



**PUBLIC ORDER
EMERGENCY
COMMISSION**

**COMMISSION
SUR L'ÉTAT
D'URGENCE**

Public Hearing

Audience publique

**Commissioner / Commissaire
The Honourable / L'honorable
Paul S. Rouleau**

VOLUME 1

Held at :

Library and Archives Canada
Bambrick Room
395 Wellington Street
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K1A 0N4

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V

Appearances / Comparutions

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The Convoy Organizers	Mr. Brendan Miller Ms. Bath-Sheba Van den Berg
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Ottawa, Ontario

--- Upon commencing on Thursday, October 13, 2022 at 9:30 a.m.

THE REGISTRAR: Order. À l'ordre. The Public
Emergency Commission is now in session. La Commission sur
l'état d'urgence est maintenant ouverte.

Please be seated. Veuillez vous asseoir.

--- OPENING REMARKS BY COMMISSIONER ROULEAU:

COMMISSIONER ROULEAU: Bonjour. Good morning.
Welcome. Bienvenue.

Today marks the opening of the public hearings of
the Public Order Commission -- Public Order Emergency
Commission. My name is Paul Rouleau, and I'm the Commissioner
appointed to conduct this Inquiry.

Aujourd'hui marque l'ouverture des audiences
publiques de la Commission sur l'état d'urgence. Et je m'appelle
Paul Rouleau et je suis le commissaire nommé pour mener ces
enquêtes... cette enquête.

Nous sommes réunis aujourd'hui sur le territoire
traditionnel du peuple algonquin anichinabé dans l'immeuble
abritant Bibliothèque et Archives Canada à quelques pas de
l'endroit où ont eu lieu bon nombre des événements sur lesquels
porte l'enquête.

Je voudrais souhaiter bienvenue à tous ceux et
celles qui sont ici avec nous ainsi que ceux et celles qui
regardent les débats en ligne -- parce que je comprends que c'est
diffusé au moment --, ainsi que ceux qui vont suivre à travers
les médias.

I would like to welcome everyone who's here with

1 us in person, as well as those who are watching online, and
2 those who will be following through media.

3 I'm joined today by several members of the
4 Commission Staff, including H el ene Laurendeau, the Commission's
5 Executive Director, as well as Shantona Chaudhury, and Jeff
6 Leon, the Commission's co-lead counsels.

7 They and their teams have been working incredibly
8 hard for months in preparation to start these hearings today,
9 and I want to thank them for their excellent work.

10 Je tiens sp ecialement   remercier le personnel
11 des Services publics et Approvisionnement Canada, le Brookfield
12 Solutions Globales Int egr ees et Biblioth eque et Archives Canada
13 pour leur collaboration   la pr eparation et   l'am enagement des
14 locaux qui ont  t  mis   la disposition de la Commission.

15 In these opening remarks, I want to address the
16 following: The role of public inquiries; the mandates of this
17 Commission; the challenges facing the Commission; how the
18 Commission has carried out its work to date; what to expect from
19 these hearings; the participants of the Inquiry; the importance
20 of openness and transparency, and finally, the policy phase of
21 the Commission.

22 Le r ole des commissions d'enqu ete. Pour bon
23 nombre de personnes, il s'agira de la premi ere commission
24 d'enqu ete   laquelle elles participeront et   laquelle elles
25 assisteront et suivront. Par cons equent, je voudrais dire
26 quelques mots au sujet des commissions d'enqu ete et de leur
27 nature.

28 Une commission d'enqu ete est ind ependamment

1 nommée par le gouvernement et chargée d'enquêter sur des
2 questions d'importance publique. Les commissions sont dirigées
3 par un ou plusieurs commissaires qui ont la responsabilité
4 générale des travaux de la commission et l'obligation ultime de
5 faire rapport sur l'objet de l'enquête. Les commissaires sont
6 assistés par des avocats, du personnel de soutien,
7 administratifs et techniques et sont souvent accompagnés
8 d'experts, de chercheurs, d'enquêteurs et d'autres spécialistes.

9 Les commissions d'enquête sont souvent appelées
10 « enquêtes publiques » du fait qu'elles cherchent à être
11 transparentes et ouvertes. Les audiences sont normalement tenues
12 en public et toute personne a le droit d'y assister, comme on le
13 voit aujourd'hui.

14 Commissions of Inquiry perform two important
15 functions. They make findings of fact, and they make
16 recommendations for the future. The fact-finding role of
17 Commissions of Inquiry serves an important social purpose. To
18 borrow the words of Peter Cory, who was then a judge of the
19 Supreme Court of Canada, and I quote:

20 "One of the primary functions of public
21 inquiries is fact-finding. They are
22 often convened, in the wake of public
23 shock, horror, disillusionment, or
24 scepticism, in order to uncover 'the
25 truth'."

26 End of quote.

27 Uncovering the truth is an important goal. When
28 difficult events occur that impact the life -- lives of

1 Canadians, the public has a right to know what has happened.
2 But inquiries are also forward-looking. They seek not only to
3 understand what has occurred in the past, but also to learn from
4 those experiences and to make recommendations for the future.

5 A Commission's recommendations may be modest or
6 wide-ranging; they may be directed at a range of audiences,
7 including government, public bodies, and the private sector.

8 It's also important to understand what
9 Commissions of Inquiry do not do. They do not make findings of
10 legal liability. They do not determine whether individuals have
11 committed crimes. While inquiries seek to uncover the truth,
12 they are not trials. Questions of civil and criminal liability
13 are decided by courts, and not commissions.

14 I'll turn now to the mandate of the Commission.
15 Like other Commissions of Inquiry, the Public Order Emergency
16 Commission has been given the mandate to seek out the truth
17 about an important event. However, unlike other Commissions of
18 Inquiry, we have two mandates, one given to us by Parliament,
19 and one given to us by Cabinet.

20 Le mandat confié à la Commission par le Parlement
21 se trouve à même la *Loi sur les mesures d'urgence*. Lorsque le
22 Parlement a adopté cette loi en 1988, il a choisi d'y inclure
23 une règle importante. Si le gouvernement déclare l'état
24 d'urgence, il doit également créer une enquête pour enquêter -
25 et je cite - « sur les circonstances qui ont donné lieu à la
26 déclaration et les mesures prises pour faire face à la crise » -
27 fin de citation.

28 The mandate from Parliament, therefore, is one of

1 public accountability, the public's legitimate right to know why
2 the Government proclaimed an emergency, and whether the actions
3 it took were appropriate. When Cabinet took the step of
4 establishing this Commission, as it was required to do, it set
5 out an additional mandate: Our Order in Council directs the
6 Commission to examine, first, the evolution and goals of the
7 convoy movement and border protest, and their leadership
8 organization and participants. Second, the impact of domestic
9 and foreign funding, including crowdsourcing platforms. Third,
10 the impact, role, and sources of misinformation and
11 disinformation, including social media. Fourth, the economic
12 and other impacts of blockades; and, finally, the efforts of
13 police and other responders prior to and after the declaration.

14 There is, however, an important caveat to this
15 mandate from Cabinet; the Commission is asked to examine these
16 issues, and I quote:

17 “To the extent relevant to the
18 circumstances of the declaration and
19 measures taken.” (As read)

20 In other words, although these topics have been
21 identified as worthy of attention, it is the mandate that has
22 been given to us by Parliament that drives the Commission's
23 work. While this Inquiry will deal with a wide range of issues,
24 its focus will remain squarely on the decision of the Federal
25 Government: Why did it declare an emergency; how did it use its
26 powers; and were those actions appropriate?

27 This Commission exists to promote transparency,
28 accountability, and public confidence. I hope that this

1 Inquiry, and the transparency we strive to provide, will bolster
2 the public's trust in our systems of accountability.

3 Now the challenges facing the Commission.

4 Discharging my mandate is not an easy task. The
5 Commission has faced many challenges in reaching this point, and
6 will face further challenges as the Inquiry proceeds. The
7 biggest challenge has been time. This Commission of Inquiry is
8 unique, to the best of my knowledge, or our knowledge, is in
9 that its deadline is set by statute. Other inquiries have
10 worked under deadlines set by Cabinet. That sort of deadline is
11 set based on an assessment of the time needed, and can, and
12 frequently is, extended as circumstances require. This is not a
13 possibility for our Commission, in the absence of a change in
14 the *Emergency Act* itself.

15 Our deadline is established by statute, as I've
16 said. It is a short one, and it allows, by statute, for no
17 extensions. Just how tight are the timelines? Let me try and
18 put it in context for you.

19 The Air India Inquiry was established on May 1st,
20 2006. It took just over four years to issue its report on June
21 17th, 2010. The Commission on the Decline of Sockeye Salmon was
22 established on November 5th, 2009 and its report was made three
23 years later on October 31st, 2012. The Inquiry into Missing and
24 Murdered Indigenous Women and Girls was established in September
25 2016 and issued its report almost three years later on June 3rd,
26 2019.

27 This Commission, on the other hand, was
28 established in April and must table its report in Parliament on

1 February 23rd -- 20th, rather; trying to give myself three days,
2 February 20th, 2023. So it has only 300 days; so it's measured
3 in days, not years, to complete its work.

4 Ces contraintes de temps extraordinaires ne sont
5 pas le seul défi auquel la Commission est confrontée. L'accès
6 aux documents pertinents a également été difficile. Le
7 gouvernement fédéral a déployé des efforts considérables pour
8 fournir à la Commission des documents provenant d'une douzaine
9 de ministères et d'organismes.

10 Pourtant, le processus a été complexe; les
11 documents ont continué d'être fournis à la Commission jusqu'en
12 octobre, jusqu'à aujourd'hui – on en a eu plus récemment, je
13 pense, en fin de semaine. Bon nombre de ces documents remis à la
14 Commission sont classifiés sous réserve de la sécurité nationale
15 ou d'autres revendications de privilèges. La Commission a dû
16 déployer des efforts considérables pour déterminer comment ces
17 documents pouvaient être traités, utilisés et partagés. Elle a
18 pu développer un processus qui assure que le public aura accès
19 aux renseignements pertinents au travail de la Commission.

20 En plus de ceux du gouvernement fédéral, la
21 Commission a reçu plus de 50 000 documents de gouvernements
22 provinciaux, des services de police, des municipalités,
23 d'organisations non gouvernementales, de groupes industriels,
24 d'individus et d'entités privées.

25 Tous les documents reçus ont dû être
26 soigneusement évalués pour en déterminer la pertinence et le
27 privilège et ont dû être analysés par les avocats de la
28 Commission et, le cas échéant, communiqués aux parties afin

1 qu'elles effectuent leur propre examen.

2 The process of getting to this point has been
3 challenging. These public hearings will no doubt present all
4 parties with new challenges. Commission staff and parties alike
5 have had to be flexible, innovative, and creative in their
6 approach to their work. These hearings will need to be
7 conducted in a manner that will allow the Commission to fulfil
8 its mandate within the timelines that it has been given.

9 They also need to be fair and meaningful. Guided
10 by the principles of openness, timeliness, and proportionality,
11 I intend to ensure that they are.

12 Now, how has the Commission carried out its work.
13 I want to give the public a little more detail about the work
14 that the Commission staff have done over the past four months to
15 conduct their investigation and prepare for these hearings.

16 Shortly after being appointed, I set about
17 selecting and retaining a senior staff, and retained the
18 services of Commission counsel. I then, in consultation with
19 counsel, guided the work of the Commission. Several
20 investigative dossiers were identified, and each was headed by a
21 senior Commission counsel.

22 Additional counsel were hired in the weeks and
23 months that followed to assist these investigations. In order
24 to ensure that the various parallel investigations did not exist
25 in siloes, junior counsel were appointed to multiple dossiers,
26 and all the Commission counsel would meet weekly to keep each
27 other apprised of the status of the work and keep the network
28 working together.

1 Now, this requirement to pursue the investigation
2 in a number of parallel streams explains why you'll see several
3 different Commission counsel leading evidence in the course of
4 the hearings.

5 Now, counsel worked to identify, request, and
6 obtain relevant documents that were in the possession of parties
7 to this Inquiry, as well as non-parties. In the case of the
8 Federal Government, this process involved addressing the
9 government's assertion of Cabinet confidence, which resulted in
10 the government agreeing to a significant disclosure of
11 information otherwise covered by Cabinet confidence.

12 As I understand it, this is only the fourth time
13 since Confederation that Federal Commission of Inquiry has been
14 granted access to Cabinet confidences.

15 À mesure que les documents ont été obtenus et
16 analysés, les avocats principaux ont commencé à mener des
17 entrevues avec des témoins clés. Ces entretiens ont pris
18 diverses formes allant de brefs appels téléphoniques à des
19 réunions d'une journée avec des groupes de hauts fonctionnaires;
20 des manifestants et des ministres ont aussi été interrogés par
21 la Commission.

22 Reconnaissant que le temps d'audience serait
23 limité, le personnel de la Commission a également demandé et
24 obtenu des rapports institutionnels de diverses entités, y
25 compris des ministères et organismes fédéraux, de gouvernements
26 provinciaux, d'administrations municipales, de services de
27 police et d'entités privées. Ces rapports résument les
28 renseignements dont ces entités disposent et fournissent une

1 description de leur participation aux évènements entourant la
2 déclaration d'état d'urgence. Ils seront, le cas échéant,
3 déposés à l'audience dans le dossier de preuve.

4 To ensure that key questions are addressed during
5 these public hearings, Commission Counsel then allies the
6 information available to them and prepared evidence be presented
7 in a number of different ways. They've prepared summaries of
8 the interviews that they conducted, and to ensure fairness, the
9 interviewees have been given the opportunity to review these
10 summaries and approve them as accurate. The interview summaries
11 have been shared with the parties to ensure that they are aware
12 of the information obtained by the Commission. In some
13 instances, these summaries may be introduced to supplement and
14 facilitate the oral testimony of interviewees. In other
15 circumstances, the summaries may simply be entered into evidence
16 where it may be unnecessary or impractical to hear from the
17 interviewee in person.

18 Commission Counsel have also prepared a series of
19 oversee reports. They summarize large amounts of evidence
20 related to a particular issue. They have also worked to prepare
21 lists of witnesses who will provide live testimony in these
22 hearings.

23 Enfin, les avocats ont examiné la grande quantité
24 de documents reçus fin de déterminer lesquels étaient pertinents
25 pour les questions dont la Commission est saisie. Ils sont en
26 train d'être communiqués aux parties de façon continuelle.

27 Pour ce qui est des documents reçus du
28 gouvernement fédéral, ce processus comprenait l'évaluation des

1 affirmations du gouvernement concernant la sécurité nationale et
2 le privilège de l'intérêt public et un effort visant à rendre le
3 plus de renseignements possibles accessibles au public.

4 Tout au long de ces travaux, le personnel de la
5 Commission a entrepris d'innombrables tâches supplémentaires
6 allant de trouver des locaux pour les audiences de l'enquête à
7 la rédaction de règles de procédure et prendre les démarches
8 nécessaires afin d'assurer que le rapport final puisse être
9 produit à temps.

10 It is important to emphasize that the
11 investigative work that I have just described has been that of
12 Commission Counsel. During these hearings, I will be hearing
13 the bulk of this evidence for the first time, just like members
14 of the public. To that end, I have made no findings and reached
15 no conclusions about the issues that I have been entrusted to
16 deal with.

17 While I'm not sitting as a judge in these
18 hearings, my 20 years of experience as a judge have informed my
19 approach to the inquiry. I intend to take a judicial attitude
20 to my job. By that I mean that independence, impartiality and
21 fairness are my touchstones as Commissioner, just as they are in
22 my role as a judge, which I will take up again after these
23 hearings. Like a judge, my findings and conclusions will be
24 based on the evidence that is presented to me. I will keep an
25 open mind throughout and will only reach a final conclusion once
26 the evidence is all in and final submissions have been made.

27 Now what to expect in the hearings. We have
28 scheduled approximately 30 days of factual hearings. At first

1 glance, that may seem like a great deal of time. In reality,
2 our time is very limited, given the breadth of the issues that
3 have to be covered. This Commission will need to hear from
4 dozens of witnesses and examine thousands of documents. Our
5 timelines are tight and there's little room for error.

6 For these hearings to be successful, I'm relying
7 not only on my Commission Counsel, but on the efforts of all
8 Counsel appearing before me and the parties they represent.
9 This is not a trial. It's an inquiry, and I expect everyone
10 will work cooperatively to ensure that the facts and information
11 necessary for the public to understand what happened and why it
12 happened will be elicited. I appreciate the spirit of
13 cooperation that the parties and their counsel have demonstrated
14 thus far, and I expect it to continue.

15 While this is not an adversarial proceeding, I
16 recognize that different points of view will be forcefully
17 advanced. This is to be expected and will help ensure that a
18 clear picture of the events is presented, and the decisions made
19 or not made by key actors are fully analyzed. It is important,
20 however, that at all times, disagreement be respectful.

21 Parties and the public should also expect me to
22 actively control the proceedings. Deadlines and time limits
23 will be established and enforced. Parties will be required to
24 focus on central issues. Not every witness who might be called
25 will be called. Relevant evidence may be adduced in writing.
26 Objections and procedural wrangling must and will be kept to an
27 absolute minimum.

28 Throughout this process, I will be relying on

1 Commission Counsel to take the lead in presenting the evidence.
2 For members of the public who have not seen a public inquiry
3 before, the role of Commission Counsel may appear a bit unusual.
4 They do not represent a party. They are, in effect, an
5 extension of the Commissioner. They do not advance any
6 particular point of view, but rather, they lead evidence in an
7 impartial and balanced manner. Their only goal in these
8 proceedings is to elicit the evidence necessary to establish the
9 truth, whatever the evidence may be.

10 Now other participants. Commission Counsel are
11 not the only persons who will play a role in these hearings.
12 There are also some 20 parties to whom I've granted permission
13 to participate in these hearings in a variety of ways. This
14 includes the Government of Canada, as well as provincial and
15 municipal governments, police forces, protester representatives,
16 community organizations, non-governmental organizations, parade
17 associations and individuals. Each has their own interest in
18 the issues that will be addressed in this inquiry, and each
19 brings their own important perspective. They too will play an
20 important role in the process.

