹²¹ Evidence of Superintendent Abrams – TRN00000007 at pgs. 5, 9-10 (*PDF pgs. 11, 15-16*).

¹²² Evidence of Inspector Lucas – TRN00000009 at pg. 37 (*PDF pg. 43*).

¹²³ Witness Statement of Inspector Lucas – WTS00000024 at pg. 7.

¹²⁴ Evidence of Inspector Lucas – TRN00000009 at pg. 67 (*PDF pg. 73*).

¹²⁵ OPS00003602 at pg. 6.

began weaving through different residential streets in contravention of the traffic plan¹²⁶. There was a lack of cooperation as between different groups of protesters and disagreements as to who should be able to obtain the priority spots closest to Parliament Hill¹²⁷. It was not possible from a resources perspective to deploy officers at every single entry point to the residential streets and, ultimately, OPS had to focus its efforts on the most problematic areas and reconfigure its approach to focus on the primary goal of maintenance of public safety¹²⁸. More specifically, the focus of OPS had to shift to keeping intersections and emergency lanes open to whatever extent possible¹²⁹.

104. The result of this challenge was a much wider spread footprint than planned, which was far more difficult to manage from a policing perspective as well as more impactful on the local community. In addition to the shift in cooperation as it relates to compliance with the traffic plan, and more problematically, the behaviour seen from the protesters was unlike that which was exhibited in the time leading up to their arrival in Ottawa, and unlike any other protest experienced by OPS in the past. Evidence of what was unanimously considered by witnesses to be an unprecedented shift in the nature of protests included the following:

- a. Refusal to comply with provincial and municipal law with respect to, *inter alia*, parking, road safety and noise, as well as threats and aggression towards by-law and police officers attempting to enforce those laws¹³⁰;
- b. Persistent use of loud horns, including the use of aftermarket train horns which were exceptionally loud¹³¹, to disrupt the lives of residents and communicate the message of protesters.

¹²⁶ Evidence of Inspector Lucas – TRN00000009 at pg. 38 (*PDF pg. 44*).

¹²⁷ Evidence of Inspector Lucas – TRN00000009 at pg. 92 (*PDF pg. 98*).

¹²⁸ Evidence of Inspector Lucas – TRN00000009 at pg. 38 (*PDF pg. 44*).

¹²⁹ Evidence of Inspector Lucas – TRN00000009 at pg. 92 (*PDF pg. 98*).

¹³⁰ Evidence of Inspector Lucas – TRN00000009 at pgs. 58-59 (*PDF pgs. 64-65*).

¹³¹ Evidence of Zexi Li – TRN00000002 at pg. 23 (*PDF pg. 30*).

- c. Harassment and intimidation of pedestrians and residents in the downtown core, as well as those owning or working at local businesses where mask mandates were upheld¹³²;
- d. Extensive impacts on local businesses including the forced closure of many businesses due to a lack of vehicular access or a lack of safety as a result of the Convoy;
- e. Use of symbols of hate and the targeting of Pride flags, creating feelings of fear amongst residents¹³³, particularly those from historically marginalized groups;
- f. Constant idling and air pollution from the trucks¹³⁴;
- g. Urination and defecation in the streets;
- h. Unsafe and unlawful fires in the street, handling of jerry cans of gas, and enjoyment of fireworks; and
- i. Violence and threats of violence¹³⁵.

105. These behaviours were repeatedly described by witnesses as representing a paradigm shift in protests and could not have been anticipated on the basis of the available intelligence¹³⁶. In light of the extensive footprint of the Red Zone and the disruptive nature of the protesters' behaviour, it was consistently reported by witnesses that the scope of the Freedom Convoy went well beyond the capacity of any one municipal police service to effectively respond, even one with the breadth of experience of OPS.

¹³² Evidence of Nathalie Carrier – TRN00000002 at pg. 82 (*PDF pg. 89*); COA00000035.

¹³³ Evidence of Councillor Fleury – TRN00000002 pgs. 156-157 (*PDF pgs. 163-164*).

¹³⁴ Evidence of Councillor Fleury – TRN00000002 pg. 160 (*PDF pg. 167*).

¹³⁵ OPS Institutional Report – OPS.IR.00000001 at pg. 33; Evidence of Councillor McKenney – TRN00000002 at pg. 170 (*PDF pg. 177*).

¹³⁶ Evidence of Superintendent Abrams – TRN00000007 at pg. 4 (*PDF pg. 10*).

106. Additionally, multiple witnesses testified that enforcement in and around the Red Zone presented a safety risk to officers and was ineffective in any event. Officers were swarmed, threatened, and outnumbered when attempts were made to enforce those laws being disobeyed by protesters¹³⁷, and by-law enforcement needed to be stood down in its entirety within the Red Zone as by-law officers could not engage in enforcement safely¹³⁸. Further, protesters were resolute in their defiance of attempts at enforcement and demonstrated their preparedness to disregard fines, tickets, and demands by police to leave the Red Zone¹³⁹. This resolve was maintained through to the end of the event at which time many of the hundreds of arrests resulted from protesters volunteering to be arrested¹⁴⁰.

107. As a result of these complexities, it was clear that it was not possible to take a proactive enforcement stance in relation to the event and, instead, the focus remained at this time on maintaining public safety, working with protesters to open up emergency lanes, and addressing criminal activity. Notably, this was taking place alongside OPS' continued obligation to police the remainder of the city.

108. It was always anticipated that a relatively small percentage of vehicles and protesters could remain in Ottawa past the first weekend. The expectedly substantial departure of vehicles by February 1st, however, was insufficient to resolve OPS' challenges because of the following:

- a. Those that remained were emboldened by the surprising level of support received across the country for their message. Protesters reported that their level of commitment with respect to the planned length of their stay increased in response to this support.¹⁴¹ Police also noted that crowd

¹³⁷ See for example: Evidence of DM Michael Keenan, TRN00000024 pg. 123-124 (*PDF pages 129-130*); Evidence of Minister Marco Mendicino, TRN00000028 pg. 33-34 (*PDF pages 38-39*).

¹³⁸ Evidence of Kim Ayotte - TRN00000004 pg. 212; 215 (*PDF page 218; 221*).

¹³⁹ Evidence of DM Michael Keenan - TRN00000024 pg. 123-124 (*PDF pages 129-130*).

¹⁴⁰ Affidavit of Superintendent Bernier, AFF.00000020 at pg. 7.

¹⁴¹ See for example Evidence of Keith Wilson, TRN00000015 at pg. 43 (*PDF page 49*).

dynamics began to shift with the arrival of more protesters espousing far right and anti-government attitudes¹⁴².

- b. The significant departure of trucks by Tuesday did not result in a significant change to the overall footprint of the event. Inspector Lucas testified that there was an opportunity to shrink the overall footprint after the first weekend by moving vehicles onto Wellington and/or to other designated areas but he received a direction prohibiting that from occurring¹⁴³. The sustained and unexpectedly large footprint of the event exacerbated the staffing challenges of OPS and perpetuated the challenges around enforcement.
- c. Finally, the sheer number of trucks that remained (notwithstanding that this number remained in the range of overall percentages expected by OPS) as a result of the unexpected scope of the event from the outset, was similarly unexpected.

109. On Monday, January 31st, it became apparent that those trucks and protesters that remained were emboldened and may not leave in the immediate future. It was at this point that OPS determined that what remained could no longer be considered a peaceful, lawful protest and, instead, that the event had become an unlawful occupation¹⁴⁴. It similarly became apparent that OPS would need to find a way to pivot, and that extensive additional resources from other police agencies would be necessary.

VII. PLANNING TO END AN OCCUPATION

110. The period of January 31 to February 8 has been described in phases by OPS witnesses. The first phase was described as a period of reorientation – a realization that an evolution of the

¹⁴² Witness Statement of Inspector Lucas – WTS00000024 at pg. 9.

¹⁴³ Evidence of Inspector Lucas, TRN00000009 at pg. 92 (*PDF page 98*).

¹⁴⁴ OPS00004976.

initial plan would be required given the unprecedented and unexpected nature of the event. Brainstorming at the strategic, operational and tactical level was occurring and conversations were occurring with police and City partners with respect to next steps¹⁴⁵. During this time, a plan was created to maximize the use of the very limited available resources and maintain public safety. The second phase involved attempts at intervention and enforcement to encourage the departure of protesters. Ultimately, with the arrival of the Integrated Planning Cell, OPS alongside its partners worked towards the creation of an overall operational plan and implemented an extremely safe and successful POU operation, the scale of which this country has never experienced.

i) Clear Need for Additional Resources to Safely Enforce

111. As set out above, it became apparent on January 31st that a pivot would be required in OPS' stance as the January 28th Operational Plan was no longer applicable in the context of an occupation. OPS took steps to maximize its existing resources by amalgamating the six platoons that cover the 24-hour period into four platoons working 12-hour shifts¹⁴⁶. However, it also became apparent that OPS would require far more support¹⁴⁷ from external agencies, and that fact was clearly and consistently communicated by OPS immediately.

112. It was also understood at all levels that OPS would need to be careful not to engage in enforcement it did not have the resources to engage in safely or effectively. On January 31st, Chief Sloy met with Commissioner Lucki and Commissioner Carrique and indicated that OPS required additional resources¹⁴⁸. On the same date, Mayor Watson met with Prime Minister Trudeau and advised him that OPS would require additional resources¹⁴⁹. Notably, there was consensus in both discussions that OPS would need to exercise caution in the manner of its response – a sense of balance – so as not to trigger a national response or to incite violence.

¹⁴⁵ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 33 (*PDF pg. 39*).

¹⁴⁶ Witness Statement of Deputy Chief Ferguson – WTS00000023 at pg. 10.

¹⁴⁷ It is important to note that the requests for additional resources commenced in advance of January 28th, with officers arriving (including, primarily POU officers), to assist throughout the first weekend.

¹⁴⁸ OPS00004927

¹⁴⁹ SSM.CAN.NSC.00002812_REL.0001

113. Similarly, on February 5th, Primer Minister Trudeau met with the Governor General and Prime Minister Trudeau stated: “This is not a protest more an occupation. Hard to defuse. It will take time. Being very careful to not try to fix something, we don’t have the tools for”¹⁵⁰. Further, witnesses consistently testified that OPS repeatedly indicated a need for additional resources and that, of course, it could not be expected (and was not expected) that OPS would engage in enforcement actions for which it did not have sufficient resources to do so safely¹⁵¹.

114. Witnesses testified that formal and informal requests for additional resources were made throughout the Convoy¹⁵². These requests were generally made known to the Board and the Board was encouraged to reinforce those requests through political channels¹⁵³. Ultimately, these requests culminated in a formal request for 1,800 officers to assist in dismantling the Convoy, as articulated in the joint letter from Mayor Watson and Chair Deans to their federal and provincial counterparts on February 7th¹⁵⁴. It was understood by OPS from as early as February 1st that, at minimum, all POU members in Ontario, and likely beyond, would be required to dismantle an event of this nature¹⁵⁵. Dozens of OPP and RCMP officers were deployed at various points earlier in the Convoy¹⁵⁶; however, the significant numbers sought as of February 7th did not arrive until the week of February 13th.

115. The Commission repeatedly heard that the RCMP and OPP were hesitant to deploy such significant resources because OPS did not yet have an overall operational plan which could provide clarity on the specifics of that deployment. Various witnesses, including OPS witnesses, testified that the number of resources required should be driven by the operational plan and not vice versa¹⁵⁷. The logic to that relates to the need for those officers being deployed to be provided basic information with respect to when an operation is expected to begin, the nature of the operation, and the likely length of the operation. As articulated in further detail below, OPS acknowledges that it experienced various challenges in arriving at a final operational plan in as timely a manner

¹⁵⁰ SSM.CAN.NSC.00002819

¹⁵¹ See for example Evidence of Minister Marco Medicino – TRN00000028 at pg. 101-103 (PDF page 107-109)

¹⁵² *Ibid.*

¹⁵³ OPB00000424

¹⁵⁴ OTT00006057.0001; OPB00000708

¹⁵⁵ Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 191-192 (PDF page 197-198).

¹⁵⁶ OPB00001014

¹⁵⁷ See for example Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 104 (PDF page 110).

as would have been hoped. It cannot be understated, however, that the preparation of an overall operational plan in the context of this unprecedented event was a massive and highly complex undertaking requiring a history-making level of resources.

ii) Components of an Overall Operational Plan

116. It is important to understand the magnitude of the operational planning exercise, particularly in the context of what turned out to be the largest POU operation in Canadian history. Inspector Lucas testified that during his experience as lead planner for the 2016 North American Leaders Summit, the team of planners had months to plan, prepare, and gather resources¹⁵⁸. Similarly, Superintendent Bernier testified that an operational plan of this nature was a “massive undertaking”, and “something that an operation this large would often take, perhaps a month to plan for”¹⁵⁹. Deputy Solicitor General Di Tommaso agreed that preparing an operational plan aimed at dismantling an occupation of this nature would be incredibly complicated¹⁶⁰. Further, he conceded that arriving at an operational plan of this magnitude was a far bigger job than those without a policing background could have understood¹⁶¹.

117. Both Inspector Lucas and Superintendent Bernier testified that an overall operational plan should be prepared on the basis of the “SMEAC” structure¹⁶²; namely, the situation, mission, execution, administration, command, control and communications, should all be included. The plan should lay out clear instructions, expectations, roles and responsibilities. It should contain a mission statement, main action plan, and a section on objectives and commander’s intent so that the mission is clear to everyone involved¹⁶³. Although the same standard template – SMEAC – is used for each event, the information contained within each heading will be entirely different on the basis of the specific context of the event¹⁶⁴. It is important for this standard SMEAC structure

¹⁵⁸ Evidence of Inspector Lucas – TRN00000009 at pg. 36 (*PDF pg. 42*).

¹⁵⁹ Evidence of Superintendent Bernier – TRN00000010 at pg. 39 (*PDF pg. 45*).

¹⁶⁰ Evidence of Deputy Solicitor General Di Tommaso – TRN00000021 at pg. 301 (*PDF pg. 307*).

¹⁶¹ *Ibid.*

¹⁶² Evidence of Inspector Lucas – TRN00000009 at pg. 88-89 (*PDF pages 94-95*); Witness Statement of Superintendent Bernier – WTS00000030 at pg. 6

¹⁶³ Witness Statement of Superintendent Bernier – WTS00000030 at pgs. 6-7.

¹⁶⁴ Evidence of Inspector Lucas – TRN00000009 at pg. 88 (*PDF pg. 94*).

to be utilized for the purposes of interoperability; an officer from any jurisdiction should be able to review an operational plan and be able to locate and understand the relevant instructions¹⁶⁵.

118. Although the overarching plan will set out the overall objectives and execution for the event, the plan is not complete until it is supported by a variety of subplans outlining the operational objectives and execution of each relevant specialty unit. For example, subject matter experts and planners will prepare subplans relating to the supporting roles of the POU, PLT, tactical, arrest, traffic, towing, communications, and others depending on the nature of the event. This exercise requires extensive co-ordination of resources and agencies, review of up-to-date intelligence and related information, and considerable expertise and training. Further, Chief Superintendent Parady testified that all components of the operation should align with the overall goals and objectives of the mission¹⁶⁶. The magnitude of the planning exercise in this context in particular is exacerbated given the footprint of the event, the willingness of protesters to disregard the law, and the massive number of officers ultimately required to dismantle the occupation.

119. As will be explored in more detail below, the final operational plan was completed on February 17th (the “**February 17th Plan**”), the night before the final operation was launched, and was an evolved version of the February 13 Integrated Mobilization Operational Plan (the “**February 13th Plan**”)¹⁶⁷. The February 17 Plan was created over a period of approximately 8 days by a team of exceptionally experienced planners and subject matter experts from multiple policing agencies. It required the procurement (as well as the administrative and logistical facilitation of that procurement) of approximately 2200 additional police officers from across the country as well as dozens of large machinery tow trucks from across the province, and the assembly of police vehicles for arrest and transport, the creation of secondary processing sites, a review and communication of necessary legal authorities, and various other onerous tasks that required extensive resources, expertise, and most notably, the benefit of time.

120. As an example of the scope of the planning exercise in the context of this specific operation, the final operational plan¹⁶⁸ contained the following key components:

¹⁶⁵ Evidence of Inspector Lucas – TRN00000009 at pg. 89 (*PDF pg. 95*).

¹⁶⁶ Evidence of Chief Superintendent Carson Parady – TRN00000007 at pg. 122 (*PDF pg. 128*).

¹⁶⁷ OPP00001851.

¹⁶⁸ OPS00013798.

- a. Phase 1 Stabilization Plan inclusive of Resource Assessment, Zone Maps, and QRT Roles and Responsibilities;
- b. Phase 2 Action Plan inclusive of Staffing Deployment Model, Traffic Plan, Tow & Removal Plan, Summary of Provincial and Federal Emergency Authorities, Investigative Overview & Decision-Making Tree (Trucks with Sleeper Cabs); City & Transportation External Support;
- c. Phase 3 Maintenance Plan inclusive of Revised Traffic Points / Requirements Chart, Detailed Deployment Staffing, and Spotting Locations;
- d. Phase 4 Demobilization Plan; and
- e. Variety of specialty plans including PLT, POU, Arrest & Hand-off; Communications, etc.

121. It is necessary to fully appreciate the complexities of this planning process to respond to the undertone that permeated the response of the community and virtually all levels of government, that OPS should have been ready with a full operational plan almost immediately upon the realization that the protest had become an occupation. Evidence of this narrative includes the testimony of Deputy Solicitor General Di Tommaso wherein he stated that he began hearing as early as February 3rd from Commissioner Carrique that people were expressing concerns about the lack of an overall OPS operational plan¹⁶⁹. Similarly, Commissioner Lucki testified that as early as February 5th she was receiving persistent questions from federal government stakeholders in the nature of “when will it end” and commented that by this point the federal government had lost confidence in OPS¹⁷⁰.

122. Within mere days of the collective realization across all agencies that the protest had become an occupation, multiple agencies and levels of government indicated a lack of confidence in OPS because the the occupation had not yet been brought to an end by OPS. This distrust and criticism, which weighed heavily on OPS and its leadership, was occurring notwithstanding that, as it ultimately turned out, the finalization of a full operational plan took a multitude of experts

¹⁶⁹ Evidence of Deputy Solicitor General Di Tommaso – TRN00000021 at pgs. 299-300 (*PDF pgs. 305-306*).

¹⁷⁰ Evidence of Commissioner Lucki – TRN00000023 at pgs. 41-42 (*PDF pgs. 47-48*).

from across several jurisdictions, approximately 8 days of work, and the accumulation of extensive resources from across the country.

123. This high level of impatience from all levels of government as well as the community¹⁷¹ was understandable given the community impact of the event; however, the corresponding pressure placed on OPS was unrealistic in the face of the task at hand and created a very difficult dynamic within which OPS was expected to perform its duties. As set out below, although its response was undoubtedly imperfect, OPS worked tirelessly in impossible circumstances to maintain public safety and to work towards an overall solution.

iii) **Planning Efforts & Enforcement Issues**

124. On January 31st, OPS began exploring how best to respond to the shifting circumstances in Ottawa. Meetings were held with City officials, RCMP and OPP counterparts as well as experts from other police services that had dealt with large-scale demonstrations¹⁷² to discuss next steps and obtain valuable advice. The following day, operational planning begun. Deputy Chief Ferguson and Chief Sloyly met with a team that had been assembled to create a new operational plan¹⁷³. Deputy Chief Ferguson testified, however, that this team of planners were not strictly planners; they were members that were also site commanders on the ground who were concurrently trying to manage issues at the tactical level¹⁷⁴. Resources were a challenge at all levels. Deputy Chief Ferguson also testified that this team consisted of two PLT sergeants as well as POU commanders who, although they had experience as POU commanders, did not necessarily have experience drafting plans¹⁷⁵.

125. During the February 1st meeting, the team discussed the various components of a plan¹⁷⁶ and next steps¹⁷⁷. Deputy Chief Ferguson's evidence in relation to this meeting was that Chief

¹⁷¹ Evidence of Deputy Minister Stewart – TRN00000022 at pg. 145 (*PDF pg. 152*).

¹⁷² OPS00014479 at pg. 21-22.

¹⁷³ OPS00014479 at pg. 27.

¹⁷⁴ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 32 (*PDF pg. 38*).

¹⁷⁵ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 191 (*PDF pg. 197*).

¹⁷⁶ OPS00014479 at pgs. 27-29.

¹⁷⁷ *Ibid.*

Sloly's focus was on POU – he was most acutely highlighting the need for a POU plan¹⁷⁸. He was not focused on an overall plan; he was focused on a POU plan in particular. This task was daunting, however, for a team without specialized planning expertise in the context of a POU operation that would be, as Deputy Chief Ferguson described, colossal¹⁷⁹ in nature.