21 Afin de permettre la participation des personnes
22 et des groupes qui, autrement, ne seraient pas en mesure de
23 prendre part à ces procédures, j'ai fait des recommandations à
24 la greffière du Conseil privé pour qu'elle accorde du
25 financement à certaines parties ayant qualité pour agir. J'ai
26 exposé les raisons pour lesquelles j'ai formulé ces
27 recommandations dans une série de décisions qui sont disponibles
28 sur le site web de la Commission. Bien que je n'aie pas le

1 pouvoir d'accorder une aide financière, la greffière du Conseil
2 privé a accepté mes recommandations.

3 Outre les parties, la Commission a également
4 bénéficié de la participation du public. Dès ma nomination, il
5 m'a semblé évident que j'avais besoin d'obtenir les commentaires
6 des Canadiens et Canadiennes de tous les horizons sur leurs
7 points de vue et leurs expériences relativement à tous les
8 aspects de mon mandat. C'est pour cette raison que la Commission
9 a mis en place une méthode en ligne accessible aux membres du
10 public afin qu'ils nous fassent part de leurs points de vue,
11 observations et idées sur les circonstances qui ont motivé la
12 déclaration de l'état d'urgence et les mesures prises par le
13 gouvernement pour y répondre.

14 We have received a number of submissions from
15 individuals expressing a range of views, opinions, beliefs and
16 ideas, and we look forward to continuing to receive submissions
17 as these hearings unfold. Commission staff will carefully
18 review all submissions and will prepare a report on the public
19 input received and this will be shared with you.

20 To the members of the public who took time and
21 effort to share your insights with the Commission, I thank you.
22 The inquiry has benefited from your contributions, and I will be
23 mindful of the views expressed as I continue my work.

24 Now openness and transparency.

25 The role of a public inquiry under the
26 *Emergencies Act* is very much about serving the public.
27 Maintaining public confidence in our public institutions, and
28 holding government to account can only be achieved through a

1 process that is committed to openness and transparency.

2 To that end, the Commission has worked hard to
3 make these proceedings as accessible as possible. The hearings
4 themselves are open to the public to come and observe. The
5 media has been invited to broadcast our proceeding, and anyone
6 around the world, in fact, is able to watch or listen to the
7 hearings on the Commission's website. Transcripts of
8 proceedings will be produced and made available for download.

9 I've already said that much of the evidence in
10 this proceeding will be adduced in writing. The Commission also
11 intends to post all documents that are made exhibits to the
12 Commission's website so that the media and the public will be
13 able to read and understand all of the evidence before me.

14 We expect that thousands of pages of material
15 will ultimately be posted.

16 Enfin, comme il s'agit d'une enquête nationale,
17 nous nous engageons à veiller à ce que nos procédures soient
18 accessibles au public dans les deux langues officielles. Les
19 témoins pourront témoigner en français ou en anglais, et toutes
20 les procédures seront traduites simultanément.

21 Les documents préparés par la Commission ou en
22 son nom sont traduits et publiés dans les deux langues
23 officielles sur le site web de la Commission. Dans la mesure du
24 possible, les versions françaises et anglaises seront diffusées
25 simultanément.

26 There may occasionally be limits on the
27 Commission's ability to be fully open to the public. Much of
28 the material reviewed by Commission Counsel during their

1 investigation is classified or subject to public interest
2 immunity or national security privilege. As a result, there may
3 be short portions of the hearing where classified evidence will
4 be presented to me, which cannot be opened to the public or the
5 parties. We will strive to keep such hearings to an absolute
6 minimum.

7 The Policy Phase. I've already spoken about how
8 this Commission will not only look to the past, but also to the
9 future. The Commission's mandate includes a direction to make
10 recommendations for potential changes to laws or practices
11 relevant to the matters before this Commission.

12 Pour soutenir ce volet des travaux de la
13 Commission, nous avons mis en place un programme ambitieux de
14 recherche et de politiques au cours des derniers mois. Afin
15 d'aider la Commission, un conseil de recherche composé
16 d'universitaires de partout au Canada a été mis sur pied.
17 Présidé par la professeure Geneviève Cartier, le conseil de
18 recherche a travaillé sans relâche pour commander des documents
19 de recherche, informer le personnel de la Commission sur des
20 questions techniques et façonner l'orientation générale de la
21 Commission en matière de politiques.

22 Much of the Research Council's work is already
23 available to the public for viewing. A series of 14 research
24 papers on topics relevant to the Commission have been posted in
25 both official languages to the Commission's website.

26 After the factual phase of the Inquiry is
27 complete, the Commission will be holding a series of policy
28 hearings to further explore the broader issues relevant to the

1 Commission's mandate.

2 This will include policy roundtables involving
3 experts and stakeholders, who will present their views to the
4 Commission so that I may be better equipped to make
5 recommendations about the future.

6 Now, in conclusion, this Commission is about to
7 begin the process of finding answers to the questions assigned
8 to it by Parliament. What led the Federal Government to declare
9 an emergency? How did it exercise the powers that it obtained?
10 And were its actions appropriate? These are matters of
11 fundamental importance.

12 Ce sont aussi des questions complexes. Pour y
13 répondre, j'aurai besoin d'entendre beaucoup d'éléments de
14 preuve dans un court laps de temps. Ce sera un défi, mais je
15 suis persuadé qu'avec la collaboration de toutes les parties,
16 les audiences offriront un processus impartial et exhaustif pour
17 la présentation des preuves nécessaires afin que la Commission
18 puisse donner au public les réponses auxquelles il a droit.

19 The exercise by government of the exceptional
20 powers given to it by the *Emergencies Act* affects directly, or
21 indirectly, all Canadians.

22 In the 34 years since its adoption, this is the
23 first time the Act has been used and this is the first
24 opportunity for its review. How and why the powers in the Act
25 were invoked are matters of great public interest.

26 With the cooperation of all parties, I'm
27 confident that the hearings will provide a fair and thorough
28 process for the presentation of evidence required for this

1 Commission to be able to give the public the answers to which it
2 is entitled.

3 With that, I was going to say brief, but let's
4 say modest introduction, I'd like to turn the matter over to one
5 of my co-lead counsel, Shantona Chaudhury, to set out what the
6 next steps are.

7 Thank you. Merci.

8 **--- OPENING REMARKS BY MS. SHANTONA CHAUDHURY:**

9 **MS. SHANTONA CHAUDHURY:** Thank you, Commissioner.

10 Good morning, everyone. My name is Shantona
11 Chaudhury. I'm co-lead counsel to the Public Order Emergency
12 Commission.

13 Bonjour tout le monde. Je m'appelle Shantona
14 Chaudhury et je suis coproceureure en chef de la Commission sur
15 l'état d'urgence.

16 I'm going to take the next few minutes to explain
17 to you how the coming hearings will unfold. I'll start by
18 describing the schedule for the next two days in some detail,
19 and then I'll give you a broad overview of how the evidence will
20 be led in the coming weeks.

21 So, starting with this morning. This morning
22 will consist of introductions to the parties who have been
23 granted standing before the Commission and the counsel
24 representing them. Each set of counsel have been invited to
25 prepare a brief statement of no more than three to five minutes
26 introducing themselves and explaining in broad terms their
27 party's interest in the mandate of the Commission.

28 Given the number of parties and counsel involved,

1 we've allocated approximately two hours to these introductions
2 and we're very much looking forward to hearing from all of you.

3 This afternoon, Commission Counsel will present a
4 series of overview reports and presentations designed to assist
5 the parties and the public in understanding the issues before
6 the Commission and the context of the evidence that you're about
7 to hear.

8 So these will consist of, first, an overview
9 report on the emergence of COVID-19 and the various public
10 health measures implemented across Canada in response to it.

11 Second, there will be an overview report on early
12 protests and legal challenges to the various public health
13 measures put in place in response to the pandemic.

14 Third, there will be an overview report
15 consisting of a timeline of the key events leading up to the
16 invocation of the *Emergencies Act*.

17 Quatre, il y aura une présentation qui trace les
18 grandes lignes de la *Loi sur les mesures d'urgence* et de son
19 cadre juridique.

20 Fifth, there will be a presentation of the
21 explanation provided by the Government of Canada to Parliament,
22 pursuant to section 58 of the *Emergencies Act*, regarding its
23 reasons for declaring a public order emergency.

24 Now, you will frequently hear this document
25 referred to throughout these proceedings as the Section 58
26 explanation. Part of the Commission's mandate is to evaluate
27 and test the explanation provided by the Government for invoking
28 the Act.

1 Ces rapports sommaires et ces présentations ont
2 été préparés par les avocats et les avocates de la Commission.
3 Il convient toutefois de souligner la distinction entre un
4 rapport sommaire d'un côté et d'une présentation de l'autre. Les
5 rapports sommaires seront formellement déposés en preuve et
6 feront partie de l'ensemble des preuves sur lequel le
7 commissaire pourra s'appuyer pour formuler ses conclusions de
8 fait et ses recommandations.

9 Avant d'être finalisés, les rapports sommaires
10 ont été partagés avec toutes les parties afin qu'elles puissent
11 commenter leur exactitude. Les présentations pour leur part ne
12 sont pas des éléments de preuve, elles sont simplement des
13 documents explicatifs créés par la Commission pour aider les
14 parties et le public à comprendre les enjeux que la Commission
15 abordera au cours des prochaines semaines, elles ne font pas
16 partie de l'ensemble des preuves présentées aux commissaires.

17 So that will be day one of the hearings and that
18 takes us to tomorrow, day two, which is the day that the
19 Commission's going to begin hearing its evidence.

20 Now I should explain that when witnesses are
21 called to testify before the Commission, they will generally be
22 examined first by Commission Counsel, a rotating cast of
23 Commission Counsel, as the Commissioner explained, then by
24 Counsel for the parties, and then by the witness's own Counsel.

25 The order in which evidence will be called over
26 the next six weeks is as follows. And actually, I should pause
27 and preface this by saying that the order of evidence I'm about
28 to describe is approximate and it's subject to change as the

1 hearings unfold. However, in broad terms, first, we're going to
2 deal with the Ottawa protest. So the first broad area that will
3 be examined is the protests that occurred here in Ottawa from
4 late January to mid February 2022. These events will be
5 examined from the perspective of the residents and the
6 community, the municipal government, the police, and the
7 protesters. So that evidence will begin tomorrow with three
8 panels of witnesses speaking to their lived experience during
9 the protests. These panelists will include residents of Ottawa,
10 Ottawa businesses and Ottawa City counsellors.

11 Next week, the Commission expects to spend the
12 first part of the week hearing from various municipal officials
13 involved in the City of Ottawa's response to the protest. We'll
14 then spend several days hearing evidence on the police response
15 to the Ottawa protest. Finally, the Commission anticipates
16 calling a number of organizers and participants in the Ottawa
17 protest.

18 Bon, la Commission quittera ensuite Ottawa – au
19 sens figuré, bien entendu – pour la frontière canado-américaine.
20 Elle se penchera alors sur ce qu'on pourrait appeler de manière
21 générale les manifestations aux postes frontaliers. Plusieurs
22 jours seront consacrés aux témoignages des manifestants, de
23 policiers et de responsables municipaux pour faire la lumière
24 sur les manifestations qui se sont déroulées dans les environs
25 de Windsor et du pont Ambassador ainsi qu'aux alentours de
26 Coutts en Alberta.

27 Après ça, troisièmement, il y a... ça nous amène
28 aux gouvernements provinciaux. La Commission entend ensuite

1 recevoir des témoignages sur la manière dont les provinces ont
2 réagi aux manifestations en faisant témoigner des représentants
3 de plusieurs gouvernements provinciaux, dont ceux de l'Alberta
4 et de l'Ontario.

5 Finally, the last two weeks, give or take, of the
6 hearing will be spent hearing evidence from the federal
7 government about its response to the protests and its decision
8 to invoke the *Emergencies Act*. The witnesses called will
9 include senior officials from the federal departments and
10 agencies, as well as cabinet ministers and the Prime Minister.

11 That will conclude the fact-finding portion of
12 the public hearings. By the time the hearings end, the
13 Commission will have heard from over 60 witnesses, presenting
14 all the different points of view that I've just outlined.

15 In addition to all of the oral evidence that will
16 be called, the Commission will be adducing a significant amount
17 of written evidence in relation to all the areas mentioned
18 above, including relevant documents that have been produced by
19 parties, institutional reports that have been prepared by
20 parties, and overview reports that have been prepared by the
21 Commission, which consist of largely uncontroversial evidence.

22 Introducing all of this evidence in writing will
23 expedite the hearing, which is a necessity given the
24 extraordinarily tight timelines under which the Commission's
25 operating, but it's important to keep in mind that the body of
26 evidence before the Commissioner includes not just the oral
27 evidence, but all of the written evidence we will be adducing as
28 well.

1 As the Commissioner mentioned, the fact-finding
2 hearings will be followed by a week of policy round tables
3 discussing the many and varied policy issues arising out of the
4 Commission's mandate and the evidence it has heard. As a
5 reminder, the Commission has published a series of Commission
6 papers as part of its policy review program, as the Commissioner
7 mentioned, and parties have 30 days from a date a paper is
8 posted to provide comments on it.

9 With that, I echo the Commissioner in thanking
10 the parties very much for their cooperation and their
11 contribution to the Commission's work thus far, and especially
12 over the next few weeks. I'll now turn the floor over to my co-
13 lead Counsel to introduce our team of Commission Counsel.

14 **--- OPENING REMAKRS BY MR. JEFFREY LEON:**

15 **MR. JEFFREY LEON:** Good morning. My name's Jeff
16 Leon, and I am a co-lead Counsel of the Commissioner.

17 Commissioner, I have the pleasant task of
18 introducing by name to those assembled and those watching online
19 our Commission Counsel. These Counsel are the lawyers who are
20 justly credited for the exceptional work that you and others
21 have mentioned. Their professional biographies are available on
22 the Commission's website for review. But first let me introduce
23 our senior Counsel, who are responsible for the different
24 aspects of dossiers of our investigation that you have just
25 heard about. Senior Counsel will lead much of the evidence over
26 the coming weeks.

27 So the Senior Counsel of the Commission are Frank
28 Au; Erin Dann, who regrettably can't join us for the hearings;

1 Gabriel Poliquin; Natalia Rodriguez; and Daniel Sheppard.

2 We have also had the valued assistance of three
3 regional Counsel from across Canada. They are Mona Duckett, QC
4 from Alberta, Sacha Paul from Manitoba, and Maia Tsurumi from
5 British Columbia.

6 And we have a group of, if I may say, most
7 talented and dedicated Counsel, who came together from several
8 Canadian provinces, and who have assisted with the investigation
9 and with preparing for these hearings. Their effort has been
10 nothing short of extraordinary. They are the engines that have
11 driven our investigation. First, in addition to the work they
12 have done on the investigation and in hearing preparation, I
13 want to introduce Eric Brousseau and John Mather, who assumed
14 the legal operations function of the Commission that has enabled
15 this facility and our process and procedures to result in a
16 fully functional space and our being ready for the commencement
17 of these hearings.

18 The other Counsel, who as mentioned have been a
19 key part of our investigation, are Stephen Armstrong, Misha
20 Boutilier, Sajeda Hedaraly, Alexandra Heine, Nusra Khan, Étienne
21 Lacombe, Allison McMahon, Jean-Simon Schoenholz, Dhalia
22 Shuhaibar, and Guillaume Sirois-Gingras.

23 Mr. Commissioner, if I may say, it has been an
24 honour to work with these talented Counsel. Thank you.

25 **COMMISSIONER ROULEAU:** Thank you very much. So
26 that introduction I think has been very helpful. We have a
27 little time to get started in -- if parties are willing. Today
28 is a little bit lighter than the days that are coming. I can

1 assure you, you're going to have to be prepared to work hard.

2 Alors, peut-être qu'on peut commencer avec la
3 présentation des différentes parties.

4 À moins d'autres suggestions, je vais juste
5 suivre l'ordre que j'ai devant moi.

6 Unless there's any objection and people want to
7 arm-wrestle, I suggest I'll just follow the order on the sheet
8 in front of me and call on the various parties to briefly
9 introduce themselves, three to five minutes, if you wish, so
10 that I and the public will know who is participating in the
11 hearing.

12 So starting with the Government of Canada, if I
13 could ask, I'm not sure if it's Mr. MacKinnon or who will be
14 presenting, but go ahead.

15 **MR. ROBERT MacKINNON:** Here?

16 **COMMISSIONER ROULEAU:** Well, perhaps you can do
17 it over there. It's -- it might be better for the -- getting
18 the visual, if that's okay. And you don't have to face me, you
19 can face the crowd. That's -- like the counsel did.

20 **--- OPENING REMARKS BY MR. ROBERT MacKINNON:**

21 **MR. ROBERT MacKINNON:** Good morning,
22 Mr. Commissioner. My name is Robert MacKinnon, and I, along
23 with Donnaree Nygard, who is sitting beside me, are the co-lead
24 counsel for the Government of Canada. Also on our counsel team
25 are Brendan van Niejenhuis, Andrea Gonsalves, and Andrew Gibbs.
26 There will also be times during the hearing when other counsel
27 from our team will be appearing before you.

28 The Government of Canada looks forward to

1 assisting the Commission in discharging its important mandate.
2 As we have already heard, having a rigorous, thorough
3 examination of the circumstances that led to the declaration of
4 a Public Order Emergency under the *Emergencies Act* by an
5 independent third party is very important to the accuracy of the
6 historical record and to the public's understanding of these
7 events.

8 The Commission's recommendations will provide
9 valuable guidance for the government on several current and
10 complex issues, such as the impact on domestic and foreign
11 funding, including crowdsourcing platforms; the role of
12 misinformation, disinformation and social media in these events.

13 It is evident that the Government of Canada
14 considers the Commission's work of great significance, as it has
15 allowed exceptional access to information that would normally be
16 protected by Cabinet confidence in an almost unprecedented
17 manner. As you have made reference, Mr. Commissioner, of the
18 371 federal Commissions of Inquiry, only three others since
19 Confederation were provided access to documents provided by
20 evidence.

21 Factual and background information, options, and
22 analyses brought to the attention of Ministers in the context of
23 Cabinet and committee discussions have been exceptionally
24 disclosed so that the Commission has access to the facts that
25 were considered by decision-makers in declaring a public order
26 emergency.

27 It is important for Canadians to understand the
28 unprecedented critical situation that the country was facing

1 earlier this year. The evidence will show that the invocation
2 of the *Emergencies Act* was a reasonable and necessary decision
3 given the escalating volatile and urgent circumstances across
4 the country.