126. On February 2nd, Superintendent Dunlop, who had been tasked with assisting and liaising with the planning team, expressed concerns which Deputy Chief Ferguson perceived to be in relation to the enormity of the task as compared to the resources and experience of the team¹⁸⁰. Additionally, Superintendent Dunlop recommended that, in the interim, OPS focus on neighborhood issues to relieve the pressure on communities¹⁸¹. Deputy Chief Ferguson also spoke with Inspector Marin – one of the commanders participating in the planning at this time – who updated her with respect to the liaisons he was working with to work towards a plan directed by the Chief; these liaisons included members from intelligence, criminal investigations, legal, and PLT¹⁸².

127. On February 3rd, the team met again with Chief Sloly. He was clear that he was looking to use a POU response¹⁸³ particularly as it related to the group at Rideau/Sussex¹⁸⁴ which the Commission heard considerable evidence about in relation to the disruption caused by that group. He referenced his concept of the “Hydra problem” which he described as “attacking problems without fixing the bigger problem”¹⁸⁵. Deputy Chief Ferguson testified that, to her understanding, Hydra referred to the need to retake chunks of the city at a time and “cauterize” those areas¹⁸⁶. Chief Sloly directed the team to prepare a set of options that could be presented to him and from which he could decide on next steps

128. On February 4th, various POU options were presented to Chief Sloly as per his direction. Chief Sloly determined, consistent with his Hydra analogy, that a piece meal approach would be

¹⁷⁸ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 127 (*PDF pg. 133*).

¹⁷⁹ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 191 (*PDF pg. 197*).

¹⁸⁰ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 193 (*PDF pg. 199*).

¹⁸¹ OPS00006085.

¹⁸² OPS00014479 at pg. 31.

¹⁸³ OPS00014479 at pg. 32.

¹⁸⁴ *Ibid.*

¹⁸⁵ OPS00014479 at pg. 33.

¹⁸⁶ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 63 (*PDF pg. 69*).

taken whereby POU operations would be implemented by section, and that Rideau/Sussex was the priority¹⁸⁷.

129. Chief Sloly's directions in this regard were expanded upon during the 8AM command briefing on February 5th as well as in the preceding e-mail to the command team¹⁸⁸. Chief Sloly directed the following:

General Priorities

1. Surge, contain and enforce – stack day shift/night shift
2. Demonstration – fully implement plan – BUT – close everything (roads, bridges, off ramps, etc.) as early and as long as possible.
3. Shut down/secure enablers for unlawful and unsafe protest; funds (GoFundMe), fuel (Diesel/propane/wood), fun (bouncy castles/DJ dance/fireworks, etc.)

130. Chief Sloly also identified priority areas with respect to the piecemeal POU plan as referenced above: Confederation Park; Rideau; Wellington; SJAM. OPS members spent considerable time preparing plans in relation to the “surge and contain” direction as well as with respect to the directed fuel seizures. In relation to the former, OPS prepared the “Neighborhood Enforcement Operation”¹⁸⁹ plan, the purpose of which was “[T]o provide a constant and heavy police presence in the area of Centertown and the Market and all the impacted neighborhoods in order to reduce crime and fear of crime and improve the perception of safety as well as the quality of life within the impacted areas”¹⁹⁰. Pursuant to this plan, four zones were created around the Red Zone, focused on the most impacted residential areas around the Red Zone, and a heavy police presence was proposed in each of those areas. At the end of the shift, statistics with respect to enforcement were to be reported¹⁹¹. With respect to fuel seizures, a Fuel Seizure Plan¹⁹² was created along with a chart of relevant legal authorities¹⁹³ after feedback from Crown counsel.

¹⁸⁷ OPS00014479 pgs. 40-41.

¹⁸⁸ OPS00007355.

¹⁸⁹ OPS00007215.

¹⁹⁰ *Ibid* at pg. 2.

¹⁹¹ *Ibid* at pg. 7.

¹⁹² OPS00008330.

¹⁹³ OPS00007511.

131. In addition to these more specific planning tools, the overall concepts directed by Chief Sloly led to the creation of the “OPS Strategic Concept of Operations”, dated February 8, 2022, which set out a seven-point strategy consisting of negotiations, surge and contain, intelligence and investigations, red zone reduction, 24/7-hour cycles, resource reliability, and success factors to end state¹⁹⁴.

132. Over the next several days after the February 5th command briefing, the enforcement strategies directed by Chief Sloly were implemented while planners worked towards an operational plan to dismantle the Rideau/Sussex group. Although well-intended, the enforcement strategies lacked sufficient OPS resources to be carried out effectively¹⁹⁵. Further, insufficient time was provided to ensure related operational plans were completed in a fulsome manner with all supporting intelligence and sub-plans¹⁹⁶. Reports were heard, for example, of officers conducting fuel seizures being swarmed¹⁹⁷. Further, multiple witnesses across various agencies testified about the significant challenges to enforcement actions in Ottawa. The evidence was unambiguous in this regard: officers were being swarmed, threatened, and entirely disregarded. This made enforcement within and around the Red Zone exceptionally difficult.

133. Chief Sloly’s enforcement-related directions were undoubtedly aimed at responding to public and political pressures, and to provide some much-needed relief to the affected communities; however, the time and resources required to plan for and carry out these *ad hoc* operations was considerable and served as a distraction from the capacity to focus on an overall operational plan to dismantle the entirety of the occupation. These operations resulted in a significant increase in ticketing and criminal enforcement in and around the Red Zone; however, they did not result in a shift of the protesters’ resolve or in a material reduction of the footprint.

iv) Rideau / Sussex Operation

134. At the direction of the Chief Sloly, and under the command of Superintendent Patterson as Event Commander, OPS worked towards an operational plan to support the dismantling of the

¹⁹⁴ OPS00008518.

¹⁹⁵ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 131 (*PDF pg. 137*).

¹⁹⁶ Witness Statement of Inspector Lucas – WTS000000024 at pg. 11.

¹⁹⁷ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 196 (*PDF pg. 202*).

protest group at Rideau / Sussex, widely considered to be one of the most problematic areas of the occupation. For the first several days of the week of February 7th, members worked diligently to draft all necessary constituent elements to the plan. A planner was assigned to prepare the overall plan and to obtain the necessary elements from appropriate experts. Such supports included Incident Command, Logistics, Arrest/Prisoner Transport Plan, Staffing, Traffic, City Supports, Tactical, PLT and Communications¹⁹⁸. A draft operational plan was created¹⁹⁹ which planned for an execution time of 4AM on Thursday, February 10th.

135. It became clear to many members of OPS as the planning process unfolded and the date of operation approached, however, that there were serious concerns with the viability of the operation at that time. It was widely believed that there were key details that remained unknown to officers being deployed, that there were insufficient resources to safely complete the operation and maintain the perimeter, and that PLT options had not yet been exhausted in that area. These concerns were shared by OPP partners. The perspective of Chief Superintendent Pardy was as follows in this regard:

Specifically, Chief Superintendent Pardy was concerned OPS had not properly planned for the first operation the February 9 Plan contemplated, an operation to clear the intersection of Rideau Street and Sussex Drive that OPS intended to launch on February 10 at 6:00 A.M. OPS had not outlined which officers and units would be involved, how they would be staged, the role of POU and PLT, command and control, decision-making authorities, or how to deal with trucks. OPS planned on using OPS employees to drive the vehicles, which is a significant risk given they are not trained to move heavy vehicles and that intelligence revealed some vehicles had been demobilized. There was no planning for PLT to conduct messaging or allowance for people to leave.

During the meeting, Chief Superintendent Pardy and his colleagues raised concerns and posed questions about the Rideau-Sussex plan. They asked about POU's ability to contain the area once police would take the intersection. Sergeant Tetreault said there were not enough POU officers to do this safely. It would have taken about 800 POU officers to effectively manage the protest, which is approximately how many were ultimately deployed. Chief Superintendent Pardy noted that OPS lacked towing resources but that the Ontario Ministry of Transportation (MTO) could assist with obtaining towing. OPP had already started working on a towing plan at the time and was working directly with MTO²⁰⁰.

¹⁹⁸ OPS00008878.

¹⁹⁹ OPS00009398.

²⁰⁰ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 7.

136. Similarly, Supt. Abrams expressed considerable concern about the tow plan and the lack of PLT engagement²⁰¹. Supt. Abrams highlighted to Supt. Patterson that OPS needed to take a measured approach and emphasized that police actions in Ottawa would impact protests and blockades across the country. The concerns raised by the OPP were shared by Deputy Chief Ferguson²⁰².

137. Chief Sloly and Superintendent Patterson were not convinced by the concerns raised by others and discussion remained ongoing about whether the operation would proceed until the night before²⁰³. Ultimately, the POU Incident Commander assigned to the operation – Inspector Burnett – met with the POU commanders and consensus was reached that the operation could not proceed safely with the resources available to OPS at that time²⁰⁴. This decision resulted in a tense OPS command meeting on February 10th relating to the tension between the use of PLT and negotiations versus a more aggressive POU response. This meeting, and the disagreement that arose therein, ultimately led to the removal of Superintendent Patterson as Event Commander. Superintendent Patterson was replaced by Superintendent Bernier, who ultimately worked with the Integrated Planning Cell to prepare an overall plan to bring the Convoy to an end.

v) **PLT Successes and Setbacks**

138. The importance of PLT in policing in general, but in the context of protests and demonstrations in particular, was set out by various witnesses. This evidence can be summarized as follows:

- a. PLTs are a group of specially trained officers who, during demonstrations, are engaged before, during and after to build rapport with demonstrators in an effort to determine what the group is trying to achieve²⁰⁵;

²⁰¹ Witness Statement of Superintendent Abrams – WTS00000013 at pgs. 8-9.

²⁰² Evidence of Deputy Chief Ferguson – TRN00000006, pg. 73 (*PDF pg. 79*).

²⁰³ OPS00014454 at pg. 139; OPS00014479.

²⁰⁴ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 7.

²⁰⁵ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 24 (*PDF pg. 30*).