5 The evidence of the Government witnesses will
6 detail the facts and events leading to the decision to declare a
7 public order emergency. They will describe the country-wide
8 threats to the security of Canada; the illegal blockades; the
9 disruption and intimidation experienced by Ottawa residents; the
10 threats at our borders and ports of entry; and the real impacts
11 on Canada's trade, international reputation, and the economic
12 well-being of Canadians.

13 The Government witnesses will outline the
14 deliberate, step-by-step process in which careful consideration
15 was given to all the available options which led to the
16 declaration of a public order emergency as a matter of last
17 resort. The witnesses will also provide evidence on how the
18 measures taken for dealing with the emergency were proportional,
19 effective, and time-limited.

20 In closing, I would like to note that given the
21 statutory deadline imposed by the *Act*, the Commission and all
22 the parties have had an incredible amount of work to do in a
23 very limited amount of time. The Government appreciates the
24 cooperation of everyone involved in working together to assist
25 the Commission to fulfill its important mandate, and we look
26 forward to continuing to assist the Commission in its work.

27 **COMMISSIONER ROULEAU:** Thank you, Mr. MacKinnon.

28 Now, I'm not sure, some parties may not be here

1 in person, and I'm not sure mechanically how we're going to do
2 this, so let me see how it works. Is the Government of
3 Saskatchewan here? And if not, are they going to present by
4 video? There we go.

5 **UNIDENTIFIED MALE SPEAKER:** They should appear on
6 ---

7 **COMMISSIONER ROULEAU:** Okay. If the Government
8 of Saskatchewan can go ahead, and I'm not sure if it's
9 Mr. McAdam or Morris?

10 **--- OPENING REMARKS BY MR. MICHAEL MORRIS:**

11 **MR. MICHAEL MORRIS:** Good morning. My name is
12 Mike Morris, and I'm the Director of Litigation for the Civil
13 Law Branch of Saskatchewan's Ministry of Justice. I'm appearing
14 with my colleague, Mitch McAdam, who is the Director of the
15 Ministry's Constitutional Law Branch.

16 The Government of Saskatchewan has been granted
17 full standing before the Commission and intends to participate
18 in both the evidentiary phase and the policy phase for the
19 proceedings.

20 February 14th was a very significant day from the
21 Government of Saskatchewan's perspective. On the morning of
22 February 14th, a First Ministers call was held. The phone call
23 was chaired by the Prime Minister. That phone call was the
24 first time the Federal Government told the Government of
25 Saskatchewan that it was considering invoking the *Emergencies*
26 Act and declaring a Public Order Emergency.

27 The Government of Saskatchewan indicated that it
28 did not want the emergency declaration applying within the

1 province, and other provincial governments did the same. Later
2 that day, the Federal Government proclaimed a Public Order
3 Emergency. It was not geographically limited, as requested by
4 Saskatchewan, and other provinces, and as we know, it remained
5 in effect until February 23rd.

6 For its part, the Government of Saskatchewan is
7 primarily interested in four areas, which will be explored in
8 this Inquiry:

9 The first area is whether there were reasonable
10 grounds to believe that circumstances amounting to a public
11 order emergency existed on February 14th.

12 The second area concerns whether the consultation
13 requirement under section 25 of the Act was met. Saskatchewan's
14 position is that the Federal Government had already determined
15 that a nationwide emergency would be declared before the First
16 Ministers' call on February 14th. The call was not so much
17 about consulting, as it was about telling.

18 The third area concerns whether the emergency
19 measures were overbroad. The financial measures, for example,
20 imposed broad responsibilities on financial institutions, with
21 little guidance, and they created offences for not complying
22 with those new responsibilities.

23 The final area concerns to what extent
24 Saskatchewan residents were impacted by the emergency measures.
25 The Government is concerned that residents' rights may have been
26 unnecessarily infringed by these measures.

27 The Government looks forward to participating in
28 the Commission and assisting the Commission in fulfilling its

1 mandate. Thank you.

2 **COMMISSIONER ROULEAU:** Thank you very much.

3 So the next I have on my list is the Government
4 of Manitoba. Again, I'm not sure if they're online rather than
5 in person. I suspect they're online. Maybe not.

6 Okay, if -- there may be technical issues, so I'm
7 not sure what the status is.

8 **MR. JOHN MATHER:** Mr. Commissioner, they don't
9 appear to be online right now. If they're listening to this,
10 they can email me and we'll get them up at a later time. But I
11 think it's appropriate to move to the next party.

12 **COMMISSIONER ROULEAU:** Okay. So it's -- that was
13 John Mather who was making that. So if Manitoba is online, they
14 can email Mr. Mather.

15 Next is the Government of Alberta. Again,
16 believe they were supposed to be online. Here they are.

17 **MS. MANDY ENGLAND:** Yeah.

18 **COMMISSIONER ROULEAU:** And I'm not sure if that's
19 -- who is speaking, but I'm sure you'll introduce yourself. Go
20 ahead.

21 **--- OPENING REMARKS BY MS. MANDY ENGLAND:**

22 **MS. MANDY ENGLAND:** Good morning. My name is
23 Mandy England and I'm here with my co-lead counsel, Stephanie
24 Bowes. We are lawyers from the Legal Services Division of
25 Alberta Justice and Solicitor General and we represent the
26 Government of Alberta, together with our colleagues, Hana Laura
27 Yamamoto, Peter Buijs, and Shaheer Meenai, who will also be
28 attending as counsel during these hearings.

1 The Government of Alberta applied for standing as
2 a party before this Inquiry for two main reasons. First,
3 Alberta believes it is important to share with Canadians the
4 facts about how Alberta was able to effectively deal with the
5 international border blockade in Coutts, Alberta, prior to the
6 invocation of the *Federal Emergencies Act*.

7 Alberta's evidence will show that the existing
8 law enforcement tools that were already in place were completely
9 sufficient and they were successfully used to peacefully restore
10 the flow of traffic at the Coutts Border Crossing and to
11 disperse the protest to a legal protest site.

12 None of the powers that were created under the
13 *Federal Emergencies Act* were necessary, nor were any of them
14 used in Alberta to resolve the Coutts blockade.

15 Alberta is also here to participate in the
16 process of holding the Federal Government accountable for its
17 decision to invoke the *Emergencies Act*. Alberta has many
18 questions about how and when that decision was reached, a
19 decision that was made despite the objections that Alberta and
20 other provinces expressed during a phone call placed to the
21 First Ministers on the morning of February 14th, 2022, just hours
22 prior to the announcement that the *Federal Emergencies Act* would
23 be invoked.

24 Since the Federal Government proclaimed that a
25 public order emergency existed throughout Canada, the Act
26 requires that all of the provinces must be consulted before it
27 can be invoked in that manner, yet Alberta's views were only
28 asked for after the decision was apparently made, and they were

1 basically ignored.

2 The impact of these measures on the rights of
3 Albertans is of great concern to the Government of Alberta.
4 Alberta is here to find answers for its citizens and for all
5 Canadians. We thank the Commissioner for this opportunity to
6 appear as a party and we look forward to working with the
7 Commission in the weeks to come.

8 **COMMISSIONER ROULEAU:** Thank you, Ms. England.

9 So that's -- those are the provinces who've, so
10 far, sought and obtained intervenor or party status.

11 So now I'll go to the various municipalities,
12 starting with the City of Ottawa.

13 Commençons avec la ville d'Ottawa.

14 **--- OPENING REMARKS BY MS. ANNE TARDIF:**

15 **MS. ANNE TARDIF:** Bonjour. Merci, Monsieur le
16 commissaire pour cette opportunité de nous présenter.

17 My name is Anne Tardif and I'm here with my
18 colleagues, Alyssa Tomkins and Daniel Chomski. We're all
19 lawyers with the law firm of Gowling WLG and we represent the
20 City of Ottawa.

21 The City is pleased to participate in this public
22 inquiry. And again, we thank the Commissioner for that
23 opportunity.

24 As you are no doubt all aware, the first convoy
25 participants arrived in Ottawa, not far at all, actually, from
26 where we sit today, on January 28th, and they remained in our
27 city for approximately three weeks.

28 I expect you will hear from witnesses about the

1 significant impacts on the City's residents and businesses, and
2 you will also hear about the City's efforts to support the
3 police-led response to the convoy, and to mitigate impacts on
4 city services.

5 We're pleased to be here and we look forward to
6 continuing to assist the Commission with its mandate. Merci.

7 **COMMISSIONER ROULEAU:** Merci, Maitre Tardif.

8 Alors, la prochaine municipalité... the next city
9 is the City of Windsor, who is also a party.

10 **MS. JENNIFER KING:** Good morning.

11 **COMMISSIONER ROULEAU:** Good morning.

12 **--- OPENING REMARKS BY MS. JENNIFER KING:**

13 **MS. JENNIFER KING:** Good morning and thank you
14 for this opportunity to make comments this morning.

15 My name is Jennifer King and I am legal counsel
16 for the City of Windsor, along with my colleagues, Michael
17 Finley, Graham Reader, and Bevin Shores.

18 We will be taking turns attending the hearing in
19 a mix of both-in person and remote attendance.

20 Our client, the City of Windsor, is a city
21 located in southwestern Ontario on the south shore of the
22 Detroit River. The city is host to multiple Canada/U.S. border
23 crossings, including the Ambassador Bridge, a privately owned
24 international border crossing connecting Windsor and Detroit,
25 Michigan over the Detroit River.

26 The bridge is, by far, Canada's busiest
27 commercial crossing to the United States, handling over 300
28 million of trade per day, representing about one quarter of

1 Canada's exports.

2 The international bridge enters the City of
3 Windsor, connecting directly to a municipal road here on Church
4 Road, itself a critical economic artery for the city.

5 There is no direct provincial highway connecting
6 the bridge and Highway 401. Instead, bridge traffic, including
7 6,000 commercial trucks per day, move through local roads on
8 their way to and from the bridge.

9 But Windsor is more than just a road and a
10 bridge. It is a community. The bridge and Huron Church Road
11 are surrounded by residential homes, apartment buildings,
12 restaurants, educational institutions, community centres, and
13 businesses.

14 Windsor is interested in the Commission's work
15 because the Ambassador Bridge blockade happened in Windsor on
16 municipal roads with profound negative impacts not only on trade
17 and the automotive sector, but also on the city, its residents,
18 and its businesses.

19 Windsor will continue to cooperate fully with the
20 Commission and looks forward to describing the circumstances of
21 the Ambassador Bridge blockade, Windsor's efforts to support the
22 response to these events, and the significant impacts on the
23 City, its communities, schools, residents, and businesses.

24 Windsor is particularly interested in the
25 Commission's policy work and looks forward to receiving any
26 recommendations that may be made by the Commission.

27 As a local government of the front lines of
28 emergency response, and as the home of critical infrastructure,

1 Windsor is interested in recommendations and planning that
2 recognizes and supports the municipal role in emergency response
3 and protects the international crossings in Windsor in a way
4 that prioritizes and supports the interests and needs of the
5 City and its residents and businesses.

6 Thank you.

7 **COMMISSIONER ROULEAU:** Thank you very much.
8 Merci.

9 Okay. The -- next we are going to turn to police
10 services. And I'd like to start with the Ottawa Police Service,
11 if I could.

12 **--- OPENING REMARKS BY MR. DAVID MIGICOVSKY:**

13 **MR. DAVID MIGICOVSKY:** Good morning,
14 Commissioner. My name is David Migicovksy, and with me is my
15 co-counsel, Jessica Barrow, sitting in the second row on my
16 left.

17 We represent the Ottawa Police Service. As the
18 police service for the Nation's capital, the Ottawa Police
19 Service is very experienced in handling demonstrations,
20 protests, and large events attracting thousands of people. They
21 are a fact of life in this city, and hundreds of them take place
22 annually and are resolved without violence and without a major
23 impact on the community.

24 There is a well-established process, you will
25 hear, that the Ottawa Police Service follows when protests
26 occur. The police must respect the Charter rights of peaceful
27 process, while at the same time, protect the community and
28 uphold public order.

1 To this end, police typically reach out to
2 protestors and work with them in advance to preserve the peace
3 and to minimize community impact.

4 The Ottawa Police, you will hear, followed that
5 well-established process that had always worked with protestors
6 this time as well, and were prepared for an event, but not for
7 the event that occurred. Why? What you will hear is that this
8 protest was unique in Canadian history. The police had little
9 time to prepare. The genesis of the protest had only begun a
10 couple of weeks before it arrived in town and it gained momentum
11 with time. The number of individuals and vehicles participating
12 was difficult to impossible to gauge because it was -- because
13 although the first convoy left the west coast on January 22nd,
14 most of the convoys, because of their geographic proximity to
15 Ottawa, left the day before, and the largest convoy, by the time
16 it reached Ottawa, it was 40 kilometres long and had thousands
17 of vehicles; more convoys followed.

18 That could not have been predicted. The initial
19 response of the convoy and the initial reports that the police
20 received were that it would be peaceful and that most people
21 would leave by the end of the weekend. And although many people
22 and vehicles did leave, many more did not, and some who left
23 returned the following weekend.

24 The protest became dangerous, and the situation
25 became volatile. This was an unprecedented situation, and it
26 required an unprecedented response by the Ottawa Police Service,
27 along with several thousand other police officers from across
28 the country. All of the Ottawa Police Service officers and all

1 of their partners you will hear worked tirelessly and
2 professionally, and that integrated response by the police, led
3 by the Ottawa Police Service and its partners, brought what had
4 started as a protest but become an illegal occupation to a
5 successful resolution.

6 The Ottawa Police Service recognizes the impact
7 on the residents and businesses in the city from the convoy, and
8 that it was significant. What none of the intelligence
9 predicted in the very brief period of time prior to the convoy's
10 arrival was the level of community violence and social trauma
11 that was inflicted upon the city and its residents.

12 As the demonstration came to an end, Chief Bell
13 told the Ottawa Police Services Board that there will be lessons
14 to be learned to make sure the events of the past are not
15 repeated. You will hear that changes have been made to how the
16 Ottawa Police Service and those events like this and lessons
17 have been learned, and the Ottawa Police Service welcomes the
18 opportunity to learn more through this process as it works to
19 rebuild public trust.

20 Thank you very much.

21 **THE COMMISSIONER:** Thank you.

22 If I could then move to the Windsor Police
23 Service?

24 **--- OPENING REMARKS BY MR. TOM McRAE:**

25 **MR. TOM McRAE:** Good morning. My name is Tom
26 McRae. Together with my co-counsel, Heather Paterson, in the
27 corner there, we represent Windsor Police Service, from the firm
28 of Shibley Righton, both in Toronto and Windsor.

1 Now, the Windsor Police Service was the first
2 responder with respect to the Ambassador Bridge closures. We
3 are looking forward to giving evidence as to how the Windsor
4 Police Service fulfilled its duty to the City and its residents,
5 all the while dealing with a protest that was, in effect,
6 focused on blocking an international border.

7 We did acknowledge the significant support we had
8 from the police from across the border, and are doing so, and we
9 look forward to working with the Commission, the parties, and
10 their counsel in this effort.

11 Thank you.

12 **THE COMMISSIONER:** Thank you.

13 Next if I could call on the Ontario Provincial
14 Police?

15 **--- OPENING REMARKS BY MR. CHRISTOPHER DIANA:**

16 **MR. CHRISTOPHER DIANA:** Good morning, Commission,
17 counsel, parties, members of the public. My name is Christopher
18 Diana; I'm here as counsel to the OPP. I'm joined by my
19 colleague and co-counsel, Jinan Kubursi, and our articling
20 student, Alice Blue (phonetic), a small but mighty legal team.

21 As between the two of us, Jinan and I, at least
22 one of us will be here in person through the entire course for
23 this Inquiry.

24 You will hear from a number of OPP witnesses
25 during the course of this Inquiry. You will hear that the OPP
26 became engaged well before the Freedom Convoy reached the
27 Ontario border. You will hear about the OPP's intelligence
28 gathering process, and the way that the OPP disseminated

1 intelligence to its policing partners and the timing of sharing
2 that information as the convoy moved across Canada.

3 You will hear about the OPP's responsibility for
4 highways and how it policed the areas within its jurisdiction in
5 Ontario as the Freedom Convoy moved through Ontario. You will
6 hear about the effectiveness and the importance of the OPP's
7 provincial liaison team. You'll hear reference to PLT
8 frequently throughout this Inquiry. And you'll also hear about
9 the effectiveness and importance of the -- what we call the
10 framework for dealing with events of this nature. These were
11 lessons learned and incorporated from the Ipperwash Inquiry many
12 years ago that have informed OPP practice to this day.

13 You will hear about concepts such as incident
14 comment, public order policing, and related concepts.

15 Even though the OPP was not the police service of
16 jurisdiction, you will hear about how the OPP provided crucial
17 assistance to Windsor, Ottawa, and Toronto.

18 In Windsor, you will hear about how the OPP took
19 on a leadership role working with the Windsor Police Service,
20 and with the help of additional resources from other police
21 services, successfully cleared the blockade of the Ambassador
22 Bridge. Windsor was very much a success story in terms of how
23 it was handled.

24 In Ottawa, after some delay, you will hear that
25 the OPP took on a leadership role in coordinating resources from
26 different police services working with Ottawa Police Service,
27 the police service of jurisdiction. Specifically, you will hear
28 about what worked well, what may not have worked as well, and

1 potential lessons that were learned through these incidents in
2 Ottawa, Windsor, and across the country.

3 You will also hear about federal and provincial
4 emergencies' legislation and the extent to which the OPP relied
5 on those authorities. The OPP has significant experience in
6 responding to protests, blockades, and similar activities.
7 While the emergencies' legislation; in particular, the
8 provincial legislation provided useful tools, there was
9 sufficient level authority in their absence to deal with the
10 protest activities that took place over this period of time.

11 This Inquiry is a unique opportunity for the OPP
12 to share how it responds to protests. It's an Inquiry that the
13 OPP takes very seriously, and will consider any and all
14 recommendations that arise from it. The OPP is looking forward
15 to engaging in a meaningful way to contribute to this very
16 important public discussion.

17 Thank you, Commissioner.

18 THE COMMISSIONER: Thank you very much.

19 I'd like to then call on Peter Sloly's counsel to
20 address the assembly.

21 **--- OPENING REMARKS BY MR. TOM CURRY:**

22 **MR. TOM CURRY:** Thank you, Mr. Commissioner.

23 My name is Tom Curry and together with my
24 colleagues, Rebecca Jones and Nikolas De Stefano, we will be
25 here representing, as counsel, the former Chief of the Ottawa
26 Police Service, Peter Sloly.

27 Chief Sloly also looks forward to assisting the
28 important work of the Commission. In granting Chief Sloly

1 standing, Mr. Commissioner, you found his firsthand knowledge of
2 how the events unfolded here in Ottawa, and his role in framing
3 the response, meant that he was uniquely positioned to make a
4 contribution to your factfinding and policy process.

5 As you have described this morning, under the
6 terms of reference of the Commission, you're required to examine
7 the circumstances that led to the declaration of public order
8 emergency, and the efforts of police -- among other things, the
9 efforts of police prior to and after the declaration, and
10 lessons learned to make recommendations about the matters under
11 examination.

12 Now, Chief Sloly will assist you in understanding
13 the circumstances that led to the declaration of an emergency,
14 from his perspective as a national police leader with over 30
15 years' experience in Canada and abroad dealing with public order
16 operations. He will explain, from that perspective, how this --
17 the events in Ottawa represented an unprecedented threat to
18 national security posed as they were by the illegal occupation.

19 The City of Ottawa was ground zero for the
20 protests that occurred in February 2022, and Chief Sloly will
21 assist you in understanding the challenges faced by the Ottawa
22 Police Service in addressing the evolving illegal occupation.

23 As he will explain, the events represent a
24 paradigm shift in public protest. In particular, he will
25 explain to you the limited resources available to the Ottawa
26 Police service to deal with a massive occupation; the limited
27 nature of the intelligence available to OPS about what was
28 coming Ottawa's way; the importance of the right of lawful

1 protest in our democracy and the limits of the authority of the
2 Ottawa Police Service to deal with protestors; the requests made
3 to all levels of government for additional resources to address
4 the occupation, here in the number of 1,800, approximately,
5 additional police personnel; the successful integration of
6 policing partners in a joint operation between Ottawa, OPP,
7 RCMP, and other police services; and the important contribution
8 of the declarations of emergency by all three levels of
9 government to the safe and successful end of the occupation.

10 He will also tell you, Mr. Commissioner, why he
11 signalled on February 7th that there may not be a policing
12 solution alone to the occupation.

13 Chief Sloly was Ottawa's first Black police
14 chief, and he was brought to Ottawa from the outside of the OPS
15 in October 2019 to lead a change in the way policing services
16 were delivered, to restore it and build trust in the community.
17 He will tell you of the pride in his work as the chief, and how
18 proud he is of the hard work performed by the Ottawa Police
19 Service that ended in the -- in a successful conclusion of this
20 national security crisis without the loss of life or serious
21 injury to the public, protestors or police.

22 Chief Sloly knows that effective policing is only
23 possible when a community has trust and confidence in the police
24 service, and when the resources needed to end the occupation
25 were present the conditions were present and plans in place to
26 allow police to end the occupation safely, he will explain why
27 he elected to step aside to ensure that any lack of confidence
28 in the Ottawa Police Service held by the community that had

1 developed over the period of the occupation did not compromise
2 public safety.

3 Finally, Chief Sloly looks forward to assisting
4 you in the part of your mandate that is forward-looking, as you
5 indicated, and seeks to learn from the unprecedented events in
6 Ottawa that led to the declaration of an emergency. Chief Sloly
7 has eleven specific recommendations for your consideration that
8 he will explain, identify ways for government, police, and civil
9 society to prevent, mitigate, respond to and recover from these
10 public order emergencies in the future.

11 I'm grateful. Thank you.

12 **COMMISSIONER ROULEAU:** Thank you. Okay. Then I
13 think next we should hear from the convoy organisers who are
14 also involved in the proceedings of the Commission.

15 **--- OPENING REMARKS BY MR. BRENDAN MILLER:**

16 **MR. BRENDAN MILLER:** Good morning. My name's
17 Brendan Miller of Foster LLP, and I am counsel to Freedom Corp,
18 which is a organisation that represents the protestors of which
19 attended Ottawa in January and February of 2022.

20 My colleague, Ms. Bath-Sheba van den Berg, of
21 Foster LLP, is my co-counsel on this matter, as well as the
22 solicitors of record, both Mr. Keith Wilson, King's counsel, as
23 well as Ms. Eva Chipuik, who is counsel to the convoy.

24 With respect to sort of everyone's giving an
25 overview of the theory of their case, it is our view that there
26 was no justification whatsoever to invoke the *Emergencies Act*.
27 The *Emergencies Act* requires several things: One, it could be
28 invoked due to espionage and sabotage. Are you going to hear

1 any evidence about espionage and sabotage? The answer to that
2 is no.

3 Two, it could be invoked on the basis of
4 clandestine or deceptive foreign influence, or foreign influence
5 that involves the threat to a person. Are you going to hear
6 evidence about that? The answer to that is no.

7 It also could be invoked on the basis of threats
8 or use of acts of serious violence against persons or property?
9 Are you going to hear evidence of violence against persons or
10 property? The answer is no.

11 Lastly, it can also be invoked if there is a
12 group or persons trying to destroy or overthrow by violence the
13 system of Government of Canada. Are you going to hear evidence
14 about individuals trying to do that? The answer is no.

15 And the answer is, is that there was no
16 reasonable and probable grounds to invoke the *Emergencies Act*
17 and that the Government exceeded their jurisdiction, both
18 constitutionally and legislatively, in doing so.

19 Thank you.

20 **COMMISSIONER ROULEAU:** Thank you.

21 And now the residents group, the Coalition of
22 Residents and Businesses of Ottawa.

23 **--- OPENING REMARKS BY MR. PAUL CHAMP:**

24 **MR. PAUL CHAMP:** Thank you very much,
25 Commissioner. My name is Paul Champ, and I am counsel for the
26 Ottawa Coalition of Residents and Businesses. I'm here with my
27 colleagues, Christine Johnson and Emilie Taman.

28 The Ottawa Coalition of Residents and Businesses

1 are community associations of people who live in Downtown
2 Ottawa, as well as the business improvement areas of the
3 different business sectors that were impacted by the Freedom
4 Convoy protests in January and February.

5 The groups came together because their interest
6 in this Inquiry, Commissioner, is simply to have the story told.
7 We can tell you it's just blocks from here, well, right this
8 street. But blocks from here are the people who lived here.
9 There are approximately 15,000 residents who live in this
10 downtown core.

11 People see the Parliament buildings, and they
12 think this is all government and so forth in Downtown Ottawa,
13 but there are people, there are children, there are schools,
14 there's a public elementary school that's about six blocks from
15 here. And the impact on Ottawa for those three weeks of
16 harassment, street blockages, ear-splitting air and train horns,
17 and general lawlessness was unprecedented.

18 The nation's capital is naturally a site for
19 demonstrations and protests on a wide range of issues, and these
20 protests are not simply tolerated by the people of Downtown
21 Ottawa, they're celebrated. People who live in Ottawa are very
22 proud that they're the site of protest and government and the
23 exercise of fundamental freedoms and democratic participation.
24 Some Ottawa people participate in the protests sometimes,
25 sometimes they don't, but they're always happy that these events
26 are happening.

27 But the Freedom Convoy protests that took place
28 here were of a shape and form that were totally unprecedented,

1 and had a severe impact on those who live and work and do
2 business in Ottawa.

3 Many people in Ottawa felt like they were
4 prisoners in their own home, and they felt abandoned and they
5 felt unsafe by the police and by all the levels of government.
6 There were breakdowns in governance here between city, province,
7 federal government, whomever.

8 The interests of the Coalition is not to point
9 out fingers, it's to get answers and to ensure this doesn't
10 happen again. The Ottawa Coalition is not going to take a
11 position, we don't anticipate, on the *Emergencies Act*, but make
12 no mistake it was a crisis in Downtown Ottawa. There was
13 disorder, there was chaos, there were propane tanks, there were
14 gasoline jerry cans everywhere, there were fireworks going off
15 at all hours of the night, pinging off buildings, pinging off
16 windows. People could not get a -- there was no public
17 services. Paramedics, ambulances, no busses, no taxis, grocery
18 stores were closed. Businesses, several hundreds of businesses
19 are closed. The Rideau Centre, the major mall in Ottawa, was
20 closed for the first in its history for a prolonged period of
21 time.

22 The people in Ottawa are still traumatised,
23 Commissioner, they're bewildered, they're upset, and I can say,
24 Commissioner, these 30 days that you have, we could have
25 residents line up every day to testify to tell you their
26 stories. People who are elderly, people who have young
27 children, people who have disabilities, and just anyone. Trying
28 to feel safe in your own home with those horns going from 6 to

1 7:00 a.m. until 11:00 p.m. at night, or even later, and not just
2 like a "honk, honk", like prolonged holding of those air horns.
3 Four hundred commercial trucks congregated in Downtown Ottawa,
4 and the people felt abandoned by their authorities.

5 It's going to take a while for this city to heal
6 internally. There's been a breakdown in trust in the local
7 authorities and officials, and every level of government. And
8 we're looking forward to hearing the evidence. We're looking
9 forward to hopefully getting some answers factually about what
10 happened and what were the breakdowns. And, you know, most
11 importantly, that there's recommendations that hopefully come
12 from this proceeding to ensure that, you know, serious
13 disruptions to people's lives in Ottawa never occurs again,
14 while at the same time, we absolutely are protecting and
15 celebrating and ensuring that the right to protest and assemble
16 are not unduly interfered with in future.

17 Thank you very much, Commissioner.

18 **COMMISSIONER ROULEAU:** Okay. Thank you.

19 Perhaps we're -- I'm about to turn to the various
20 organizations that are also have standing, but before I do so,
21 avant de passer aux différents organismes qui ont participé à
22 cette enquête, je pense qu'on va prendre la pause du matin.
23 Alors, on n'a pas un horaire fixe, c'est à ma discrétion, je
24 suppose, mais en général on va prendre une quinzaine de minutes
25 le matin et une quinzaine de minutes l'après-midi. Aujourd'hui,
26 c'est un peu moins chargé, mais peut-être que c'est un bon
27 moment, it's a good moment to take our morning 15-minute break,
28 and when we come back, I'll turn to the various organizations

1 that have standing. So we'll take 15 minutes, and I thank you
2 all for your attention.

3 --- Upon breaking at 11:00 a.m.

4 --- Upon resuming at 11:18 a.m.

5 **COMMISSIONER ROULEAU:** Okay, merci, thank you.

6 On va reprendre avec... on va commencer avec les
7 associations et avec aucun ordre d'importance, vous ne devez
8 tirer aucune conclusion du choix, on va commencer par le CC... le
9 CCLDL, CAD, CLA, une série d'organismes qui sont ici.

10 Monsieur DelBigio?

11 **--- OPENING REMARKS BY MR. GREG DelBIGIO:**

12 **MR. GREG DelBIGIO:** Yes, Mr. Commissioner, my
13 name is Greg DelBigio. On behalf of the Canadian Council of
14 Criminal Defence Lawyers, the CCCDL, and the Criminal Lawyers
15 Association, the CLA, my co-counsel, Collen McKeown and I are
16 pleased to have the opportunity to participate in this
17 Commission.

18 The CCCDL is a national council made up of senior
19 criminal defence lawyers. The council has existed since 1992
20 and has representatives in every province and in Nunavut. The
21 purpose of the CCCDL is to enhance, support and improve criminal
22 justice throughout Canada.

23 The Criminal Lawyers Association has existed
24 since 1971 and serves as the voice of criminal defence lawyers
25 in Ontario and has over 1800 members in Ontario, across Canada
26 and the United States. The CLA aims to educate, promote and
27 represent its membership on criminal law and constitutional law
28 issues impacting defence lawyers and clients. Together, the

1 CCCDL and CLA have experience and expertise in bringing close
2 scrutiny to the justification and use of government and police
3 powers. The *Emergencies Act* should be used sparingly, or as a
4 last resort, and only where credible evidence justifies its use.
5 The public's confidence and trust in the fair and proper
6 administration of law demands this.

7 During the evidence portion of the Commission,
8 the CCCDL and CLA hope to assist the Commission in understanding
9 those facts which served as foundations for the important
10 decisions that were made by police and elected officials and in
11 understanding the ways in which those decisions considered and
12 impacted the interests and protected rights of individuals. The
13 evidentiary portion is important for transparency and
14 accountability, and for ensuring that the use of the *Emergencies*
15 *Act* was consistent with the maintenance, the rule of law, and
16 the *Charter of Rights*.

17 We are also eager to participate in the policy
18 portion of the Commission because beyond the specifics of this
19 particular use of the *Emergencies Act*, it is important that
20 policy issues be considered, so that the balance between the
21 exercise of government power, the exercise of police powers and
22 protected individual rights can be considered from a broader,
23 national perspective, and where necessary, improved. Thank you.

24 **COMMISSIONER ROULEAU:** Thank you very much.

25 Next I'd like to call on the Union of British
26 Columbia Indian Chiefs.

27 **--- OPENING REMARKS BY MS. CHEYENNE ARNOLD-CUNNINGHAM:**

28 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Good morning.

1 My name is Cheyenne Arnold-Cunningham, and I am here
2 representing the Union of B.C. Indian Chiefs, alongside my
3 colleagues Meagan Berlin, who is in attendance virtually, and
4 Mary Ellen Turpel-Lafond, who will be in attendance on future
5 hearing dates.

6 As mentioned this morning, the Commission is
7 mandated with examining and assessing the basis for the
8 Government of Canada's decision to declare a public order
9 emergency and the appropriateness and effectiveness of the
10 government's responses to the Freedom Convoy situation.

11 As a representative for Indigenous governments
12 and the only type of such representative who has been granted
13 full standing in this inquiry, the Union of B.C. Indian Chiefs
14 has a direct interest in the accountability of Canadian
15 governments for their actions. All exercises of emergency,
16 colonial, Canadian government powers fundamentally impact the
17 relationship between the First Nations and the government, First
18 Nations with their inherent right to self government and other
19 protected rights under Section 35 of the *Canadian Constitution*.

20 The Union of B.C. Indian Chiefs is a
21 representative of Indigenous governments and First Nations in
22 British Columbia. Its purpose is to support and promote the
23 efforts of First Nations in B.C. to affirm and defend their
24 title and rights. The Union of B.C. Indian Chiefs has a unique
25 role in British Columbia and Canada and has extensive expertise
26 in government engagement and policy development in relation to,
27 among other things, government accountability, policing, human
28 rights, anti-racism, and the rights of Indigenous peoples

1 generally.

2 With over 40 years of experience, the Union of
3 B.C. Indian Chiefs is uniquely positioned to share how
4 government's decision making is connected to the Indigenous
5 people's concerns relating to the convoy protests and to address
6 the appropriateness and effectiveness of government's response
7 in relation to those concerns. It will be important for the
8 Commission to understand Indigenous perspectives about the
9 events leading up to the proclamation of an emergency, as well
10 as the use of the *Emergencies Act* itself.

11 It's also extremely important for the Commission
12 to understand and consider the unique context, histories,
13 experiences of the diverse and distinct First Nations and
14 Indigenous people across Canada. This includes a consideration
15 of the historic and ongoing oppression of Indigenous peoples by
16 the application of Canadian law and policy and the use of state
17 force and powers.

18 The *Indian Act*, land displacement and the reserve
19 system, the residential school system, the 60's scoop, missing
20 and murdered Indigenous women, systemic racism, the increasingly
21 disproportionate incarceration rates of Indigenous peoples, the
22 increasingly disproportionate rates of Indigenous youth and
23 children in Canada's child welfare system, and the assault and
24 apprehension of Indigenous land defenders, who seek to protect
25 their ancestral lands and sacred resources from, for example,
26 logging, commercial fisheries, gas export and hydro dams. State
27 use of power is inseparable from the daily and lived experiences
28 of First Nations and Indigenous peoples across this country.

1 There are many Indigenous nations and Indigenous
2 governments across Canada, and the Union of B.C. Indian Chiefs
3 represents a portion of these communities. So I want to
4 acknowledge all of the Indigenous peoples who have been impacted
5 by this situation. I want to acknowledge the Indigenous
6 territories where these events took place. I want to
7 acknowledge clan mothers who are in this room and who I met this
8 morning, Noeline Villebrun, Dene clan mother from Yellowknife,
9 and Sandra McKenzie, Cree clan mother from Sucker Creek Treaty
10 8.

11 The decision of the Commission, the policy
12 discourse before the Commission and any policy recommendations
13 made by the Commission will have longstanding impact for future
14 use of federal government emergency powers. The Union of B.C.
15 Indian Chiefs is here to ensure that the government's emergency
16 powers will be used appropriately moving forward, as they may be
17 exercised against First Nations and Indigenous peoples.

18 Thank you.

19 **COMMISSIONER ROULEAU:** Thank you. Next I'd like
20 to call on... j'aimerais demander la prochaine association, the
21 National Crowdfunding and Fintech Association.

22 **MR. JASON BEITCHMAN:** Good morning, Mr.
23 Commissioner.

24 **COMMISSIONER ROULEAU:** Morning.

25 **--- OPENING REMARKS BY MR. JASON BEITCHMAN:**

26 **MR. JASON BEITCHMAN:** My name is Jason Beitchman,
27 and I am here today as Counsel for the National Crowdfunding and
28 Fintech Association. The NCFA is Canada's largest industry

1 association representing crowdfunding platforms and Fintech
2 start-ups. The NCFA sought the right to participate in these
3 hearings, so that it could provide a voice for these emerging
4 industries and technologies.

5 We are here to comment on the fact finding and
6 policy review functions of the Commission with respect to two
7 issues set out in the terms of reference. First, the impact of
8 domestic and foreign funding, including donation crowd-funding
9 platforms; and second, the impact, role and sources of
10 misinformation and disinformation, including the use of social
11 media.

12 Our hope is that through this process, the
13 Commission will strive to understand whether and how
14 misinformation and disinformation about crowd funding and
15 cryptocurrency influenced the decision to make orders under the
16 *Emergencies Act* that targeted and restricted the use of these
17 technologies.

18 In his expert report submitted to this
19 Commission, Professor Ryan Clements of the University of Calgary
20 highlighted that the temporary orders made under the Act with
21 respect to crowdfunding have been permanently crystalized in
22 extensive regulation of the industry under the *Proceeds of*
23 *Crime, Money Laundering, and Terrorist Financing Act*.