- b. PLTs are utilized to have conversations with protesters around what is acceptable behaviour by the people of their group, where their *Charter* rights begin and end, and where the line of lawfulness may be crossed²⁰⁶;
- c. The work of PLT is not necessarily aimed at the removal of all protesters; rather, the intention is to reduce the footprint to make the job of POU easier²⁰⁷;
- d. The work of PLT is critical²⁰⁸;
- e. OPP are huge proponents of the work of PLT in an overall operational plan²⁰⁹ and as a critical part of the measured approach²¹⁰;
- f. PLT is very effective and follows the measured approach in that it makes sure that protesters clearly understand jeopardy, understand police timelines in relation to planning, and there is no misunderstanding about next steps²¹¹.

139. The testimony was similarly consistent with respect to the fact that, in order to be effective, PLT need to be given the autonomy to achieve small wins through give and take and, through that process, to gain credibility and trust with protesters. Similarly, PLT needs to be given time to gradually effect change through the development of those relationships²¹². This process can be very effective but is not immediate and is not necessarily visible to a concerned community. Finally, PLT must form a part of the command table so that their perspective is valued²¹³.

140. An example of the value of PLT in the context of the Convoy is the success achieved through PLT negotiations at Confederation Park. A sticking point for City officials in particular given its proximity to City Hall, infrastructure was being set up by protesters in Confederation Park including a food preparation area, propane, and a set up clearly aimed a lengthy stay. PLT

²⁰⁶ *Ibid.*

²⁰⁷ Evidence of Superintendent Beaudin – TRN00000009 at pg. 116 (*PDF pg. 122*).

²⁰⁸ Evidence of Inspector Lucas – TRN00000009 at pg. 48 (*PDF pg. 54*).

²⁰⁹ Evidence of Chief Superintendent Pardy – TRN00000007 at pgs. 205-206 (*PDF pgs. 211-212*).

²¹⁰ Evidence of Superintendent Abrams – TRN00000007 at pg. 4-5 (*PDF pgs. 11-12*).

²¹¹ Evidence of Superintendent Abrams – TRN00000007 at pg. 40 (*PDF pg. 46*).

²¹² Evidence of Deputy Chief Ferguson – TRN00000006, pg. 45 (*PDF pg. 51*).

²¹³ Evidence of Superintendent Beaudin – TRN00000009 at pg. 119 (*PDF pg. 125*).

engaged with those protesters and, although it took several days, the area was able to be cleared through these negotiations²¹⁴.

141. Although there were PLT successes, there were also PLT challenges. A number of members of OPS, as well as of OPP, felt that the operational directions of Chief Sloly favoured an enforcement approach over that of negotiation. Further, PLT members felt that PLT were not provided the necessary latitude to achieve wins or effectively build relationships with protesters. Requests to move protesters onto Wellington Street, which would have resulted in a decrease in the overall footprint, were rejected or delayed. It was felt by some that this focus on enforcement represented a disconnect from the standard best practice of the measured approach and that the potential for success of PLT was stifled as a result. This tension as between enforcement and negotiation was the source of disagreement within OPS and was potentially a factor in the length of time it took to ultimately dismantle the occupation.

vi) **Arrival of Integrated Planning Cell and Operational Plan 3.0**

142. On February 8, 2022, OPS learned that the Integrated Planning Cell was coming to Ottawa to assist. In terms of the genesis and composition of the Integrated Planning Cell, Chief Superintendent Pardy noted that in the morning of February 8th, Pardy was briefed by Commissioner Carrique that the Integrated Planning Cell was being created to support OPS and rebuild trust in it, develop a plan that complemented OPS' command, and bring an end to the protests²¹⁵. The cell consisted, in addition to Chief Superintendent Pardy, of two planners from Toronto Police Service with impressive backgrounds in emergency planning, an Inspector with POU expertise from York Regional Police, an expert civilian planner from OPP, an incident command expert from RCMP as well as a POU expert from RCMP²¹⁶.

143. At the time of the arrival of the Integrated Planning Cell, OPS had not prepared a fulsome overall operational plan with the necessary subplans upon which a request for large amounts of resources could be based or upon which an operation to dismantle the occupation could be

²¹⁴ Evidence of Deputy Chief Ferguson – TRN00000006, pg. 49 (*PDF pg. 55*).

²¹⁵ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 3.

²¹⁶ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 121 (*PDF pg. 127*).

implemented. As set out above, various strategies had been tried, members had been working tirelessly, numerous operational plans had been drafted; however, the clarity sought by policing partners to support resource requests could not be found in an overall fully formed operational plan. As will be expanded upon below, there were various impediments to that process, many of which have been the source of lessons from which OPS have subsequently learned. By the time of the arrival of the Integrated Planning Cell, however, much of the OPS senior leadership welcomed their assistance and guidance to move the needle forward.

144. OPS senior leadership met with the Integrated Planning Cell for the first time in the evening of February 8th for the purposes of sharing where they were at from a planning perspective. At that meeting, Deputy Chief Ferguson presented OPS' Strategic Concept of Operations plan to the Cell; however, it became apparent that a more detailed plan was expected. Chief Superintendent Pardy asked that the Cell be provided with a full operational plan so that they could build on it²¹⁷.

145. OPS leadership met early in the morning of February 9th to build out further details of the Strategic Concept of Operations, resulting in Plan 3.0²¹⁸. Chief Sloly led the direction for the meeting as well as for the details of the plan²¹⁹. Plan 3.0 maintained the original strategic direction of Chief Sloly to approach the dismantling of the occupation on a chunk-by-chunk basis²²⁰. Later on February 9th, OPS met again with the Integrated Planning Cell to present its more robust plan. Plan 3.0 remained dissatisfactory from the perspective of the Integrated Planning Cell; for example, supporting sub-plans were not contained with respect to public order, crime action, traffic plans, and/or a plan to shut down the downtown core²²¹.

146. The Integrated Planning Cell took Plan 3.0 away from its meeting with OPS and began its own planning process, which culminated in a new draft concept of operations which was presented to Deputy Chief Ferguson on February 11th. She was very supportive of the plan, including the unified command structure contemplated therein, and agreed to take the proposal to Chief Sloly²²².

²¹⁷ Witness Statement of Chief Superintendent Pardy – WTS.00000033 at pg. 6

²¹⁸ OPP00001889.

²¹⁹ Evidence of Deputy Chief Ferguson – TRN00000006 at pgs. 65-67 (PDF pgs. 71-73).

²²⁰ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 7.

²²¹ *Ibid.*

²²² Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 8.

It was understood at this time by all parties that review and approval of Chief Sloly was required in relation to all operational plans²²³.

147. Ultimately, by February 13th, OPS and the Integrated Planning Cell signed off on the Integrated Mobilization Operational Plan²²⁴, a product of the planning exercise of the Integrated Planning Cell and the feedback of Superintendent Bernier, who became OPS Event Commander on February 10th. As will be set out in more detail below, the February 13th Plan continued to be built out by way of additional necessary subplans and authorities, and continued to evolve as all partners moved toward the final operation²²⁵; however, the February 13th Plan was relied upon throughout and the subsequent plan was simply a further, and more developed, iteration of the February 13th Plan²²⁶.

148. Much evidence was heard by the Commission in relation to the level of cooperation and/or receptiveness demonstrated by members of OPS towards the Integrated Planning Cell. The evidence was uncontradicted however, that the Integrated Planning Cell's experience with Deputy Chief Ferguson, Superintendent Rheame, and any other members of the rank and file contributing to their work was that of a very effective working relationship wherein OPS demonstrated support for the work of the Integrated Planning Cell²²⁷.

149. Chief Superintendent Pardy described his relationship with Deputy Chief Ferguson as collaborative throughout their interactions²²⁸ and, with respect to the ultimate integration that occurred with Superintendent Bernier and his command table, he described that integration as seamless²²⁹. This collaboration culminated in an agreement by then Interim Chief Bell on his first day in that role²³⁰, to a unified command as between OPS, OPP and RCMP as the implementation of the final integrated operational plan approached.

²²³ Evidence of DC Ferguson – TRN00000006 at pg. 35-36 (PDF pages 41-42) (referring to OPS00014484 and the need to approve a POU plan prepared by a Staff Sergeant).

²²⁴ OPP00001851

²²⁵ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 140 (PDF pg. 146).

²²⁶ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 224 (PDF pg. 230).

²²⁷ Evidence of Chief Superintendent Pardy – TRN00000007 at pgs. 152-153 (PDF pgs. 158-159).

²²⁸ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 217 (PDF pg. 223).

²²⁹ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 217 (PDF pg. 223).

²³⁰ Evidence of Chief Superintendent Pardy – TRN00000007 at pg. 217 (PDF pg. 223).

VIII. PLANNING AND IMPLEMENTATION OF THE FINAL POU OPERATION

i) *Establishing the Integrated Command Table and Cooperation with Integrated Planning Cell*

150. Superintendent Bernier was appointed as Event Commander for OPS in the evening of February 10th. The following day, on February 11th, he began his work by appointing OPP Inspector Dave Springer as his Deputy Event Commander. Superintendent Bernier and Inspector Springer spent the day preparing a new Mission Statement and Main Action Plan as well as assembling an integrated command table. Superintendent Bernier ensured that the command table included representatives (from various police agencies) from intelligence, open-source intelligence, PLT, investigations, POU, corporate communications, traffic, frontline, and neighbourhood policing into a single planning and decision-making body so that all specialized teams would be privy to information about planning and upcoming operations and could provide input and make recommendations on those operations²³¹.

151. On February 12th, Superintendent Bernier spoke with Chief Superintendent Pardy and Superintendent Lue about the work that had been performed to date by the Integrated Planning Cell from a planning perspective²³². Superintendent Bernier, his team, and the Integrated Planning Cell worked together to incorporate Superintendent Bernier's mission statement, and other minor changes, into a finalized plan, resulting in the February 13th Plan. The overall strategy of the February 13th Plan included a heavy PLT and communications piece²³³. It was understood, however, that the command table would need to continue to develop the specialty plans to execute a full POU operation.²³⁴ That work commenced immediately thereafter with discussions, in particular, around POU and towing plans. On February 14th, Superintendent Bernier's command table relocated to the NOC at RCMP National Headquarters, which was where the Integrated Planning Cell had been operating, to improve integration between the two tables. Superintendent Bernier described the relationship between the various commanders as productive and one in

²³¹ Witness Statement of Superintendent Bernier – WTS00000030 at pg. 15.

²³² Evidence of Superintendent Bernier – TRN00000010 at pgs. 3-4 (*PDF pgs. 9-10*).

²³³ Evidence of Superintendent Bernier – TRN00000010 at pg. 15 (*PDF pg. 21*).

²³⁴ *Ibid*

which there was a shared vision²³⁵. Chief Superintendent Pardy described the working relationship at this point as seamless.

152. Over the next several days, the group escalated its messaging on the ground while preparing for the final POU operation through the development of all necessary subplans and the procurement of extensive resources and tow trucks. Five days after the February 13th Plan was signed, the POU operation began. It is OPS' position that, at all times, it demonstrated complete receptiveness to the assistance of the Integrated Planning Cell and that once OPS had fully engaged with the Integrated Planning Cell, the two enjoyed a highly successful and productive working relationship resulting in an exceptional operation to dismantle the occupation.

ii) Impact of the city's negotiation with organizers

153. Considerable time was spent during the Commission hearing on the circumstances around, and consequences of, the agreement reached between Convoy organizers and Mayor Watson on February 13th. The evidence establishes that although the negotiation occurred outside of OPS' direct involvement, it was generally supportive of an attempt to shrink the footprint. The nature of the proposed agreement was always clear from OPS' perspective²³⁶: trucks that could fit onto Wellington Street would be permitted to move to Wellington Street and the remainder would leave the downtown core²³⁷. It was always clear to the City of Ottawa and the OPS that even if the agreement was fully implemented, it was not a long-term solution and was not going to end the occupation. Rather, it would reduce the community impact and shrink the footprint, making subsequent enforcement less difficult.

154. OPS' position, however, is that the real crux of the issue as it relates to the City's negotiation is that, as it turns out, the agreement simply was not viable. The City of Ottawa and the OPS made best efforts to implement an agreement whereby the footprint would be dramatically shrunk and, in reality, it simply was not going to be possible. OPS experienced considerable challenges finding trucks that were prepared to move, which is a clear symptom of the dysfunction

²³⁵ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 19.

²³⁶ Evidence of Superintendent Drummond – TRN000000010, pg. 208 (*PDF pg 14*)

²³⁷ OTT00006915.0001.

within the group of protesters, and trucks were not leaving the downtown core at a rate which would have demonstrated a preparedness to comply with the agreement or which would have significantly decreased the footprint.

155. Extensive evidence was heard in relation to the dysfunction within the Convoy organizer group as well as in relation to the limited control exercised over the larger group of protesters. Keith Wilson testified that the Convoy organizers were working within a context of “a very, very, fast-moving, chaotic environment with so many...interpersonal issues arising between the players”. The Convoy was made up of many different groups and every group had their own ideas²³⁸. There was an apparent lack of cohesion amongst the group in terms of goals, perspectives and the methods of leadership, with the relationships being impacted by conflict and power struggles²³⁹. There was extensive evidence of a lack of control by organizers. Perhaps most telling, however, is the following quote from Mr. Marazzo and Mr. Wilson:

T. Marazzo: “No one could force the truckers to do anything they didn’t want to do.”

K. Wilson: “We don’t control them. We don’t even know who they are. No one signed up. It’s not a curling bonspiel. It’s not a golf tournament.”²⁴⁰

156. Similarly, Mr. Barber testified that dealing with truck drivers was like “herding cats” and, further, that he’s “always said, you put 200 truck drivers in a room and somebody’s going to get a black eye and a broken nose.”²⁴¹

157. Specifically in the context of the City negotiations, there was considerable confusion even amongst Convoy organizers as to the legitimacy of the agreement:

- a. On February 13th, after Ms. Lich’s letter to Mayor Watson was publicly released, a tweet was published from Ms. Lich’s Twitter account denying that any agreement had been reached with the city. The evidence

²³⁸ Evidence of Benjamin Dichter – TRN00000016, pg. 49 .

²³⁹ Evidence of Chris Barber – TRN00000014, pg. 22 (*PDF page 29*).

²⁴⁰ HRF00001379 at pg. 5.

²⁴¹ Evidence of Chris Barber – TRN00000014, pg. 56 (*PDF page 63*).

established that Mr. Dichter published the tweet from Ms. Lich’s Twitter account²⁴²; however, it took a few hours for the tweet to be corrected and it was conceded that this tweet undermined the legitimacy of the agreement²⁴³. In fact, Mr. Wilson indicated that his fear at the time was that the agreement could be sabotaged as a result of this misinformation²⁴⁴.

- b. Mr. Wilson testified that on the evening of February 13th he became aware that protesters believed the agreement to be fake and, in some cases, that protesters believed that “it was actually counter-intelligence propaganda either by the government or by the police”²⁴⁵.
- c. Benjamin Dichter testified that when online followers heard of the agreement there were thousands of attacks from followers suggesting that organizers were “sellouts” and mused that it would be difficult to convince anyone there was an actual agreement in place²⁴⁶;
- d. Brigitte Belton believed the agreement between the Mayor and convoy organizers, notwithstanding that she herself was an organizer, to be “fake news”²⁴⁷ and posted a TikTok to that effect communicating that belief to her followers²⁴⁸; and
- e. Pat King similarly believed the agreement to be “fake news” and published a recording on social media which told his followers that there was no such agreement and that they should “hold the line”²⁴⁹.

²⁴² Evidence of Keith Wilson – TRN00000015, pg. 93(*PDF page 99*)

²⁴³ Evidence of Keith Wilson – TRN00000015, pg. 95(*PDF page 101*)

²⁴⁴ Evidence of Keith Wilson – TRN00000015, pg. 96(*PDF page 102*)

²⁴⁵ Evidence of Keith Wilson – TRN00000015, pg. 96(*PDF page 102*)

²⁴⁶ Evidence of Benjamin Dichter – TRN00000016, pg. 67 (*PDF page 73*)

²⁴⁷ Evidence of Brigitte Belton – TRN00000014, pg. 274 (*PDF page 281*)

²⁴⁸ COM00000868.

²⁴⁹ Evidence of Pat King – TRN00000015, pg. 262 (*PDF page 268*)

158. It is also notable that even the flyer authored by Ms. Lich to protesters confirming the agreement²⁵⁰ lacks clarity. Mr. Wilson testified that it was always his understanding of the agreement that approximately 25% of the trucks would be able to relocate to Wellington Street and the remaining trucks would need to leave the downtown core²⁵¹. This is not reflected in the flyer. This lack of clarity, combined with the considerable conflicting information being circulated online at the same time, undermines any suggestion that there was consensus around the preparedness of the overall group to uphold their end of the bargain. Mr. Wilson testified that he was “taking it on faith” that they would be able to gain cooperation from the larger group²⁵². Any such faith, however, was overly optimistic, failed to account for the considerable lack of cohesion within the group, and, ultimately, did not play out in reality.

159. Acting Superintendent Drummond (“**Superintendent Drummond**”) attended the meeting on February 13th with organizers to discuss the logistics of the agreement and make recommendations. Notwithstanding that the exchange of letters between the Mayor and Ms. Lich contemplated the dismantling of all aspects of the occupation, organizers indicated during this meeting that there were factions they had no control over. This was the first red flag; however, OPS agreed to make best efforts to implement the agreement.

160. Thereafter, on February 14th, OPS worked with organizers and truckers on the ground to facilitate the movement of trucks to Wellington. Approximately 40 large trucks were moved off residential streets²⁵³. Hundreds remained, however. As this process unfolded, Superintendent Drummond testified that there were difficulties getting buy-in from trucks to move. PLT would move from group to group and would have to move on where the group refused to move – and there were groups that would not move²⁵⁴. Ultimately, there was no marked departure of vehicles leaving the residential streets as OPS had hoped for.²⁵⁵ The agreement also required that the trucks be removed from the Coventry Road parking lot. That did not occur. Furthermore, it was a condition of the agreement that the truckers not backfill the residential areas once trucks departed.

²⁵⁰ HRF00001259.

²⁵¹ Evidence of Keith Wilson – TRN00000015, pg. 93 (*PDF page 99*).

²⁵² Evidence of Keith Wilson – TRN00000015, pg. 102 (*PDF page 108*).

²⁵³ Evidence of Chris Barber – TRN00000014, pg. 95 (*PDF page 102*).

²⁵⁴ Evidence of Superintendent Drummond – TRN00000010, pg. 234 (*PDF page 240*)

²⁵⁵ *Ibid.*

The evidence of Superintendent Bernier and Kim Ayotte was that as trucks left the area, other trucks pulled into the spots that had been vacated²⁵⁶.

161. By February 15th, the Integrated Command Table, alongside the Integrated Planning Cell, had completed the February 13th Plan and were beginning to convey new messaging to participants: that they must leave, or risk being arrested. Continuing with the movement of trucks was inconsistent with such messaging. Additionally, the *Emergencies Act* had come out the evening before and regulations were outstanding which may have impacted significantly impacted OPS' authorities and created questions around the agreement.

162. Finally, and most importantly, the agreement simply was not working. Yes, some progress had been made. However, the progress was insignificant as compared to the footprint that remained. Ultimately, protesters needed to leave and as OPS worked through the implementation of the agreement, truck after truck made it clear that they were not leaving. OPS made best efforts to assist in the implementation of the agreement, but organizers simply did not have the buy-in they purported to have, and the agreement could not succeed. Protesters had been entrenched in the city for weeks and it was time for them to leave.

163. OPS does agree that the agreement between the Mayor and the Convoy Organizers was however effective in taking down the temperature at a time when the situation was volatile²⁵⁷. It is unfortunate that the Engagement Proposal that was the subject of considerable discussion at the federal level was never implemented, as this might also have quelled the situation.

vii) Implementation and execution of the final POU operation

164. The final operational plan contemplated four operational phases: (1) stabilization; (2) actions on; (3) maintenance; and (4) demobilization. The purpose of the stabilization phase was to secure the assistance of other police services, ensure OPS officers got necessary time to rest, and adopt proper strategies such as putting an end to enforcement operations and focusing on

²⁵⁶ OTT00006948.0001; Witness Statement of Superintendent Bernier – WTS00000030 at p. 17; Evidence of Kim Ayotte – TRN00000004, p. 244 (*PDF page 250*)

²⁵⁷ Evidence of Deputy Chief Steve Bell – TRN00000008 at pg. 122 (*PDF page 128*)

strategic and consistent communications to protesters²⁵⁸. One element of the stabilization phase was as follows:

Rapidly escalating the key messaging, media/social media messaging, and officer briefing materials to:

- Educate and instruct all persons attending the Ottawa Protest that their presence is unlawful and they are breaking the law by continuing their presence.
- Make note of all lawful authorities available to police and potential outcomes of continued noncompliance (e.g. Emergency Act, Provincial Statutes, and bylaws, etc.)