24 These regulations were exempted from the ordinary
25 Cabinet requirement to pre-publish regulatory proposals for
26 public comment and consultation. The explanation provided for
27 this exemption was that the events leading to the use of the
28 *Emergencies Act* provided sufficient rational to waive the

1 obligation of due process and to confer and consult.

2 The use of extraordinary powers under the
3 *Emergencies Act* raises questions. Questions of whether the ends
4 justify the means.

5 In the case of crowdfunding and fintech, the end
6 result -- excuse me, there was an interruption there. In the
7 case of crowdfunding and fintech, the end result is that laws
8 were passed without public scrutiny or due process. This
9 presents a cautionary tale for Canadians and we will all benefit
10 from scrutiny by this Commission into whether it is appropriate
11 to deploy these extraordinary powers when the end result may be
12 the subtle and not-so-subtle erosion of the rule of law.

13 The NCFA looks forward to the Commission's
14 efforts to examine these issues and to the opportunity to
15 participate in that process. Thank you.

16 **COMMISSIONER ROULEAU:** Merci. Thank you. I now
17 call on the National Police Federation.

18 **--- OPENING REMARKS BY MS. NINI JONES:**

19 **MS. NINI JONES:** Yes, good morning, Commissioner,

20 ---

21 **COMMISSIONER ROULEAU:** Good morning.

22 **MS. NINI JONES:** --- and Commission Counsel.

23 Thank you.

24 My name is Nini Jones and I am here, along with
25 my colleague, Lauren Pearce. We are both on Zoom today, and my
26 colleague, Jen Del Riccio, who is present in person, and
27 together we represent the National Police Federation.

28 The National Police Federation is the exclusive

1 bargaining agent for approximately 20,000 RCMP members and
2 reservists below the rank of inspector. The RCMP, and by
3 extension, the NPF's members, were the source of the largest
4 police response to the convoy and the blockades in Ottawa, as
5 well as in every other location throughout Canada, including the
6 B.C. occupation, the Alberta occupation, Manitoba, as well as
7 assisting in Windsor. In other words, the RCMP were the police
8 officers charged with responding to the situation created by the
9 convoy across the country.

10 The NFP intends to participate with a particular
11 focus on the scope and the limits of our members' policing
12 authority and their policing jurisdiction and we are
13 particularly interested in the divided jurisdiction and the
14 issues that arose in the City of Ottawa, where police responses
15 came from the OPP, the Ottawa Police, and the NPF's members
16 employed by the RCMP, along with the Parliamentary Protective
17 Services. Those are the areas of particular interest for the
18 NFP and we look forward to assisting the Commission and the
19 Commissioner with those issues as they arise through this
20 proceeding.

21 Thank you so much.

22 **COMMISSIONER ROULEAU:** Thank you.

23 If I could now call on the Canadian Constitution
24 Foundation and Professor Alford. Yes. Go ahead.

25 **--- OPENING REMAKRS BY MR. SUJIT CHOUDHURY:**

26 **MR. SUJIT CHOUDHURY:** Thank you. Good morning,
27 Commissioner.

28 **COMMISSIONER ROULEAU:** Good morning.

1 **MR. SUJIT CHOUDHURY:** My name is Sujit Choudhury.
2 I am co-counsel for the Canadian Constitution Foundation. My
3 co-counsel is Janani Shanmuganathan. and we are both on Zoom,
4 although we do hope to attend some of the proceedings in person.

5 As you indicated, Commissioner, the CCF has been
6 granted standing jointly with Professor Alford. I would ask
7 that -- we reserved a minute at the end of our remarks for him,
8 and we would ask that you recognize him, please, when I
9 conclude.

10 **COMMISSIONER ROLEAU:** Well if I could just
11 interrupt, there's on grant of standing and the norm is with one
12 grant of standing, there is one counsel or presentation. And
13 it's a bit unusual and I don't think that should be the
14 practice. The reason they were put together as one was that we
15 streamline the process. I'm prepared to make an exception for
16 today, but that is not -- because I assume you've prepared on
17 that basis. But you should not, as a rule, proceed in that
18 manner. If I can ask you to coordinate your presentation,
19 whether it's Mr. Alford, or you, or Ms. Shanmuganathan. That's
20 up to you. But I don't want it to break down into different
21 parties. There are many other organizations that are sharing a
22 standing and they've all cooperated to have one presentation.

23 So with that caveat, Mr. Choudhury, you can go
24 ahead on this exceptional basis today.

25 **MR. SUJIT CHOUDHURY:** Thank you, Commissioner.
26 And we did check in with Commission Counsel before we decided to
27 proceed this way, and so we appreciate your forbearance in this
28 exceptional circumstance.

1 Commissioner Rouleau, I have four points to make
2 in my introductory remarks.

3 The first is that I would like to introduce the
4 CCF. The CCF is a legal charity which is dedicated to defending
5 fundamental freedoms in Canada, particularly the freedom to
6 think, believe, and express controversial or dissenting ideas
7 and opinions.

8 The CCF would like to publicly express its
9 appreciation to you, Commissioner Rouleau, for granting it
10 standing before the Commission.

11 Second, the CCF sought standing to assist the
12 Commission because it will address questions that are core to
13 our mandate.

14 The emergency proclamation and emergency measures
15 regulations severely restricted the rights to freedom of
16 expression, assembly, and association. The economic -- the
17 emergency economic measures order chilled freedom of expression
18 by deterring donations to organizations opposed to the public
19 order emergency, such as the CCF.

20 For the CCF, the fundamental question is whether
21 the condition in the final clause of section 3 of the
22 *Emergencies Act* was met, that the Ottawa protests and border
23 blockades could not be effectively dealt with under any law --
24 any other law of Canada, federal, provincial, or municipal.

25 This clause codifies the requirement that the
26 *Emergencies Act* is a last resort, which can only be triggered
27 when all other legal tools fall short.

28 Third, although the Commission will necessarily

1 focus on recent events, a sense of history should frame how it
2 approaches this task.

3 The *Emergencies Act* is a successor to the
4 discredited *War Measures Act*, which was abused during the FLQ
5 crisis in Quebec. The *Emergencies Act*, especially the last
6 resort clause, was drafted to ensure that the Act could never be
7 used by a federal government against its political opponents.

8 For 34 years, the *Emergencies Act* was never used.
9 The public order emergency of 2022 was a historic first, but now
10 that the glass has been broken on the Act, it can be used again.

11 The Act was used by this government against
12 individuals protesting vaccine mandates, but a future government
13 of a different political stripe could use the Act in response to
14 protests against pipelines or climate change.

15 When the Commission asks hard questions about the
16 Act's use in 2022, the Commission must also focus on the Act's
17 potential misuse in the future and protect the right to protest,
18 parliamentary democracy, and federalism.

19 And what the Commission says matters not just to
20 Canada, but globally, where the use of emergency powers is on
21 the rise. The world will be watching our work.

22 Fourth, the CCF would like to thank
23 Commissioner Rouleau, and Commission Counsel for taking on this
24 enormous task of public service in an extremely tight timeline
25 on an issue of singular and momentous significance to Canada.
26 We look forward to assisting you in any way possible. Thank
27 you.

28 **COMMISSIONER ROULEAU:** Thank you.

1 Mr. Alford.

2 **PROF. RYAN ALFORD:** Good morning, Commissioner.

3 May I be heard?

4 **COMMISSIONER ROULEAU:** Yes, go ahead.

5 **--- OPENING REMARKS BY PROF. RYAN ALFORD:**

6 **PROF. RYAN ALFORD:** Thank you. Ryan Alford,
7 Professor of Law at the Bora Laskin Faculty of Law, Lakehead
8 University.

9 In its opening statement, the Government of
10 Canada stated it had a reasonable basis for declaring a Public
11 Order Emergency. Unfortunately, a reasonable basis is not
12 necessarily a legal, let alone a constitutional basis for
13 assuming unprecedented and destructive emergency powers.

14 I would like to briefly quote in part the correct
15 legal standard in these circumstances for threats to the
16 security of Canada that constitute a Public Order Emergency.

17 Quote:

18 "Activities within or relating to
19 Canada directed toward or in support of
20 the threat or use of acts of serious
21 violence..."

22 Not tied to serious acts of violence in some
23 fashion. Not in conjunction with, or somehow associated in some
24 fashion with. Rather, directed toward or in support of the
25 threat or use of acts of serious violence.

26 We are here to receive in public the evidence
27 from the Government of Canada related to the correct legal
28 standard for the proclamation of a Public Order Emergency, and

1 the rule of law requires nothing less.

2 Thank you, Commissioner.

3 **COMMISSIONER ROULEAU:** Thank you.

4 Next, if I could call on the Canadian Civil
5 Liberties Association.

6 **--- OPENING REMAKRS BY MS. CAFRA ZWIBEL:**

7 **MS. CAFRA ZWIBEL:** It's my job to be the comic
8 relief. So good morning, Mr. Commissioner, and good morning,
9 Commission Counsel, members of the public. My name is Cara
10 Zwibel, and I, along with my Ewa Krajewska, who is participating
11 remotely, are representing the Canadian Civil Liberties
12 Association.

13 We will be participating primarily remotely
14 starting next week, but do anticipate attending in person for
15 portions of the coming weeks, and we look forward to
16 participating in the fact-finding role of the Commission and
17 expect to play a particularly active role in the Commission's
18 policy phase and forward-looking functions.

19 The Canadian Civil Liberties Association, or
20 CCLA, is a national, independent, non-governmental organisation
21 that is dedicated to the protection and promotion of fundamental
22 rights and freedoms in Canada. The CCLA has been engaged in
23 this important work since its founding in 1964, and is known for
24 taking principled stands on difficult issues that require
25 reconciling fundamental rights with other competing interests.

26 The Commission is aware that the CCLA has sought
27 judicial review of the decision to declare a Public Order
28 Emergency, and argues that the Act's legal threshold was not

1 met, and that the emergency orders that were put in place by the
2 Government breached constitutional rights in a manner that was
3 not reasonable or justified.

4 The CCLA's interest in the Commission's work
5 comes from our concern about the use of emergency powers that
6 circumvent the parliamentary processes and allow the Executive
7 Branch to rule by fiat. It is a concern that has been around
8 for as long as the organisation has existed, and although the
9 excesses of the *War Measures Act* are now well understood, during
10 the FLQ Crisis itself, the CCLA was one of the lone voices
11 critical of the use of that law.

12 As a result of that experience, the organisation
13 participated actively in the process that led to the passage of
14 the current *Emergencies Act*. In particular, the CCLA encouraged
15 Parliament to build meaningful oversight and accountability
16 mechanisms into the *Act* and to require a high and judicially-
17 reviewable threshold for declaring a national emergency.

18 There are many issues that the Commission will be
19 examining which are central to CCLA's work, including the lawful
20 scope of the right to protest; the role of police in
21 facilitating protests while protecting public safety; the
22 relationship between policing authorities, civilian oversight
23 bodies and government actors; and the surveillance of those
24 involved in dissenting social movements.

25 More broadly, the CCLA's interest in the
26 Commission's work goes to the core of the organisation's
27 mandate, protecting the rights and freedoms of Canadians and
28 demanding transparency and accountability from our governments.

1 The CCLA views the Commission as an instrumental part of
2 achieving the goals of transparency and accountability, and our
3 participation in the Commission's proceedings will be aimed at
4 supporting those goals.

5 Thank you.

6 **COMMISSIONER ROULEAU:** Thank you.

7 And now I'd like to call on The Democracy Fund,
8 Citizens for Freedom, and JCCF Coalition, please.

9 **MR. ROB KITTREDGE:** Good morning, Commissioner.
10 If there is no objection, I'd like to call my colleagues up from
11 The Democracy Fund and Citizens for Freedom. We had all
12 prepared very brief introductions of ourselves and our
13 organisations, and should come in well under the time allotted
14 for a single party.

15 **COMMISSIONER ROULEAU:** I won't repeat the
16 comments I made earlier. I think you're well aware that from
17 now on it will be one presentation rather than three, and for
18 today I'll make the exception I made in the previous case. Go
19 ahead.

20 **MR. ROB KITTREDGE:** Absolutely. Thank you very
21 much.

22 **--- OPENING REMARKS BY MR. ROB KITTREDGE:**

23 **MR. ROB KITTREDGE:** I'm Rob Kittredge. I
24 represent the Justice Centre for Constitutional Freedoms. And
25 since 2010, the Justice Centre has defended the fundamental
26 rights of Canadians through *pro bono* litigation.

27 A team of Justice Centre lawyers were on the
28 ground in Ottawa for the duration of the protests here, and our

1 lawyers have been and continue to be involved in much of the
2 related litigation.

3 We look forward to continuing to defend the
4 rights and freedoms of Canadians here at this Inquiry and
5 holding the Government to account on its innovation of the
6 *Emergencies Act*. It likely comes as no surprise that we view
7 the invocation of the *Act* to have been an unjustified
8 infringement on the fundamental rights of Canadians.

9 I'm joined here today by my co-counsel James
10 Manson, and my co-counsel, Hatim Kheir is following online. We
11 will each be here in person at various times throughout the
12 Inquiry.

13 And I'll turn it over to my colleagues at The
14 Democracy Fund and Citizens for Freedom.

15 **COMMISSIONER ROULEAU:** Okay.

16 **--- OPENING REMARKS BY MR. ANTOINE D'AILLY:**

17 **MR. ANTOINE D'AILLY:** Thank you, and good
18 morning. My name is Antoine D'Ailly, counsel, together with
19 Amanda Armstrong, to Citizens for Freedom, representing a
20 not-for-profit organisation representing the interests and
21 perspectives of the peaceful demonstrators in Windsor, Ontario.

22 We are here to assist the Commission in
23 fulfilling its mandate, particularly its fact-finding function
24 as it relates to the protests that occurred in Windsor, which
25 culminated in the widely publicised demonstration near the
26 Ambassador Bridge, and the various corresponding responses by
27 the various levels of government and law enforcement.

28 Citizens for Freedom is here to advance the

1 interests of truth and transparency and to assist this
2 Commission in producing a balanced and accurate public record.

3 **--- OPENING REMARKS BY MR. ALAN HONNER:**

4 **MR. ALAN HONNER:** Good morning, Commissioner, and
5 good morning everyone. My name is Alan Honner, and I am the
6 litigation Director for The Democracy Fund.

7 The Democracy Fund is a registered charity and a
8 civil liberties organisation. As you've heard, we're sharing
9 standing with the JCCF and with Citizens for Freedom.

10 Our interest in this Inquiry arises from our
11 legal work. In February of 2022, we sent lawyers to Ottawa and
12 to Windsor to provide demonstrators with legal information about
13 their rights when protesting, as well as the limitations of
14 those rights. Around the same time, we were granted intervenor
15 status as a friend of the Court, at the Superior Court of
16 Justice in Windsor over the Ambassador Bridge injunction
17 proceeding.

18 Currently, we represent dozens of persons who
19 have been criminally charged in relation to the protests at
20 Ottawa, Windsor, and Coutts, and we represent thousands of
21 others who have been charged under the *Quarantine Act*, or
22 provincial offences related to the pandemic. We've also brought
23 applications between -- before superior courts and the Federal
24 Court of Canada challenging laws related to the pandemic.

25 Our objective is to participate in the fact-
26 finding process of this Inquiry, particularly as it relates to
27 uncovering the truth about why the Federal Government invoked a
28 Public Order Emergency and how they used their powers. From our

1 perspective, the Government did not meet the requisite legal
2 grounds to invoke a Public Order Emergency for the same reasons
3 you heard from Counsel for the Freedom Corp. It follows that
4 the extraordinary measures the government invoked were therefore
5 inappropriate and indeed outside their jurisdiction. Our
6 questions and our submissions will focus on these central
7 issues. Thank you.

8 **COMMISSIONER ROULEAU:** Okay. Thank you very
9 much.

10 Now I understand there are three other parties to
11 the proceedings who have, in some cases, more limited
12 involvement and interest in the proceedings, either for mostly
13 the policy end, so -- and they're not present today either in
14 person or by video, as I understand it. They would be the
15 Government of Manitoba, which I referred to earlier, as well as
16 the Canadian Association of the Chiefs of Police and the
17 Insurance Bureau of Canada. So that -- with those three, that
18 makes up the roster, if you like, of parties with standing.

19 I want to just first say I'm grateful to the
20 parties for the assistance that they have given the Commission
21 to date and for what I hope will be continued assistance.
22 Anyone who had the illusion that this would be easy and
23 uncontroversial, I think the presentations have started to lay
24 out some of the differences and issues. It's a challenge, but
25 it's one which the Commission is eager to take on.

26 Ça nous fait certainement plaisir d'avoir toutes
27 ces différentes parties qui ont le statut de présenter devant la
28 Commission et il y a certainement bien des points de vue, mais

1 tous les points de vue sont bienvenus pour essayer de composer
2 avec tous les problèmes, les questions pour en arriver à une
3 solution, et la Commission est vraiment heureuse de relever le
4 défi.

5 So with that brief introduction of the parties, I
6 think we'll now turn to the beginning of what I will call the
7 evidentiary phase, and the first is more through the
8 presentation, as you've heard, as I understand it, of the
9 various reports. So I'll turn it over to Commission Counsel now
10 to take us to the next step.

11 **MS. SHANTONA CHAUDHURY:** Thank you, Commissioner.

12 To begin, I would ask our senior Commission
13 Counsel, Daniel Sheppard, to present and adduce into evidence an
14 overview report on the emergence of COVID-19 and the various
15 Public Health measures implemented in Canada in response to it.

16 **--- OVERVIEW REPORT ON EMERGENCE OF COVID-19 AND VARIOUS PUBLIC**
17 **HEALTH MEASURES IMPLEMENTED IN CANADA PRESENTED BY MR. DAN**
18 **SHEPPARD:**

19 **MR. DAN SHEPPARD:** Mr. Commissioner, parties,
20 members of the public, good morning. My name is Daniel
21 Sheppard. I am senior Commission Counsel with the Public Order
22 Emergency Commission.

23 Today, we will be introducing into evidence three
24 overview reports, and we anticipate that additional overview
25 reports will be put into evidence in the days and weeks to
26 follow. The first is a report on the COVID-19 pandemic and
27 Public Health responses.