165. Pursuant to the above, it was made clear to protesters in Ottawa that they had exceeded their *Charter* rights and that they were committing criminal offences, thereby providing multiple opportunities to make the educated decision whether to leave the protest area or to continue their participation in an illegal occupation. A consistent and escalating messaging campaign, in the media and on the ground, was commenced on or around February 15th to ensure that protesters became clearly aware that if they did not choose to leave, some type of removal process was pending. This messaging campaign, a key component in the operational plan, was intended to undermine the level of comfort protesters had developed that they could occupy the streets without any consequences and encourage protesters to depart the City prior to the POU operation. This messaging campaign is articulated in considerable detail in the Affidavit of Superintendent Bernier²⁵⁹.

166. Many of the protesters testified as to a lack of clarity with respect to whether they were permitted to lawfully remain in the Red Zone in advance of the final POU operation. OPS submits that this testimony entirely lacks credibility. OPS took all available steps to clearly and consistently communicate to protesters that they **must** leave the area as it has become the site of an unlawful protest. This message was communicated on social media, in mainstream media, on OPS' website, and, most notably, in person to organizers by PLT members²⁶⁰. The reality is that

²⁵⁸ Witness Statement of Chief Superintendent Pardy – WTS00000033 at pg. 21.

²⁵⁹ Affidavit of Superintendent Bernier - AFF.00000020 at pgs. 2-5

²⁶⁰ *Ibid*

protesters were well aware that OPS was of the view they could no longer remain in the area; however, they believed that OPS' position was not correct and they remained in defiance²⁶¹.

167. In advance of the POU operation, a core hardening plan was implemented, whereby the streets around the perimeter of the downtown core, as described above, were set up as control points in anticipation of the POU operation. This permitted the creation of the Secured Area whereby police could have full control over the downtown core. In the late evening hours of February 17, 2022, the Secured Area was created and officers were placed at all entry/exit points to the Secured Area²⁶².

168. The officers were briefed in relation to their authorities prior to being deployed to checkpoints and were given consistent messaging for their use at checkpoints. Officers at checkpoints were directed to exercise their discretion, as appropriate, to control the ingress and egress of traffic such that vehicles and pedestrians could be permitted in the Secured Area where they were attending for lawful purposes, and those attending for the purposes of participating in the protests could not²⁶³.

169. Officers began engaging in the area of checkpoints at 6PM on February 17th to educate protesters in relation to the unlawfulness of their activities and discourage their participation. The checkpoints were hardened at midnight in preparation for the POU operation in the morning of February 18th²⁶⁴.

170. POU members from all police agencies were briefed the evening before the commencement of the POU operation in relation to the plan; the POU plan dictated a slow, methodical and lawful approach whereby all protesters would be given the opportunity to leave prior to being arrested. Any protester who refused to leave the unlawful protest site could be arrested for the *Criminal Code* offence of mischief to property. Each protester needed to be dealt with lawfully, and individually, by arresting officers and processed by a member of one of the Hand Off Teams (“HOT”)²⁶⁵.

²⁶¹ Evidence of Tom Marazzo – TRN00000015, pg. 189 (*PDF pg. 295*)

²⁶² Affidavit of Superintendent Bernier - AFF.00000020 at pgs. 5-6

²⁶³ *Ibid*

²⁶⁴ *Ibid*

²⁶⁵ Affidavit of Superintendent Bernier - AFF.00000020 at pgs.6-8

171. The operation was divided into multiple phases, organized geographically. The plan was to slowly clear one phase at a time and, once safely cleared, move onto the next phase. At the front, a line up of POU officers approached the crowd. Long Range Acoustic Devices (LRADs) were frequently used to convey to protesters that they were required to depart the area or face arrest. Further to this, officers on the line continually messaged verbally for protester to leave and disperse. An egress route was always available to permit protesters who chose to leave voluntarily, to do so prior to being arrested²⁶⁶.

172. Behind the line up of POU officers were 16-20 HOTs, each of which included two officers and a police vehicle. HOTs were utilized to process arrests and arrange for transportation of arrested protesters to either the cell block or a secondary processing site, as appropriate. Additionally, multiple tactical teams in full tactical uniforms were on standby in the area at all times to respond, as needed, to tactical issues such as armed persons or persons barricaded in their trucks or vehicles. Tactical teams included a team of negotiators and critical incident commander so that a critical incident response – involving isolation, containment, evacuation and negotiation – could be implemented on an *ad hoc* basis as situations arose²⁶⁷.

173. Finally, tow trucks were on standby to clear any vehicles remaining – either as a result of arrests or abandonment – after all protesters were cleared in the area. Cleared vehicles were taken to tow lots outside of the downtown core and owners were provided instructions on when and how they could retrieve their vehicles.

174. The POU operation commenced in the early morning of February 18, 2022 and was completed on February 20, 2022. The resolve of protesters remained significant even throughout the operation. Notwithstanding the numerous warnings of what was to come, and the opportunities provided to depart without incident, hundreds of protesters were arrested due to their continued refusal to leave. Further, police experienced such significant volatility from the crowd on the first day of the operation that the POU team was required to elevate the nature of its tactical gear in response²⁶⁸.

²⁶⁶ *Ibid*

²⁶⁷ *Ibid*

²⁶⁸ *Ibid*

175. The final POU operation resulted in the successful clearing of the entirety of the Freedom Convoy demonstration in three days. Between February 18-20, 273 arrests were conducted and 422 charges laid. Notwithstanding the scope of the operation, no significant injuries were sustained by protesters or bystanders. The Special Investigations Unit conducted reviews into two incidents occurring during the course of the POU operation and neither resulted in the invocation of its mandate or the pursual of any charges or further investigative steps. No complaint was made directly to OPS or to the Office of the Independent Review Director, as permitted by the *Police Services Act*, in relation to the conduct of police during the POU Operation.²⁶⁹ This operation was highly successful, safely executed, and resulted in a complete and permanent end to the occupation.

IX. OBSTACLES LEADING TO DELAY IN OVERALL OPERATIONAL PLAN

176. Although it is acknowledged that the time it took to arrive at a final operational plan was consequential for the community, all law enforcement parties agree that once the trucks were ensconced in the City, there simply was no silver bullet to ending the occupation. Everyone agreed that towing 500 trucks (even if such an option was available), or rigorous bylaw enforcement would not have been viable options.²⁷⁰ It is also notable that throughout the period prior to the arrival of the Integrated Planning Cell, OPS had exhausted its and the municipality's roster of available tow companies and had been unsuccessful garnering the cooperation of tow trucks to assist. This was an early impediment to the planning process.

177. All law enforcement parties, as well as Minister Blair, agreed that the tactical operation that finally ended the occupation was a massive success. It was done methodically, with textbook precision and without serious injury or loss of life. It is however necessary to understand some of the factors that led to the delay in ending the occupation.

²⁶⁹ Affidavit of Superintendent Bernier - AFF.00000020 at pg. 11

²⁷⁰ See for example Evidence of Serge Arpin – TRN00000003 at pg. 281-282 (*PDF pg. 287-288*).

i) **Pressure on Former Chief Sloly**

178. Once it became evident that some of the truckers were not leaving Ottawa, Chief Sloly and the OPS were under continual and unrelenting pressure to end the occupation and return the City to normalcy. Chief Sloly began to fear for his job. He feared he would be blamed. This had an impact. This pressure came from the community, the media, the members of the Ottawa Police Services Board, the Mayor, City Councilors and politicians. The rhetoric was deafening. Even the protesters sensed the unrelenting pressure and were concerned that it could inflame the already volatile situation.²⁷¹

179. In this section of the OPS's submissions, we address the impact of the unrelenting pressure, and examine the impediments to ending the occupation. (We also address events which, although raised in the evidence before the Commission, did not have any material impact.)

ii) **Challenges to the Incident Command System**

180. A proper functioning Incident Command System ("ICS") is a key requirement in how law enforcement is required to handle events such as the Convoy. The ICS provides for three levels of decision making: strategic, operational, and tactical. All law enforcement parties agreed on the importance of having each level of decision maker being given the necessary autonomy. Law enforcement parties all agreed on the need for decision makers to stay within their lanes. In other words, a strategic decision maker should not involve themselves in operational or tactical decisions.

181. In the context of the Convoy, high level strategic command was vested in Deputy Chief Ferguson throughout the period (with the exception of two days when she was off and Deputy Chief Bell temporarily filled her role). Deputy Chief Ferguson explained that the Strategic Commander sets the objectives, and is responsible for appointing the Operational Commander and ensuring that the necessary resources are in place.²⁷²

²⁷¹ Evidence of K. Wilson – TRN00000015 at pg. 111 (*PDF pg. 117*).

²⁷² Evidence of Deputy Chief Ferguson – TRN00000006 at pg. 19 (*PDF page 25*).

182. Superintendent Rheume was the original Event Commander (later followed by Superintendent Dunlop, Patterson and Bernier). Inspector Lucas served as the Incident Commander. Superintendent Rheume and Inspector Lucas had operational responsibilities.²⁷³ In circumstances where there is a Strategic Commander for an event (as there was in this case), the role of the Chief of Police is limited.²⁷⁴

183. The following evidence sets out some of the concerns over the operation of the ICS and the impact that it had in the management of the Convoy.

- The general feeling was that the Chief was required to approve all operational plans.²⁷⁵
- The Chief’s direction on February 5, 2022 to “surge, contain and enforce” and “close everything”, as well as the setting of priorities with respect to certain locations were operational decisions.²⁷⁶
- As the Strategic Commander, it was the responsibility of Deputy Chief Ferguson to appoint the Operational Commander. However, Chief Sloly objected to her decision to appoint Superintendent Dunlop to the position and asked that he be removed.²⁷⁷
- Inspector Lucas, under whose direction the original Operational Plan was prepared, noted that he was advised by the planning team that Chief Sloly’s approval of the Operational Plan was required. Superintendent Bernier also noted the need for the Chief to approve Operational Plans and his disagreement with that direction.²⁷⁸
- Supt. Abrams noted a report from his OPP Inspector that Chief Sloly was insisting that he is in charge.²⁷⁹
- As a condition of accepting the Event Commander role, Superintendent Bernier asked that he be provided autonomy, as he had seen firsthand the breakdown of the incident command system. Specifically, he noted being party to conference

²⁷³ Evidence of Deputy Chief Ferguson – TRN00000006 at pgs. 20-22 (*PDF pages 26-28*).

²⁷⁴ Evidence of Superintendent Bernier – TRN00000010 at pgs. 55-57 (*PDF pages 61-63*).

²⁷⁵ Evidence of DC Ferguson – TRN00000006 at pg. 35-36 (*PDF pages 41-42*) (referring to OPS00014484 and the need to approve a POU plan prepared by a Staff Sergeant).

²⁷⁶ Evidence of DC Ferguson – TRN00000006 at pgs. 36-38 (*PDF pages 42-44*).

²⁷⁷ Evidence of DC Ferguson – TRN00000006 at pgs. 42-43 (*PDF pages 48-49*).

²⁷⁸ Evidence of Insp. Lucas – TRN00000009 at pg. 30 (*PDF page 36*); Evidence of Superintendent Bernier – TRN00000010 at pgs. 20-22 and 69-70* (*PDF pages 26-28 and 75-76*).

²⁷⁹ Evidence of Supt. Abrams – TRN00000007 at pg. 14 (*PDF page 20*).

calls where the Chief had become involved in operational and tactical directions such as redirecting officers to particular taskings and redirecting traffic officers.²⁸⁰

- At a meeting on February 12th, Superintendent Bernier repeatedly took steps to limit interference by Chief Sloy in his role as Event Commander. As an example, he noted that Chief Sloy was attempting to establish timelines for immediate action within the next 1-2 days. Supt. Bernier noted that as the integrated team had just come together, it would take time to come up with a plan and that it was necessary that the proper processes be followed.²⁸¹
- Superintendent Bernier provided another example of interference in the ICS during his tenure as Event Commander in regard to the specific directions provided by Chief Sloy on February 12th, 2022 to close all the bridges. The OPS did not have legal authority to implement that decision. Moreover, the Operational Commander had come up with mitigation strategies to reduce the flow of traffic and divert it away from the downtown core. (Ultimately, the Chief was required to rescind this direction).²⁸²

iii) Enforcement and Use of PLTs

184. The unrelenting pressure to resolve the occupation and to be enforcing the law (in spite of the absence of the necessary resources to do so) may have led to situations where enforcement was seen as the desirable outcome, rather than through engagement and negotiation by the PLTs. Additionally, the failure to provide PLTs with the necessary autonomy to make decisions may have been an impediment.

185. The evidence of the following witnesses speaks to these issues.

- Staff Sergeant Ferguson noted that the PLTs were not operating according to the National Framework and the OPS was insisting that negotiations lead to immediate results. The consequences were that PLT negotiations were not being exhausted before enforcement.²⁸³
- Superintendent Abrams testified that he was informed that PLT were not provided the requisite autonomy to build relationships and obtain the “wins” they may have wanted to. He further testified that it was his understanding that the lack of PLT autonomy was as a result of Chief Sloy’s direction²⁸⁴.

²⁸⁰ Evidence of Superintendent Bernier – TRN00000009 at pgs. 275-276 (*PDF pages 281-282*).

²⁸¹ Evidence of Superintendent Bernier – TRN00000010 at pgs. 8-9 (*PDF pages 14-15*).

²⁸² Evidence of Superintendent Bernier – TRN00000010 at pgs. 156-159 (*PDF pages 162-165*).

²⁸³ Witness Statement of Staff Sergeant John Ferguson – WTS00000027 at pgs. 3-4, 7-12, 15.

²⁸⁴ Evidence of Superintendent Abrams – TRN00000007 at pgs. 16-17 (*PDF pages 22-23*).

- Chief Superintendent Pardy noted in his witness statement then when presenting the concepts for the February 13th Plan to Chief Sloly, the presentation “stressed the role of PLT because [he] was concerned about a lack of buy-in at OPS to the PLT role”. Pardy also indicated that Chief Sloly had previously advised him that he was “not overly familiar with the role of PLT” and that “PLT did not work”.²⁸⁵
- Evidence was led that Chief Sloly and Superintendent Patterson were extremely anxious to proceed with a tactical operation on February 9, 2022 at the Rideau and Sussex intersection. The OPP and others within the OPS viewed the operation as dangerous. While the operation was eventually called off, the push to proceed with it and the reaction that resulted from it being aborted were symptomatic of the tension that existed between negotiation and enforcement.²⁸⁶
- Superintendent Rheume and Inspector Lucas noted that they favoured negotiation by the PLT with the protesters at Rideau and Sussex. Chief Sloly did not provide approval and the direction that came back was “not one inch”.²⁸⁷

iv) Need for Additional Resources

186. In order to carry out the tactical operation to end the occupation, several thousand additional resources were provided to OPS. It is uncontradicted that time was required to obtain these resources, swear them in and deploy them. Moreover, the blockade in Windsor which was occurring during the same time period, was a priority that resulted in some delay in the arrival of the necessary resources to the OPS.

v) Replacement of Event Commanders Was Not an Impediment

187. Deputy Chief Ferguson testified that Superintendent Rheume became the *de facto* Event Commander as a result of his position as the Superintendent in charge of specialized policing. It was believed that he had the skills and experience to manage the original event, but a pivot was then required as the event became more protracted. Superintendent Rheume then required some rest days, and a decision was made to have Superintendent Dunlop take over in the evening on February 4th. On February 5th, Chief Sloly expressed his strong objection to this choice.

²⁸⁵ Witness Statement of Chief Superintendent Pardy – WTS.00000033 at pg. 5; 9

²⁸⁶ Evidence of Deputy Chief Ferguson – TRN00000006 at pgs. 75-78 (*PDF pages 81-84*).

²⁸⁷ Witness Statement of Inspector Lucas – WTS00000024 at pg. 8.

Consequently, on the morning of February 6th, Superintendent Patterson was appointed as the new Event Commander.

188. Deputy Chief Ferguson's *viva voce* evidence surrounding this change in Event Commanders was uncontradicted and was not subject to cross-examination. It was also contained in the timeline in the OPS Institutional Report. This evidence was also corroborated by Deputy Chief Bell.²⁸⁸

189. Subsequently, Commission counsel attempted to contradict Deputy Chief Ferguson's evidence on this point through Chief Sloly. This was manifestly unfair and offended the rule in *Browne and Dunn*. The failure to address the issue with Deputy Chief Ferguson was specifically noted at the time the evidence from Chief Sloly was tendered.²⁸⁹

190. Moreover, the evidence which Commission counsel relied on to contradict Deputy Chief Ferguson's evidence on this point consisted of notebook entries in two different notebooks of Superintendent Rheame. Superintendent Rheame was not called as a witness.

191. As a matter of fairness to the witness, the evidence of Deputy Chief Ferguson on this point must be accepted.

192. In any event, there is no evidence to suggest that the placement of Superintendent Dunlop into the position of Event Commander for 1.5 days, prior to being replaced by Superintendent Patterson, had any impact on the operational response of the OPS.

X. IMPACT OF THE POLITICAL PROCESS

193. The unprecedented nature of the protest and its impact on the community made it evident very early on, that the matter could not be successfully resolved using only the resources of the OPS. Everyone recognized that the OPS needed help.

²⁸⁸ Evidence of Deputy Chief Ferguson – TRN00000006 at pgs. 41-42 (*PDF pages 47-48*); OPS.IR.00000001 at pg. 30.

²⁸⁹ Evidence of Chief Sloly – TRN00000012 at pgs. 109-110, 132 (*PDF pgs. 115-116, 138*).

194. On January 31, 2022, Prime Minister Trudeau participated in a telephone call with Mayor Watson. Mayor Watson noted the need for additional resources. Both parties also agreed on the need for caution so as not to incite those who remained as part of the occupation.²⁹⁰

195. The provincial government was in receipt of the same Hendon reports as were the OPS. No direction was given by the Ministry of Transportation to divert or step the Convoy from coming into Ottawa. Indeed, the decision was made to close weigh scales on the highway, noting that the RCMP in Manitoba had advised that Convoy participants were upset by such action and by being issued notices of offences. The decision by Ontario to close weigh stations and not inspect trucks was taken in order to facilitate what it was as the right to peaceful protest.²⁹¹

196. While the situation on the ground in Ottawa was the subject of many discussions between provincial and federal bureaucrats, ministerial staff and provincial and federal politicians, there was very little in the way of actual assistance that was provided to the City of Ottawa or the OPS. There was disagreement over whether the resolution of the situation required a federal or provincial response.

197. During the Convoy, the Ottawa City Council and some individual councilors made public statements and took certain actions that maligned the OPS. While the concerns for the community that Council and councilors had were legitimate, these actions undermined the OPS and may have contributed to a loss of public confidence.

198. It is useful to contrast the situation in Ottawa with that in Windsor. Mayor Dilkens noted that in Windsor, there was a conscious effort made to have the municipal council and the Police Services Board speak with one voice in media interviews and public comments. Mayor Dilkens noted the importance of the City being seen to support the police, because sometimes the public does not see what the police are doing behind the scenes.²⁹²

²⁹⁰ SSM.CAN.NSC.00002812_REL.0001

²⁹¹ Evidence of Ian Freeman – TRN00000020 at pgs. 206-207 (*PDF pgs. 212-213*).

²⁹² Evidence of Mayor Dilkens – TRN00000018 at pg. 144 and 153 (*PDF pages 150 and 159*).

i) *Failure to Negotiate with Protesters*

199. The possibility of a negotiated resolution to the protest was raised early and often by the bureaucrats, ministerial staff and the politicians.

200. The OPS supported the idea of the federal government engaging in a dialogue with the protesters. Chief Sloly raised the possibility of an interlocutor. Mayor Watson raised the possibility of a mediator. Minister Blair refused to consider the possibility of a mediator. The matter was also raised with Deputy Minister Di Tommaso. Names were suggested. Commissioner Lucki also raised the possibility of an interlocutor in her meetings with government officials on February 3, 2022. The matter was also raised with Minister Sylvia Jones.²⁹³

201. The possibility of negotiations with protest organizers was raised at the Cabinet Committee on Safety, Security and Emergencies (“SSE”) meeting on February 3, 2022. At that time, NSIA Jody Thomas indicated that the protest organizers had an interest in negotiations. A suggestion was made that there be a Minister designated for negotiations.²⁹⁴

202. At the February 6, 2022 SSE meeting, Deputy Minister Stewart reiterated the views of his provincial colleagues that negotiation was the preferred option for resolution.²⁹⁵

203. Deputy Minister Stewart met with OPP PLT expert, Superintendent Marcel Beaudin, and validated an approach with him. This resulted in the drafting of the Engagement Proposal.²⁹⁶

204. Both the OPP and OPS supported the Engagement Proposal. When questions were raised about the idea of negotiating with the protesters, OPS forwarded information to Deputy Minister Stewart to answer the questions. Superintendent Beaudin also responded to questions that

²⁹³ Evidence of Minister Blair – TNA00000027 at pg. 231 (*PDF page 238*); SSM.NSC.CAN.00003070_REL.0001; Evidence of Chief Sloly – TRN00000013 at pg. 142 (*PDF page 148*); Evidence of Deputy Minister Di Tommaso – TRN00000021 at pg. 166 (*PDF page 172*); Evidence of Deputy Minister Stewart and Dominic Rochon – TRN00000022 at pgs. 138, 146-147 (*PDF pages 145, 153-154*); Evidence of Minister Mendicino – TRN00000028 at pg. 53 (*PDF page 59*).