28 Next slide, please.

1 Because we're going to be spending some time
2 today putting overview reports into evidence, I'd like to take a
3 moment to discuss with members of the public what an overview
4 report is and how it works within the Commission. You have
5 already heard that the timelines that the Commission is working
6 under are tight, and that not every witness that the Commission
7 might hear from will, in fact, be called. There are large
8 bodies of evidence that exist often in writing and entire topics
9 that need to be explored by the Commission, but it would be
10 impracticable to call live evidence in order to put it before
11 the Commissioner.

12 Previous commissions of inquiry have adopted the
13 procedure of overview reports, documents created by Commission
14 staff that collect, correlate and summarize large bodies of
15 information into documents that may be more or less concise, so
16 that they can be reviewed by the Commissioner, the parties and
17 the public to understand a particular area of relevance to the
18 Commission.

19 The Public Order Emergency Commission has adopted
20 this procedure. And for those who are interested in technical
21 details about how overview reports work, reference can be made
22 to Rules 41 through 45 of the Commission's Revised Rules of
23 Practice and Procedure.

24 I've mentioned that overview reports are created
25 by Commission Counsel. After they are prepared, they have been
26 circulated to the parties and we've invited their comment. And
27 for those parties who have provided comment to the overview
28 reports so far, I would like to express the thanks of the

1 Commission. While not all comments have been accepted or
2 necessarily reflected in finalized overview reports, the
3 feedback that has been provided has been invaluable in ensuring
4 that the Commission puts forward what it believes are high-
5 quality documents before the Commissioner that he can rely upon.

6 Once overview reports have been finalized and are
7 introduced, they do become evidence before the Commission that
8 may be relied upon by the Commissioner and the parties.
9 However, it is important to note that simply because an overview
10 report has been prepared by Commission Counsel does not mean
11 that the Commissioner necessarily will accept its contents.
12 Rather, an overview report is, like all other evidence,
13 information before the Commissioner that he may or may not
14 choose to rely on. This means that parties are free to disagree
15 with the content of an overview report and are entitled to
16 challenge its contents. Moreover, in areas where an overview
17 report may not capture relevant information, parties and indeed
18 Commission Counsel are free to supplement the information
19 contained in them through the ordinary process of the factual
20 inquiry.

21 Next slide, please.

22 With that general introduction out of the way, I
23 would now like to present COM.OR.2, the COVID-19 Pandemic and
24 Public Health Responses.

25 This overview report summarizes publicly
26 available information about the COVID-19 pandemic around the
27 world and in Canada. The Commission anticipates that a great
28 deal of evidence that it will be hearing will be made in

1 reference to the pandemic and public health measures implemented
2 by various Canadian authorities. This overview report attempts
3 to provide context so that when those discussions take place and
4 that evidence is heard, the Commissioner, the parties and the
5 public have a factual background to understand what public
6 health measures were in fact in place and what statements about
7 the current public health system around the world and the
8 pandemic were at different points in time. It therefore
9 provides information not only about the pandemic itself and
10 about public health measures, it also provides information about
11 vaccine development and particular measures adopted by Canadian
12 governments in different jurisdictions with respect to COVID
13 vaccines.

14 Next slide.

15 The overview report contains essentially four
16 components. The first, which is found at paragraphs 1 through
17 39 of the overview report deals specifically with the emergence
18 of the COVID-19 pandemic. It does so in two ways. First, it
19 provides a summary overview of international information about
20 the spread of COVID-19 around the globe, and then second,
21 provides background information about the emergence of COVID-19
22 in Canada.

23 Next slide.

24 On the international side of things, this
25 overview report provides information about the original
26 emergence of a novel coronavirus in late 2019 and its rapid
27 spread throughout the world. It also provides background
28 information about public health declarations and surveillance

1 conducted by organizations, most notably, the World Health
2 Organization. This includes the January 30, 2020 declaration of
3 COVID-19 as a public health emergency of international concern
4 and the March 11th, 2020 declaration by the World Health
5 Organization of COVID-19 to be a global pandemic.

6 Next slide, please.

7 In Canada, this Overview Report discusses two
8 main timelines.

9 First it deals with when COVID-19 first emerged
10 in different provinces across the country. With the exception
11 of early provinces, such as Ontario and British Columbia, and
12 the Territory of Nunavut, which was spared any infections until
13 later in 2020, the Overview Report notes that most provinces
14 began to be impacted with infections in later February, through
15 mid-March.

16 This Overview Report also outlines when each
17 province and territory first declared a state of emergency under
18 a variety of public health and emergency management statutes in
19 respect of COVID-19.

20 You'll note from the slide that each of these
21 jurisdictions declared some form of emergency throughout March
22 of 2020.

23 Next slide, please.

24 The second part of this Overview Report, which is
25 found at paragraphs 40 through 108, deals with what we term as
26 the initial public health measures.

27 Next slide, please.

28 Spanning pages 16 through 50 of the Overview

1 Report, this is a lengthy section, but notwithstanding its
2 length, it's important for Commission Counsel to emphasize this
3 is not a comprehensive list of every public health measure that
4 was implemented within Canada. Rather, it is limited in a
5 couple of different ways.

6 First, this Overview Report focuses on public
7 health measures that were adopted from the early declarations of
8 emergency in March 2020, up until the point in time when covid
9 vaccines began to be approved for distribution and marketing in
10 Canada.

11 Secondly, this section of the Overview Report
12 focuses almost exclusively on public health measures adopted by
13 governments at the provincial and territorial level. Notably,
14 it does not address public health measures adopted by other
15 levels of government, such as municipalities or Indigenous
16 governments.

17 Finally, even within those confines, the Overview
18 Report does not attempt to outline each and every public health
19 measure adopted within the first year of the pandemic. That
20 would be impossible and would turn the Overview Report into a
21 largely useless document.

22 To put this in context, in Ontario, the
23 jurisdiction where I live, in the first year of the COVID-19
24 pandemic, the Provincial Government adopted over 200 orders in
25 council specifically dealing with measures in respect to the
26 pandemic.

27 And while I have had the pleasure of reading each
28 and every one of them, it would not necessarily be the best use

1 of the Commission's time to go over them in an Overview Report.

2 Instead, this Overview Report focuses on six
3 particular types of public health measures that were adopted
4 broadly throughout Canada, and had significant impacts on the
5 way Canadians live their lives.

6 This includes restrictions on travel, both in
7 terms of barriers to entering provinces and territories, or
8 requirements to self-isolate, school closures and other types of
9 closures impacting early childcare, limits on gatherings of
10 persons, both in terms of public assemblies and private
11 gatherings, both indoors and outdoors, closures of businesses
12 and other locations, such as the shut down of indoor dining or
13 prohibitions on use of outdoor recreational amenities, curfews
14 and stay at home orders, measures that while adopted less
15 frequently throughout Canada, did have significant impacts by
16 restricting individuals' rights to leave their home during
17 particular periods or times of the day, and finally masking
18 requirements, obligations imposed on individuals to wear face
19 coverings in a variety of settings.

20 Next slide.

21 The third portion of this Overview Report deals
22 with vaccine approvals in Canada. It is found in paragraphs 109
23 through 123 of the Overview Report.

24 This section of the Overview Report deals with
25 two broad issues. First, the Overview Report discusses the
26 process whereby vaccines were considered and approved by Health
27 Canada.

28 Second, it deals with the actual approvals that

1 were in fact made and the vaccines that became available at
2 different points in time for marketing and use.

3 Next slide, please.

4 With respect to the drug approval process, the
5 Overview Report discusses, in very general terms, how drug
6 approval operates within Canada, under the Food and Drug
7 Regulations, a regulation that is made pursuant to the *Food and*
8 *Drugs Act*.

9 Under the *Food and Drugs Act*, however, the
10 Minister of Health has the authority, in section 30.1, to make
11 something referred to as an interim order. And interim order
12 can be made, this is the statutory language:

13 "...if the Minister believes that immediate
14 action is required to deal with a
15 significant risk, direct or indirect, to
16 health, safety or the environment."

17 The overview report discusses that on September
18 16th of 2020, the Minister of Health made one such interim order
19 with respect to COVID-19 vaccines. The interim order respecting
20 the importation, sale, and advertising of drugs for use in
21 relation to COVID-19 contained a number of rules that were
22 followed by Health Canada in the assessment and ultimate
23 approval of a series of COVID-19 vaccines.

24 Two procedural characteristics of the interim
25 order are of particular note. The first is the rolling
26 application process.

27 In the ordinary drug approval process, Health
28 Canada expects proponents to put forward all relevant clinical

1 information at the time an application is made. Under the
2 interim order, Health Canada allowed for rolling applications,
3 permitting drug companies to provide initial clinical
4 information at the time of an application, but to continue to
5 provide additional information as the application was assessed,
6 and prior to final approval.

7 The second procedural alteration was pre-
8 positioning, a measure that permitted the importation of drugs
9 and its positioning throughout Canada so that in the event a
10 vaccine were approved, doses would already be located at several
11 locations throughout the country.

12 At this point, I'd like to pause to note that on
13 March 17th of 2021, the interim order expired. At that time, the
14 Government of Canada made amendments to the Food and Drug
15 Regulations to incorporate some aspects of the interim order
16 into the ordinary regulatory regime.

17 Next slide, please.

18 The interim order also set out the approval
19 standard for the Minister of Health to apply when approving
20 drugs for use with COVID-19.

21 The standard and relevant part was that the
22 Minister had to have sufficient evidence to support the
23 conclusion that the benefits associated with the drug outweigh
24 the risks, having regard to the uncertainties relating to the
25 benefits and risks and the necessity of addressing the urgent
26 public health need related to COVID-19.

27 Applying this standard, Health Canada approved a
28 series of drugs for use within Canada. By today, there are

1 currently six drugs that have gone through the approval process
2 that began December 9th of 2020 and most recently occurred on
3 February 24th, 2022 with a drug put forward by the company,
4 Medicago.

5 Next slide, please.

6 The fourth and final section of this Overview
7 Report deals with public health measures specifically related to
8 vaccines and it can be found at paragraphs 124 through 180 of
9 the Overview Report.

10 Next slide.

11 Once again, the Overview Report does not need to
12 be entirely exhaustive. The purpose of this section of the
13 Overview Report is to identify certain key public health
14 measures that were specifically tied to individuals' vaccination
15 status.

16 The focus of this section of the Overview Report
17 is on rules imposed by governments, rules imposed by other types
18 of actors, such as employers of their own accord, are not
19 specifically dealt with in the overview report.

20 Much like the section dealing with early public
21 health measures, the Commission has also focused on a particular
22 subset of public health measures connected to vaccine status.

23 It is focussed on access to places, requirements
24 for work, and limits on travel and movement. Next slide.

25 With respect to access to places, this overview
26 report discusses a range of rules implemented by government that
27 tied an individual's ability to access a particular place, venue
28 or service to their vaccine status or their willingness to

1 provide proof of their vaccine status. Within this section, the
2 Commission notes that there were a range of different types of
3 public health measures adopted by different governments.

4 So to simply provide an example to show some of
5 the ranges of options adopted by governments, Alberta
6 implemented something called the Restrictions Exemption Program
7 in September of 2021. At this point in time, many types of
8 businesses in Alberta were subject to particular forms of public
9 health measures, such as masking requirements, limits on the
10 number of people who could be physically present in a venue, or
11 social distancing obligations. Under the Restrictions Exemption
12 Program, certain types of businesses had an option. They could
13 continue to operate under the pre-existing public health orders,
14 or they could opt into this system, which would relieve them of
15 the obligation to comply with several of them. However, in
16 order to participate in the Restrictions Exemption Program,
17 qualified businesses were required to check vaccine status of
18 those attempting to access their venues, and to confirm that
19 individuals were fully vaccinated.

20 A different type of approach was adopted in
21 Ontario pursuant to originally Regulation 645/21, though amended
22 several times thereafter. Under this approach, the Government
23 of Ontario imposed mandatory obligations on businesses to
24 require that anyone accessing their premises show proof of full
25 vaccination. There were no opt-outs that were provided.

26 Next slide, please.

27 The overview report also deals with a number of
28 measures related to employment and work. In this area,

1 governments adopted a range of different rules and measures that
2 linked individual's ability to engage in certain types of work
3 to their vaccine status. These measures were adopted in a
4 variety of different ways. Some were applicable solely to the
5 public sector, others captured private sector employers as well.
6 Some measures applied directly to workers, other measures
7 applied to employers and required them to implement particular
8 policies. And the requirements under different programs varied
9 dramatically. Some were simple obligations on workers to become
10 vaccinated to access workplaces and others provided a variety of
11 alternatives.

12 Again, solely by way of example, we've provided
13 two on this slide. The Saskatchewan Government adopted a pair
14 of regulations. The Public Employer's COVID-19 Emergency
15 Regulations and the Employer's COVID-19 Emergency Regulations.
16 The former imposed an obligation on all public sector employers
17 to implement policies. These policies required their employees
18 to either become fully vaccinated by a particular point in time,
19 or else to undergo weekly testing in order to access the
20 workplace. The latter regulation applied to the private sector.
21 It imposed no specific obligation on employers, but did give
22 employers the legal authority to impose this type of policy on
23 their workforce.

24 As a contrast, the Commission has put on this
25 slide Newfoundland's approach in its mandatory vaccination
26 policy. This policy, which was applicable to public servants as
27 well as contractors and vendors with the government required
28 workers to become fully vaccinated by December 17th of 2021.

1 Those individuals who chose not to become vaccinated by that
2 date were told pursuant to the policy that they could be placed
3 on a leave of absence without pay.

4 Next slide. Thank you.

5 The third and final area of focus in the overview
6 report in this section deals with travel and movement. While
7 some provinces and other jurisdictions imposed rules with
8 respect to travel and movement that were connected to
9 individual's vaccine status, the bulk of rules in this area were
10 implemented by the federal government under a range of statutes,
11 including transportation legislation, such as the *Railway Safety*
12 *Act* and the *Aeronautics Act*, and also, and of particular
13 significance to the evidence that we anticipate hearing in this
14 inquiry, pursuant to the *Quarantine Act*.

15 As many may remember, for much of the early days
16 of the COVID-19 pandemic in Canada, Canada's borders were
17 largely closed to foreign nationals who were attempting to enter
18 for optional or discretionary purposes. However, starting
19 between August 9th and September 7th of 2021, Canada began to
20 implement rules permitting individuals to enter the country for
21 optional or discretionary purposes, as long as they were able to
22 show proof of being fully vaccinated. However, these were rules
23 that were targeting optional and discretionary entry into
24 Canada. A different set of rules were applicable to individuals
25 seeking to enter Canada for what might be termed as essential
26 purposes.

27 The rules were contained in a variety of orders
28 under the *Quarantine Act* and were often applicable in a somewhat

1 however, they would no longer be exempted from particular public
2 health measures such as the requirement to quarantine.

3 On January 12th of 2022, a spokesperson with the
4 Canadian Border Services Agency announced that, in fact,
5 unvaccinated Canadian commercial truckers would be allowed to
6 enter Canada across international borders without the obligation
7 to quarantine. However, the next day on January 13th, the
8 Government of Canada indicated that that statement was made in
9 error. The Government reiterated that the previously announced
10 new measures at the border that would apply, including to
11 commercial truckers, though not exclusively, would come into
12 effect on January 15th.

13 And that is essentially where the overview report
14 ends. As the Commission anticipates that a great deal of the
15 evidence that it will hear will deal with events taking place in
16 early and mid-January of 2022, influenced in part by some of the
17 measures outlined in this overview report.

18 Next slide.

19 For parties with standing at the Commission, this
20 overview report is available for review in the participant
21 database. For members of the public who wish to learn more
22 about the topic covered in this overview report, it will shortly
23 be made available on the website for the Commission at
24 www.publicorderemergencycommission.ca.

25 Mr. Commissioner, parties, members of the public,
26 I thank you for my time. That is the presentation on this
27 overview report.

28 **COMMISSIONER ROULEAU:** Thank you, Mr. Sheppard.

1 I wonder is it appropriate at this point to mark that as the
2 first exhibit?

3 **MR. DAN SHEPPARD:** We would ask that to be done.

4 **COMMISSIONER ROULEAU:** Okay.

5 So Madam Registrar, could you enter the overview
6 report as -- I take it it's Exhibit 1?

7 **THE REGISTRAR:** Yes.

8 **COMMISSIONER ROULEAU:** Okay, so that will be
9 marked as Exhibit 1. Thank you very much.

10 **MR. JEFFREY LEON:** Thank you, Commissioner. The
11 next presentation will be made by Commission Counsel, Stephen
12 Armstrong, who will present into evidence a second overview
13 report entitled Early Protests, Activities, and Legal Challenges
14 Relating to Public Health Measures.

15 **COMMISSIONER ROULEAU:** Go ahead.

16 **--- OVERVIEW REPORT: EARLY PROTESTS, ACTIVITIES, AND LEGAL**
17 **CHALLENGES RELATING TO PUBLIC HEALTH MEASURES PRESENTED BY MR.**
18 **STEPHEN ARMSTRONG:**

19 **MR. STEPHEN ARMSTRONG:** Good afternoon,
20 Commissioner, Counsel, members of the public. My name is
21 Stephen Armstrong, and I am Commission Counsel.

22 I'm here today to present the overview report on
23 early protest activities and legal challenges. This overview
24 report summarises a sample protests and legal challenges
25 relating to public health measures taken in response to the
26 COVID-19 pandemic, and the timeframe is primarily 2020 and 2021,
27 although we'll also touch on 2019 and 2022.

28 This report is intended to provide some high

1 level context to the very detailed evidence that we will hear in
2 the coming weeks. What this report describes is the development
3 over time of what could fairly be described as a mass protest
4 movement against COVID related public health measures.

5 The intent of this overview report is not to
6 investigate the merits or demerits of any particular measure or
7 of any particular protest. The report also addresses some of
8 the legal challenges brought against these public health
9 measures, and again it's not an investigation into the merits or
10 demerits of any piece of litigation.

11 Let me also say a few words on methodology. This
12 report was compiled based on publicly available news sources
13 that are indexed in the internet. We made a real effort to
14 search for a variety of sources, and we tried to cover all of
15 the regions in Canada. And given that broad scope, this
16 overview report is not an exhaustive catalogue of all protests
17 or all court challenges, and the absence of any event should not
18 be taken as a suggestion by the Commission that it's irrelevant
19 or less relevant. We've also made an effort in this report to
20 just stick to the facts, the raw facts, the places, the dates,
21 and numbers without any extra colour.

22 So without further ado, I'm going to move through
23 the report in chronological order. So I'll start at the
24 beginning.

25 Pages 5 to 6 of the report address a precursor
26 event called the United We Roll convoy. On February 14th, 2014,
27 a convoy of truckers known as United We Roll left Red Deer
28 Alberta bound for Ottawa to protest the Federal Government's

1 energy policies. Around 170 trucks of varying sizes left Red
2 Deer as part of the convoy.

3 Arriving in Ottawa on February 19th, 2019, the
4 convoy participated in two days of demonstrations on or around
5 Parliament Hill before dispersing. A Facebook page remains
6 active. Although focussed on energy policy, the page still
7 makes posts and has made posts in support of the Freedom Convoy
8 in 2022.

9 So turning to pages 6 to 10 of the overview
10 report, this addresses the beginning of the protests movements
11 in March 2020 to December 2020. And my colleague, Mr. Sheppard,
12 already discussed the onset of COVID and the public health
13 measures that were taken, and protests began pretty soon after
14 those public health measures were adopted. There were protests
15 reported in -- from major centres, such as Toronto, Vancouver,
16 Edmonton, Calgary, Winnipeg, Saskatoon and Ottawa in April of
17 2020, and eventually we saw the beginnings of what appeared to
18 be sort of loosely coordinated national protests by the summer.

19 And so on, for example, July 19th, 2020, protests
20 were held in cities all across Canada, and it was reported that
21 these were part of a coordinated march to unmask movement
22 opposed to mandatory masking. And momentum seemed to have grown
23 or seems to grow from there as the protests grew in scale.

24 On September 12th, 2020, for example, it was
25 reported that several thousand people turned out to protest mask
26 mandates and other measures in Montreal. As another example, in
27 October of 2020, protestors rallied against lockdowns and other
28 public health measures in Downtown Toronto, and it was reported

1 that around 1,500 people were in attendance.

2 And these protests were by no means limited to
3 the big centres in Canada. For example, on November 7th, 2020,
4 as many as 2,000 people marched through Aylmer, Ontario to
5 protest public health measures, and it was reported that the
6 protestors included many people from the town's large religious
7 communities.

8 And moving towards the end of the year, just
9 another example, on December 19th, 2020, hundreds of people
10 marched through Calgary, and as well through Montreal, and CTV
11 News reported from Montreal that the protestors were marching in
12 opposition to public health measures introduced by the Quebec
13 Government.

14 So turning to pages 10 to 28 of the overview
15 report, this addresses events as they continue through 2021.
16 And at the beginning of the year, Quebec had introduced a
17 curfew, and it was reported that protests were held that same
18 day, January 9th, 2021, in Montreal, Sherbrooke, and Quebec
19 City. Protests were also reported in January and February in
20 Moncton and Halifax, and as well, across the country. And these
21 protests really seemed to pick up speed and reach a crescendo in
22 the fall of 2021, overlapping with the federal election of that
23 year.

24 As well, in 2021, of course as my colleague
25 mentioned, was around the time that mass vaccinations became
26 available. So new measures were introduced, and protests
27 continued in response to those new measures surrounding
28 vaccination.

1 And so going to the fall. From August 30th to
2 September 5th, 2021, protestors demonstrated against vaccine
3 mandates outside hospitals in major urban centres all across
4 Canada, including St. John's, Newfoundland, Montreal, Ottawa,
5 Winnipeg, Victoria, and Vancouver. Thousands of people were
6 reported to come out and attend these protests right across the
7 country. And the next weekend as well, on September 13th, 2021,
8 protestors demonstrated across the country, including at Toronto
9 General Hospital, and in Barrie, and London, Ontario, and
10 various places across the country. And this was part of the
11 protests organised by the Canadian Frontline Nurses.

12 And then moving into the later part of the year
13 is when the border measures for truckers and for other persons
14 were announced in November, as my colleague discussed. As well,
15 in November, Canadian Border Service Agency officers stopped a
16 truck driver by the name of Brigitte Belton at the
17 Windsor/Detroit crossing for failing to wear her mask, and she
18 posted a video discussing the event on TikTok, and in the event
19 she voiced frustration and emotion with the public health
20 measures. She would later connect with Chris Farber on social
21 media, and these people played a role in organising the convoy
22 to Ottawa.

23 So further protests continued into December 2021
24 and the New Year, and in the report, from pages 29 to 32, we
25 provide a very basic skeleton of certain events leading up to
26 the arrival of the Freedom Convoy in Ottawa in January of 2022.

27 And so -- and it's in January of 2022, that we
28 see the development of the Freedom Convoy idea and its launch.

1 On January 13th, 2022, Chris Barber, Brigitte
2 Belton, James Bauder, and others attend the Facebook Live event
3 hosted by Pat King. The group discussed routes and logistics
4 with the Freedom Convoy before an audience that reportedly
5 reached 3,000 viewers at one point.

6 On January 14th, 2022, Tamara Lich created a
7 Facebook page and GoFundMe campaign for the Freedom Convoy.

8 On January 22nd and 23rd, 2022, contingents of the
9 Freedom Convoy departed from various points in British Columbia
10 for Ottawa, and two other convoy contingents were planned to
11 depart from Enfield, Nova Scotia, and Windsor later on in
12 January, on the 27th.

13 As of January 5th, 2022, the GoFundMe campaign had
14 raised more than \$4.5 million. News reports covered the
15 progress of the convoy on a daily or near-daily basis as it
16 crossed the country. Thousands of trucks and thousands of
17 participants were reportedly participating in the convoy as it
18 made its way to Ottawa.

19 Freedom Convoy participants arrived in Ottawa on
20 or around January 28th and 29th, 2022, and that takes us up to the
21 subject matter of this hearing, and we anticipate that further
22 evidence on the origins, development of the Freedom Convoy, the
23 protest, and blockades will be adduced during these hearings.

24 So Mr. Commissioner, that's the Overview Report.

25 **THE COMMISSIONER:** Thank you. I take it this
26 should be the next exhibit, Exhibit 2.

27 **MR. STEPHEN ARMSTONG:** Sir.

28 **THE COMMISSIONER:** Yeah. Okay, thank you.

1 Madam Registrar, this will be marked as Exhibit
2 2.

3 **THE COMMISSIONER:** Okay. Next.

4 **MS. SHANTONA CHAUDHURY:** Thank you, Commissioner.

5 I'd now like to ask our Senior Commission
6 counsel, Dan Sheppard, to present an Overview Report consisting
7 of a timeline of key events leading up to the invocation of the
8 *Emergencies Act*.

9 **--- OVERVIEW REPORT ON TIMELINE AND CERTAIN KEY EVENTS PRESENTED**

10 **BY MR. DAN SHEPPARD:**

11 **MR. DAN SHEPPARD:** Hello, everyone, long time, no
12 see.

13 My name is Dan Sheppard, and I'm Senior
14 Commission Counsel with the Public Order Emergency Commission,
15 this time to present an Overview Report entitled, "Timeline of
16 Certain Key Events".

17 Next slide, please.

18 This is COMMOR00000004.

19 The purpose of this Overview Report is somewhat
20 different than the other ones that have been produced by the
21 Commission. Whereas other Overview Reports are being put
22 forward primarily as a means by which individuals can understand
23 background information that's relevant to the evidence that's
24 going to be heard, this Overview Report is intended to just
25 serve more as a tool.

26 It'll become fairly clear, as evidence gets heard
27 in these proceedings, that events were taking place across the
28 country, often within compressed rapid timeframes, often in

1 different parts of the country, in parallel. As individuals
2 hear evidence about particular events, it may be useful to be
3 able to step back and take a broader view about what was
4 happening Canada-wide. This Overview Report is intended to
5 therefore serve as something of a reference tool to help put the
6 evidence that will be heard in its chronological and spatial
7 context.

8 You've heard me say, with respect to the last
9 Overview Report that I presented, these are not exhaustive.
10 This is very true for this Overview Report.

11 If this Overview Report were to recount every
12 relevant event that took place throughout the events leading up
13 to the proclamation of a public Order of Emergency, then the
14 bulk of the Commission's report would already be written. This
15 is necessarily a highly reduced timeline that deals with only
16 some events that may be useful for participants and members of
17 the public to have in mind when they hear the evidence that will
18 be put before the Commissioner.

19 I want to emphasize, therefore, that the absence
20 of any particular event from this timeline is not a signal that
21 the information is in any way less relevant or irrelevant.
22 Rather, these are only some of the events that the Commission
23 thought would be useful to be contained in a single document
24 before all the parties, and available to the public.

25 Next slide.

26 So as a timeline, it is unsurprisingly organized
27 chronologically. Within that chronological organization, the
28 events are also subdivided by either location, when we're

1 dealing with an event that took place in a particular space; or
2 by jurisdiction, when we're dealing decisions that are more
3 appropriately tied to a particular type of authority, like a
4 level of government. The idea is that this will permit the
5 reader to get a rapid sense of where different events were
6 taking place simultaneously in different locations.

7 It's also important to note, as you read the
8 Overview Report, that the actual events that are being
9 identified are set out in very succinct and neutral terms. The
10 purpose of the Overview Report is not to provide detailed
11 information about any particular event; but rather to flag the
12 existence of an event. The Commission anticipates that evidence
13 will be heard on most, if not all, of the events identified in
14 this Overview Report.

15 In terms of the report's scope, it captures the
16 period beginning November of 2021 ,and ending in April of 2022.
17 However, the focus of the timeline really are events that take
18 place between January 13th and February 24th of 2022. While the
19 time periods before and after are covered to a certain degree,
20 it is within that narrower timeframe where the Overview Report
21 provides something of a day-by-day account of events that were
22 taking place throughout Canada.

23 Next slide.

24 Now, we are a little bit ahead of schedule, and
25 so I'm tempted to simply read the Overview Report into evidence,
26 but, again, I'm not sure parties would necessarily enjoy that.
27 And so instead I'm going to take what I've already told you is a
28 already non-exhaustive list of events and make it a little bit

1 less exhaustive by just pointing out some of the events that are
2 actually covered, divided into some rough timeframes.

3 I mentioned that the Overview Report does begin
4 in 2021 with some things we could style, "Pre-convoy events";
5 this would include, for example, what Mr. Armstrong had already
6 discussed in terms of posts on social media that attracted
7 particular attention with respect to public health measures and
8 border crossings; what I had previously discussed with respect
9 to the last Overview Report, in terms of government
10 announcements relating to border measures and public health
11 measures; as well as, to some predecessor protests and events
12 that may be relevant to the circumstances leading to the
13 proclamation of a Public Order Emergency, such as the Operation
14 Bear Hug Convoy that took place in Ottawa in early December of
15 2021.

16 Next slide.

17 The Overview Report goes on to discuss what could
18 be styled as convoy preparation, both in terms of those
19 individuals involved in the convoy itself, but also preparation
20 taking place by other actors throughout Canada. This includes
21 the events that Mr. Armstrong has already referred to, in terms
22 of meetings taken online between different organizers.

23 We also see, on January 13th, 2022, the first time
24 that the phrase, "Freedom Convoy" is mentioned in a Project
25 Hendon Report. The Commission anticipates that it will hear a
26 fair bit of evidence with respect to Project Hendon; what it
27 was, what these reports were, what they contained, and how they
28 were shared and acted upon.

1 Many parties have made reference to crowdfunding,
2 and the funding of protest activities. The Overview Report also
3 talks about certain actions taken with respect to efforts by
4 organizers to raise funds in support of the Freedom Convoy, such
5 as the January 14th creation of the Freedom Convoy 2022
6 crowdfunding campaign on the GoFundMe platform.

7 The Overview Report also then discusses the
8 actual departure of convoy participants from locations across
9 Canada, and what different individuals were doing in terms of
10 responding to that, including communications within governments
11 and police services.

12 Next slide.

13 The next portion of this Overview Report deals
14 with the early protests taking place in Ottawa, and a series of
15 events occurring simultaneously in other parts of the country.

16 On January 28th of 2022, convoy participants began
17 to arrive in the City of Ottawa, and at the same time, levels of
18 government began to respond, including the Government of Ontario
19 making requests for federal assistance, for access to certain
20 spaces to be used for police station. It's during this period
21 of time in which the overview report also identifies the
22 emergence of protests at various locations along the Canada/U.S.
23 border and in other major jurisdictions within the country,
24 including provincial capitals. It covers early protests taking
25 place in the City of Windsor that were styled as slow-roll
26 protests designed to impede, although not block, traffic; a
27 blockade that took place near Coutts, Alberta; and other
28 protests in provincial capitals where individuals and vehicles

1 protested a variety of public health measures. These events
2 were largely public.

3 The overview report also captures certain events
4 that, while significant to the circumstances leading to the
5 proclamation of a public order emergency, were not taking place
6 in the public eye. Events such as the January 30th creation of
7 the Freedom 2022 Human Rights and Freedoms non-profit
8 corporation and briefings taking place within municipal
9 government, discussing the possibility of seeking injunctions in
10 response to protest activities.

11 Next slide, please.

12 Moving into February, this overview report deals
13 with what we can style the protest continue and spread, as the
14 Ottawa protests continue, to the surprise of some, and protests
15 taking place in other parts of the country expand and become
16 more frequent. Events that are summarized in this part of the
17 overview report include highly notorious events such as the
18 release of \$1 million by GoFundMe, comments made by the Ottawa
19 Chief of Police with respect to policing solutions for the
20 Ottawa protests, and changes in the Coutts border blockade. It
21 also deals with an increasing number of protests taking place
22 now in locations such as Toronto, Winnipeg and Regina.

23 Also canvassed during this period of time are
24 continued interactions between federal, municipal and provincial
25 governments, such as the Government of Alberta's request for
26 federal assistance to gain access to military tow trucks to be
27 used in the context of the Coutts' protests. And finally, with
28 respect to Windsor, it captures the February 7th blockage of the

1 Ambassador Bridge.

2 Next slide, please.

3 Moving into mid-February, this timeline deals
4 with how protests continued and the emergence of new responses
5 from a variety of actors. Examples of this were the February 7th
6 injunction obtained by class action litigants in the City of
7 Ottawa designed to prevent the honking of horns by truckers, the
8 arrival of an integrated planning team that brought OPP and RCMP
9 planners to the City of Ottawa. It dealt with requests for
10 federal assistance by governments such as the Government of
11 Windsor. And responding to some of the previous events with
12 respect to online crowd funding, it also reviews steps taken by
13 the Government of Ontario to restrain access to those funds as
14 proceeds of crime.

15 Notably in this period, this overview report also
16 notes the first meeting of the Incident Response Group, or the
17 IRG. The Commission anticipates that the Commissioner will hear
18 a great deal of evidence on what the IRG is and the particular
19 role it played in federal decision making with respect to the
20 declaration of a public order emergency.

21 Next slide, please.

22 The overview report then moves to February 13th
23 and 14th being the immediate period of time before the
24 declaration of a public order emergency and the actual decision
25 itself to invoke the *Emergencies Act*. It covers events taking
26 place in Windsor and in Coutts, and also deals with both key
27 meetings that took place at the federal level and between
28 different levels of government.

1 Next slide, please.

2 The overview report then goes on to recount
3 events that take place during the proclaimed public order
4 emergency and the events leading up to the revocation of that
5 proclamation. This includes changes in the senior leadership at
6 the Ottawa Police Service, the creation of the Emergency
7 Measures Regulations, the EMRs, and the Emergency Economic
8 Measures Order, or the EEMO, pursuant to the *Emergencies Act*,
9 the clearance of blockades at Emerson, and the influence of
10 further injunctive activity before the courts.

11 Finally, this section of the overview report
12 chronicles parliamentary debates and the ultimate decision to
13 revoke states of emergency that existed at the federal,
14 provincial and municipal levels.

15 Next slide, please.

16 Again, for the parties, this overview report is
17 available within the participant database, and for members of
18 the public who wish to have this before them as a tool as they
19 listen to the evidence throughout these hearings, this overview
20 report will soon be available on the Commission's website.

21 And, Mr. Commissioner, I would ask that this
22 overview report be marked as the next exhibit.

23 **COMMISSIONER ROULEAU:** Okay. So that will, Madam
24 Registrar, will be Exhibit 3.

25 Thank you very much.

26 **COMMISSIONER ROULEAU:** Okay. Now we have two
27 more reports, I believe, and it looks like we're going to be
28 ending early today, something a bit of a bonus, which I don't

1 expect we're going to have very often, but it's -- it was
2 intended to be an overview day, without any witnesses. That
3 will start tomorrow.

4 Alors, c'est fort possible, et je dirais même
5 inévitable, qu'on va compléter un peu plus tôt aujourd'hui.

6 So the next matter then?

7 **MR. JEFFREY LEON:** Yes, Commissioner, as you
8 note, the next two reports will not be marked as evidence, but
9 they will be presented by Commission Counsel Étienne Lacombe to
10 give context for some of the evidence that will follow. Those
11 reports will deal with a primer on the *Emergencies Act* and a
12 review of the Section 58 explanation provided by the Government
13 in relation to the *Emergencies Act*.

14 **COMMISSIONER ROULEAU:** Okay. Can I just -- just
15 before we hear from Mr. Lacombe, I assume these will be
16 available to the public, and are they -- are we going to put
17 them as exhibits or in another place on the website?

18 **MR. JEFFREY LEON:** Well, they could be marked as
19 lettered exhibits and in that term, or it could just be placed
20 on the website. I think the best process would be to place them
21 on the website and people can access them in that way.

22 **COMMISSIONER ROULEAU:** Okay. So that's fine and
23 we'll advise the public how they can access it in due course
24 then?

25 **MR. JEFFREY LEON:** Yes.

26 **COMMISSIONER ROULEAU:** Okay. Thank you.

27 Mr. Lacombe?

28 **--- OVERVIEW REPORT ON THE EMERGENCIES ACT PRESENTED BY MR.**

1 **ÉTIENNE LACOMBE**

2 **M. ÉTIENNE LACOMBE:** Monsieur le commissaire,
3 merci.

4 Bonjour à tous. Je m'appelle Étienne Lacombe, je
5 suis avocat de la Commission et, cet après-midi, je vais vous
6 offrir un exposé introductif à la *Loi sur les mesures d'urgence*.

7 Donc, je pense qu'on peut passer à la prochaine
8 diapo.

9 Ce que je vous propose plus précisément, en fait,
10 c'est de résumer les deux volets en quelque sorte de la *Loi sur*
11 *les mesures d'urgence*. Donc, d'abord, les conditions qui sont
12 nécessaires pour invoquer la Loi et ensuite les mesures qu'elle
13 permet au gouvernement d'adopter.