²⁹⁴ Evidence of Jody Thomas – TRN00000025 at pg. 191 and 263 (*PDF pages 198 and 270*).

²⁹⁵ Evidence of Jody Thomas – TRN00000025 at pg. 264 (*PDF page 271*).

²⁹⁶ SSM.CAN.NSC.00002859_REL.0001; PB.NSC.CAN.00002964_REL.0001.

Minister Blair had about negotiations. Despite being advised that the risks were low, the Engagement Proposal fell by the wayside.²⁹⁷

205. There was no satisfactory response provided for why no effort at engagement was ever attempted, notwithstanding it was supported by law enforcement. A negotiated resolution is always preferable to a tactical response by the police. Even if the negotiations had only served to shrink the footprint of the demonstration, this would have been of benefit to the community and the police.

ii) Failure to Communicate the February 13th Plan

206. As articulated above, the result of a coordinated effort between Superintendent Bernier and his newly formed integrated command table, and that of the Integrated Planning Cell, was the February 13th Pln. The February 13th Plan was signed and approved by Superintendent Lue (RCMP) and Chief Superintendent Pardy (OPP) on February 12, 2022, and by Superintendent Bernier on February 13, 2022.²⁹⁸

207. The newly integrated planning team group then continued to cooperate and finalize the overall operational plan based on the February 13th Plan. It is important to note that the February 13th Plan was a 73-page document described by OPP Chief Superintendent Pardy as a “very detailed concept of operation that outlined how OPS, OPP and RCMP would approach the situation from start-to-finish”. According to Supt. Pardy, this plan encompassed the entirety of the event. It also contained a clear command-and-control chart.²⁹⁹

208. Commissioner Lucki characterized the February 13th Plan as “an amazing plan”.³⁰⁰ It was presented to Commissioner Carrique and her on February 13th. Both gave it the green light. Once this plan was finalized, additional resources started to flow.³⁰¹

²⁹⁷ Evidence of Minister Mendicino – TRN00000028 at pgs. 105-109 (*PDF pages 111-115*); PB.NSC.CAN.00002963_REL.0001

²⁹⁸ OPP00001851.

²⁹⁹ Witness Statement of Chief Superintendent Carson Pardy – WTS00000033 at pg. 10.

³⁰⁰ Witness Statement of RCMP Panel – WTS00000069 at pg. 14.

³⁰¹ Evidence of Commissioner Lucki – TRN00000023 at pg. 63 (*PDF page 69*).

209. Commissioner Lucki attended an IRG meeting as well as a Cabinet meeting on February 13, 2022. The fact that there was an “amazing” plan approved by the OPS, the OPP and the RCMP was information that she unfortunately did not share. The result was that the Prime Minister and Cabinet were never informed of the significant progress that OPS and its partners had made to bringing the occupation to an end.³⁰²

210. Commissioner Lucki recognized that the situation in Ottawa was unique. She did not characterize it as a failure of policing.³⁰³

XI. THE EMERGENCIES ACT

211. The OPS does not take any position regarding whether the invocation of the *Emergencies Act* was necessary. It should be noted that the February 13th Operational Plan was prepared prior to the invocation of the *Emergencies Act*. A towing plan and a network of towing companies was also put in place prior to the invocation of the *Emergencies Act*. The more detailed operational plan was finalized on February 17th after the *Emergencies Act*.

212. The *Emergencies Act* was of assistance to the OPS in the implementation of the February 17th Operational Plan. The OPS utilized the powers in the legislation to create an exclusion zone. The creation of the exclusion zone gave the OPS and its law enforcement partners the ability to reduce movement in downtown Ottawa. This eased the ability of the police to proceed slowly, deliberately and safely in clearing the occupation. Although the OPS recognizes that the common law permits the creation of an exclusion zone, the law in this regard is not free of ambiguity. The *Emergencies Act* therefore provided certainty.

³⁰² Evidence of Commissioner Lucki – TRN00000023 at pgs. 63, 66, 77-78, 80, 83 (*PDF pages 69, 72, 83-84, 86, 89*).

³⁰³ Evidence of Commissioner Lucki – TRN00000023 at pg. 123 (*PDF page 129*).

XII. LESSONS LEARNED AND RECOMMENDATIONS

213. The unprecedented nature of the Convoy presents a valuable opportunity to reflect on historical practices of OPS, and the policing community generally, with a view to adaptation. It is apparent that the Convoy represents a shift in the nature of public protests in Canada and the policing community must respond in kind.

214. The OPS has already engaged in self-reflection in terms of areas of its response that could have, with the benefit of hindsight, been improved. Through that process, valuable lessons have been learned from Convoy experience. These lessons have resulted in the implementation of significant changes at OPS. Some of these changes are noted below.

- a. While OPS continue to respect *Charter* rights of individuals to peaceful protest, it now recognizes the need to balance such rights with the impact of protest on the community. This has resulted in the City of Ottawa and the OPS cooperating in the creation of vehicular exclusion zones for subsequent events (eg. Rolling Thunder, Canada Day 2022).
- b. OPS has recognized the importance of open-source intelligence and the need to monitor and analyze same. OPS now has full time employees performing this function.
- c. OPS has recognized the importance and value of the work done by PLTs and the National Framework. This has resulted in OPS training more officers. There are now four officers who work full time as PLTs in addition to the 20 part-time PLT officers.
- d. OPS has recognized the importance of ensuring that the ICS is properly implemented. To this end, formal training has been provided.
- e. OPS has recognized the need for proper succession planning.
- f. OPS has taken learnings from the Convoy and improved coordination of intelligence and information intake, analysis and dissemination relating to protests and demonstrations.

215. The Commission has heard, by way of the policy roundtables, considerable comment with respect to various aspects of the policing response and recommendations related thereto. OPS urges this Commission to exercise caution in basing findings of fact on commentary from panelists who had no direct involvement in the Convoy events. Further, specifically as it relates to the forward-looking function of the Commission, OPS urges the Commission, given the national implications of any such recommendations, to ensure that any recommendations directly related to policing operations build in an appropriate consultation and engagement mechanism with national, provincial and municipal policing stakeholders. Recommendations which propose the implementation of changes without any such consultation run the risk of the creation of regimes which ignore the practical realities of policing operations.

216. The Convoy was an unprecedented event. There is a need to tread carefully to ensure that in our eagerness to ensure that government and the police are better equipped to deal with these challenges in the future, we do not entirely revamp systems that are time tested and effective. In particular, extreme caution is required in making changes to altering the delicate balance between police operational independence and government oversight. Additionally, OPS has serious reservations about establishing specified thresholds for when provincial police should assume control of operational planning.

217. OPS is of the view, however, that much can be learned from the challenges that occurred at all levels throughout the Convoy response. To that end, OPS shares various recommendations put forth by the policing and municipal parties in this matter as set out in the recommendation proposal. Additionally, OPS wishes to add the following additional comments:

- a. A great deal of evidence was heard about the extent to which OPS is responsible for policing large-scale demonstrations relating to issues of national concern. The Convoy is an excellent example of the national scope of demonstrations falling within OPS' jurisdiction. These responsibilities are placed on OPS' shoulders notwithstanding its status of the lowest resourced police service of a similar size in the province. The Commission heard considerable evidence with respect to the resource challenges faced

by OPS at the time of the arrival of the Convoy. A considerable portion of OPS' resources is being dedicated nearly daily to work related to protests and demonstrations. To that end, OPS recommends that it be provided substantial federal funding for the purposes of a dedicated, specially trained, team to be tasked with planning for, and responding to, protests and demonstrations in Ottawa. OPS submits that full-time dedicated unit is required to effectively monitor, plan and manage the regular protests that occur in the National Capital Region and that funding from both the federal and municipal governments is required to effect that objective.

- b. OPS recommends the creation of a National Framework, through consultation with relevant policing stakeholders nationwide, to address large demonstrations.³⁰⁴ This National Framework should be aimed at creating common terminology and definitions, best practices, and thresholds relating to:
 - i. Information sharing and communication across all levels of government and police authority;
 - ii. Gathering and sharing of intelligence, upcoming threats, situational awareness, and lessons learned across all jurisdictions;
 - iii. Guidance with respect to the appropriateness of, and benchmarks related thereto, establishing integrated or unified command;
 - iv. Consistent Incident Command Model which provides for a nationally consistent approach and lexicon, which clarifies roles and responsibilities and decision-making lanes, and which provides for training standards at all levels of a policing agency; and
 - v. Provides for a national communication table or hub to assist with coordination and communication before, during, and after multijurisdictional events.

³⁰⁴ This recommendation is similar to others in the Joint Proposal which are supported by OPS; however, we note that the OPS recommendation is slightly broader to address not just the protection of critical infrastructure, but also large-scale demonstrations in general.

- c. There has been considerable debate throughout the Commission process as it relates to the authority and propriety in relation to the creation of vehicle exclusion zones. OPS recommends that this authority, and the specifics of its scope, be clarified statutorily. Although OPS supports any recommendation which provides clarity on this authority, it is specifically submitted that this is a matter appropriate for the Legislature given the enormous risk for *Charter* litigation in any case where such actions are taken by police.
- d. Specifically as it relates to exclusion zones, OPS recommends that municipalities that are consistently responsible for responding to demonstrations of national scope be provided special funding aimed at addressing the cost of physical barriers to create the exclusion zones.

218. The Convoy, as well as this Commission process, has been an extraordinary opportunity for reflection, learning, and growth as a policing community, and for those agencies and governments which intersect with its operations. OPS looks forward to working with these agencies, and the community, to move forward positively, to adapt to a shifting culture in public protests, and to rebuild public trust.