14 Donc, si la Commission vous offre ce résumé
15 aujourd'hui, c'est pour mettre en contexte la preuve que vous
16 allez entendre au cours des prochaines semaines. Il est
17 important d'apprécier le cadre juridique de la Loi puisque le
18 rôle de la Commission consiste en partie à évaluer les actions
19 du gouvernement en fonction des exigences de la *Loi sur les*
20 *mesures d'urgence*.

21 Donc, je vais rentrer un peu dans le détail quand
22 même, mais ça se veut en toute forme un résumé. Donc, j'ai
23 l'intention de paraphraser certaines des dispositions et, bien
24 entendu, je ne pourrai pas aborder tous les détails ou toutes
25 les exceptions qui sont prévues à la Loi – ça, vous aurez la
26 chance d'en entendre parler au cours des prochaines semaines
27 pendant que la Commission continue ses travaux.

28 Prochaine diapo, s'il vous plait.

1 Donc, essentiellement, pour invoquer la *Loi sur*
2 *les mesures d'urgence*, il faut qu'il y ait une crise nationale,
3 il faut que le gouvernement ait des motifs raisonnables, en
4 fait, de croire qu'il y a une crise nationale, et la législation
5 prévoit qu'il y a plusieurs sortes de crises nationales.

6 Toutes les sortes de crise partagent quand même
7 des points communs, mais elles se distinguent aussi des autres.
8 Donc, ce que je vais faire au cours des prochaines minutes,
9 c'est que je vais commencer par une définition large des crises
10 nationales ou des situations de crise pour ensuite en arriver à
11 la sorte de crise plus précise que le gouvernement a déclarée en
12 février 2022.

13 Donc, à la base, par contre, une crise nationale,
14 c'est une situation urgente, comme vous voyez à l'écran,
15 temporaire et critique à laquelle les autres lois du Canada ne
16 peuvent répondre adéquatement. En plus, toute crise nationale
17 doit correspondre à l'un des deux énoncés qui sont affichés à
18 l'écran. Donc, elles doivent soit mettre gravement en danger la
19 vie, la santé, la sécurité des Canadiens, échapper à la capacité
20 ou au pouvoir d'intervention des provinces, ou elles doivent
21 menacer gravement la capacité du gouvernement du Canada de
22 garantir la souveraineté, et la sécurité, et l'intégrité
23 territoriale du pays.

24 Donc, quand on parle de crise nationale, on parle
25 non seulement... on ne parle pas seulement de définition générale,
26 on parle de quatre types possibles de crise nationale. Vous les
27 voyez listés à l'écran : on parle des sinistres, des états
28 d'urgence, des crises internationales et d'état de guerre. Donc,

1 essentiellement, les critères pour invoquer la *Loi sur les*
2 *mesures d'urgence* varient en fonction du type de crise et c'est
3 toutefois... c'est ainsi logique de se concentrer sur le type de
4 crise que le gouvernement a déclaré, comme je l'ai mentionné,
5 l'état d'urgence qui est prévu à la partie II de la *Loi sur les*
6 *mesures d'urgence*.

7 Je sais que ça fait quand même beaucoup de
8 détails à date; si j'ai perdu des gens en cours de route, soyez
9 sans crainte, je vais vous offrir un récapitulatif sous peu,
10 mais entretemps, un dernier point avant de rentrer dans le
11 détail, et c'est pour les états d'urgence en particulier.

12 Donc, vous le voyez à l'écran, c'est la sorte de
13 situation de crise qui est causée par des menaces envers la
14 sécurité du Canada d'une gravité telle qu'elle constitue une
15 situation de crise nationale. Quand on parle de menace envers la
16 sécurité du Canada, on entend l'une des quatre, mettons, grosso
17 modo, catégories qui sont listées sur la diapositive, soit :
18 l'espionnage ou le sabotage, l'influence internationale, le
19 terrorisme ou l'extrémisme violent.

20 Une dernière parenthèse sur les états d'urgence.
21 Avant de déclarer l'état d'urgence, le gouvernement doit
22 habituellement – on parle du gouvernement fédéral ici –
23 consulter les provinces, et ce, en vertu de l'article 25 de la
24 *Loi sur les mesures d'urgence*.

25 Donc, comme promis, récapitulatif. J'ai essayé de
26 rendre ça le plus clair possible, mais ce qu'on peut retenir de
27 tout ça, c'est que pour pouvoir déclarer l'état d'urgence, le
28 gouvernement peut le faire s'il a des motifs raisonnables de

1 croire qu'une situation est urgente, temporaire et critique,
2 qu'elle découle de menaces envers la sécurité du Canada et
3 qu'elle met gravement en danger la santé et la sécurité des
4 Canadiens ou la capacité de garantir la souveraineté du Canada,
5 qu'elle ne peut être remédiée par les provinces et les
6 territoires, et qu'elle ne peut être remédiée en ayant recours à
7 une autre loi canadienne.

8 Bon, alors je vous ai parlé à date des critères
9 pour déclarer une situation de crise, je vais maintenant passer
10 aux pouvoirs que confère la *Loi sur les mesures d'urgence*.

11 Donc, quand on parle d'une déclaration d'état
12 d'urgence en particulier, la Loi habilite le gouvernement à
13 établir des règles concernant, en fait, plusieurs domaines que
14 vous voyez affichés. Le gouvernement peut, lorsqu'il a déclaré
15 l'état d'urgence, faire des règles en matière de réglementation
16 ou d'interdiction d'assemblées publiques qui pourraient troubler
17 la paix, de déplacement vers une zone désignée ou de
18 l'utilisation de certains biens.

19 Il peut aussi faire des règles pour désigner et
20 aménager les lieux protégés, pour contrôler, restaurer ou
21 entretenir les services publics, pour ordonner à une personne de
22 fournir des services essentiels, et il peut aussi faire des
23 règles sur l'imposition d'amendes ou de peines d'emprisonnement
24 en cas de contravention de règles qui concernent ces domaines-là
25 qui sont affichés présentement.

26 On peut s'arrêter rapidement sur la question du
27 fédéralisme. Donc, le gouvernement peut adopter des mesures en
28 vertu de la *Loi sur les mesures d'urgence* qui relèvent

1 normalement de compétences exclusives des provinces.
2 Habituellement, avant de déclarer une situation de crise, le
3 gouvernement fédéral doit tout de même consulter les provinces,
4 mais après les avoir consultées, le gouvernement peut agir sans
5 que les provinces soient d'accord. Essentiellement, la Loi
6 oblige une consultation, mais elle n'oblige pas le gouvernement
7 fédéral à obtenir le consentement des provinces.

8 Bon, la dernière partie que je voudrais aborder
9 avec vous, en fait, c'est les protections qui sont prévues par
10 la *Loi sur les mesures d'urgence*. Donc, en plus d'accorder des
11 pouvoirs temporaires au gouvernement, la Loi prévoit aussi
12 plusieurs protections – vous les voyez à l'écran. On compte
13 parmi celles-ci le fait que la Chambre des communes et le Sénat
14 doivent voter pour déterminer si la déclaration d'une situation
15 de crise est justifiée. Il y a aussi l'obligation pour le
16 gouvernement de déposer des décrets et les règlements pris en
17 lien avec la situation de crise de manière claire et publique,
18 l'obligation de créer un comité d'examen parlementaire où
19 siègent des membres des différents partis politiques. Il y a
20 aussi la possibilité pour le Parlement d'abroger une déclaration
21 de situation de crise ou tous les décrets et les règlements en
22 tout temps, et, bien entendu, comme vous le savez – vous l'avez
23 devant vous–, après la situation de crise, une commission
24 d'enquête doit examiner les actions du gouvernement et déposer
25 son rapport au Parlement.

26 Dernière protection à mentionner : les pouvoirs
27 qui sont utilisés en vertu de la *Loi sur les mesures d'urgence*
28 doivent être conformes à la Charte des droits et libertés et la

1 déclaration de situation de crise et les mesures qui sont prises
2 en vertu de la situation de crise peuvent faire l'objet d'un
3 contrôle judiciaire, c'est-à-dire d'un examen par un juge.

4 Bon, ce que j'allais vous mentionner – une
5 dernière parenthèse, en fait –, donc, certains d'entre vous
6 sauront que la *Loi sur les mesures d'urgence* a remplacé la *Loi*
7 *sur les mesures de guerre*, on l'a entendu mentionné ce matin. Ce
8 que j'allais vous dire en termes de derniers éléments de
9 contexte pour les deux dernières diapositives, c'est que la *Loi*
10 *sur les mesures de guerre* ne contenait aucune des protections
11 qui ont été énoncées sur cette diapositive-ci ou sur la
12 diapositive précédente.

13 Merci.

14 Donc, c'est la fin de l'exposé introductif.
15 J'espère que ça vous a orientés un petit peu.

16 Comme vous l'avez mentionné, Monsieur le
17 commissaire, ces diapositives-là seront disponibles sur le site
18 web de la Commission, elles sont disponibles tant en anglais
19 qu'en français pour les membres du public et les parties qui
20 voudraient s'y référer dans l'une ou l'autre des langues
21 officielles.

22 **COMMISSAIRE ROULEAU:** Merci.

23 Alors, il reste une dernière présentation, si
24 j'ai bien compris, et peut-être qu'on peut la rentrer et... avant
25 le dîner et puis il n'y aurait pas besoin de revenir après le
26 dîner, c'est... est-ce que j'ai bien compris?

27 **Mme SHANTONA CHAUDHURY:** Oui, je pense que oui.

28 C'est encore Monsieur Lacombe, en fait.

1 **COMMISSAIRE ROULEAU:** Ah, bien, ça va nous sauver
2 du temps.

3 **Mme SHANTONA CHAUDHURY:** C'est ça.

4 **COMMISSAIRE ROULEAU:** Allez-y.

5 **--- OVERVIEW REPORT ON SECTION 58 EXPLANATION PROVIDED BY THE**
6 **GOVERNMENT IN RELATIONS TO THE EMERGENCIES ACT PRESENTED BY MR.**
7 **ÉTIENNE LACOMBE**

8 **MR. ÉTIENNE LACOMBE:** Merci. So I'll be
9 delivering this one in English. And what I'm going provide you
10 is a summary of the reasons that the government, the Federal
11 Government gave in February 2022 for invoking the *Emergencies*
12 Act. You've heard Ms. Chaudhury earlier refer to this as a
13 section 58 explanation. That is how we'll be referring to it
14 going forward. And the reasons for that will become clear
15 momentarily.

16 So a word about section 58(1) of the *Emergencies*
17 Act, it requires that Parliament review any declaration of
18 emergency, that it be reviewed by the House of Commons and by
19 the Senate. And for this review to occur, there has to be a
20 motion to confirm the declaration that is laid before
21 Parliament, ordinarily within seven days. And the motion is
22 accompanied by an explanation of why the emergency was declared.
23 So that is the section 58 explanation.

24 So the Federal Government gave its explanation to
25 the House of Commons on February 16th. It provided it to the
26 Senate a few days later. That explanation is a document that is
27 publicly available. The number that you see here in brackets is
28 a reference for the parties to access that document within the

1 party database, but the document is already publicly available
2 on the Federal Government's website and will be made available
3 through our own website as well.

4 So it's important for me to pause here, as
5 Commission Counsel, and to tell you that this is a summary of
6 the explanation that the Federal Government gave. The reason
7 the Commission is presenting it to you at this point is to
8 contextualize the evidence that will be called in the coming
9 weeks.

10 So part of the Commission's mandate is to test
11 and evaluate the explanation the Federal Government has
12 provided, and for that reason, it's important to know up front
13 what that explanation is.

14 So this again, just like in the previous
15 presentation, is a summary. It's not a complete reproduction of
16 the section 58 explanation. And as I've mentioned, nor is it an
17 endorsement by the Commission. It is a summary.

18 Okay. So the summary that the government
19 provided sort of dovetails with the previous presentation that I
20 just gave, in that it starts by explaining the necessary basis
21 to invoke the Act and for a public order emergency in
22 particular, that there be threats to the security of Canada that
23 are so serious as to be a national emergency.

24 As I've mentioned previously, the threats to the
25 security of Canada include threats or acts of serious violence
26 against persons or property to achieve political or ideological
27 objectives. National emergencies are urgent, temporary, and
28 critical situations that seriously endanger the health and

1 safety of Canadians that can't be dealt with effectively by the
2 provinces or under any other law of Canada.

3 So when it proclaimed an emergency in February
4 2022, the government identified 5 components of the emergency.
5 You can see them on the screen here. We could loosely group
6 them or identify them, rather, as the blockades and ongoing acts
7 of violence, adverse effects on the Canadian economy, effects on
8 Canada's relationship with its trading partners, effects on the
9 distribution chain, and the potential for increases in levels of
10 unrest and violence. And the way that the Section 58 is
11 structured is by expanding on each of those 5 points that were
12 in the initial proclamation, and that's how I'll run the next
13 few minutes as well, by going through them one by one.

14 So beginning with the blockades and the
15 activities tied to serious acts of violence, the federal
16 government explains in its explanation that there were various
17 demands by protestors at the time. They ranged from the end of
18 public health measures to the overthrow of elected government.
19 It also mentioned that there were different tactics being
20 employed. There were those related to traffic disruptions,
21 which we've heard about, and there were others such as bringing
22 children to protest sites to limit police intervention, at least
23 this is what the government has said and which I am summarizing.

24 The government also said that there were issues
25 for other governments and themselves in securing the assistance
26 of tow truck drivers to remove vehicles from the blockades. It
27 also mentioned violent incidents and threats of violence,
28 including in particular, the seizure of firearms and ammunition

1 in Alberta.

2 And finally, as regards blockades and serious
3 acts of violence, the government also mentioned there was online
4 rhetoric, increased threats against the public -- against public
5 officials, rather, and the presence of ideological extremists at
6 protest sites indicating a risk of serious violence.

7 In terms of effects on the economy, the
8 government explained at the time that the blockades were having
9 impact on Canada's economy. It mentioned losses in terms of
10 employee wages, reductions in automotive processing capacity and
11 other effects on the auto industry. It also mentioned breaches
12 of the Canada Border Service Agency's clauses and to locations,
13 that it anticipated additional blockades springing up, and that
14 there was media reporting about the majority of donations being
15 made through crowdfunding site Gifts & Go originating from
16 donors outside of Canada.

17 In terms of effects on relationships with trading
18 partners, the government said at the time that there were
19 expressions of concerns from various American voices, including
20 from the President, from the Governor of Michigan, and from the
21 Department of Homeland Security. It further stressed disruption
22 on supply chains and industry, and it said there was an erosion
23 of trust -- or of confidence in Canada as a place to invest and
24 to do business.

25 In terms of the distribution chain in particular,
26 the government at the time explained that there is a -- that
27 Canada's transportation system is particularly vulnerable, given
28 the challenges of the geography and climate conditions in this

1 country. It said that there was an impairment of Canada's -- or
2 of Canadians welfare from disruptions in the transport of
3 crucial goods, medical supplies, food and fuel. And it also
4 said that there were attempts by protesters in Ottawa in
5 particular to impede access to the airport and to block railway
6 lines.

7 As for the potential of increased levels of
8 unrest and violence, the federal government said, in addition to
9 there being ongoing legal activities, that there were concerns
10 about ideologically motivated violent extremism, in particular,
11 that the number of people who supported such ideologically
12 motivated violent extremism could be increasing and could be a
13 source of violence, that there were efforts by people based in
14 the United States to enter Canada who were supporters of
15 ideologically motivated and violent extremism. It also
16 mentioned the efficacy or inefficacy of current measures that
17 were in place at the time, including injunctive relief and the
18 ability of municipal and provincial authorities to enforce the
19 law using the tools at their disposal.

20 Finally, the government mentioned that the
21 protests in Ottawa were impeding the proper functioning of the
22 Government of Canada, including jeopardizing Canada's ability to
23 fulfil its obligations with respect to the protection of
24 diplomatic -- of the diplomatic community.

25 So I'm at the point of conclusion here. What
26 I'll stress again is that this is a summary of the conclusion
27 that is in the Section 58 explanation. It's not the
28 Commission's conclusion on the Section 58 explanation. And you

1 can see from what's on the slide that it essentially tracks the
2 meaning of what would be required to have a public order
3 emergency. It says that the situation in February 2022 was
4 critical, urgent, and temporary, that the emergency arose from
5 threats to the security of Canada, and that the measures that
6 were used were necessary in order to supplement provincial and
7 territorial authorities to address the situation. The
8 explanation also concludes by saying that the measures were
9 tailored such that any effects on the *Charter of Rights and*
10 *Freedoms* were reasonable and proportionate.

11 I think that's fine. So, Commissioner, that
12 concludes the presentations of the day in its entirety, as I
13 understand it. So I'll pass the floor back to you.

14 **COMMISSIONER ROULEAU:** Okay. Merci beaucoup.
15 Thank you all.

16 So we've run through quite quickly the
17 introductions and the opening statement, which I didn't belabour
18 too long on, and I think we can start tomorrow, 9:30, with the -
19 - I believe there are a series of panels tomorrow. Should be --
20 I hope will be covered in -- without extending too late
21 tomorrow. I hope will be another not too severe day. But we'll
22 wait and see.

23 There are -- seeing no other issues being raised,
24 I suggest we rise until tomorrow.

25 Alors, on revient demain à 9 heures et demie pour
26 commencer la preuve comme telle avec des panels qui vont
27 commencer à présenter la preuve, si je comprends bien, sur ce
28 qui s'est passé à Ottawa.

1 Alors, thank you all. Merci à tous.

2 --- Upon adjourning at 1:05 p.m.

3

4 **C E R T I F I C A T I O N**

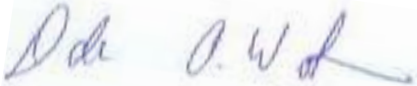
5

6 I, Dale Waterman, a certified court reporter, hereby certify the
7 foregoing pages to be an accurate transcription of my
8 notes/records to the best of my skill and ability, and I so
9 swear.

10

11 Je, Dale Waterman, un sténographe officiel, certifie que les
12 pages ci-hautes sont une transcription conforme de mes
13 notes/enregistrements au meilleur de mes capacités, et je le
14 jure.

15



16

17 Dale Waterman