



**PUBLIC ORDER
EMERGENCY
COMMISSION**

**COMMISSION
SUR L'ÉTAT
D'URGENCE**

Public Hearing

Audience publique

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

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Ottawa, Ontario

--- Upon commencing on Monday, November 14, 2022 at 9:30 a.m.

THE REGISTRAR: Order. À l'ordre.

The Public Order Emergency Commission is now in session. La commission sur l'état d'urgence est maintenant ouverte.

COMMISSIONER ROULEAU: Good morning. Bonjour. J'espère que tout le monde a eu une bonne fine de semaine. I hope everyone enjoyed the weekend.

So I understand this morning we have a presentation of an overview report. Is that...

--- SUBMISSIONS BY MS. NUSRA KHAN:

MS. NUSRA KHAN: Good morning, Mr. Commissioner. Nusra Khan, Commission counsel. I'll just wait for the PowerPoint to be pulled up on the screen there.

Okay, perfect.

So I'll be presenting the overview report titled "Federal Government Entities Involved in the Decision to Invoke the *Emergencies Act*".

This overview report is now available to the parties on the party database and will be posted on the Commission's web site for the public very shortly. The document ID for this report is COM.OR00000008.

Next slide, please.

By way of introduction, this presentation focuses on the mandates of three key federal entities, that is, the Federal Executive, the Prime Minister, Cabinet and the Governor in Council, the Privy Council Office and the Prime Minister's

1 Office.

2 Of course, there were many other departments and
3 agencies implicated in the decision to declare a Public Order
4 emergency, and the Commissioner will hear from evidence -- will
5 hear evidence from these witnesses in the coming two weeks.

6 The purpose of this overview report is to
7 contextualize and frame the anticipate evidence for the benefit
8 of the parties, the public and, of course, the Commissioner.

9 Next slide, please.

10 So we'll begin with the definition. Section
11 17(1) of the *Emergencies Act* designs the formal authority to
12 declare the existence of a Public Order emergency to the
13 Governor in Council.

14 The term "Governor in Council" refers to the
15 Governor-General of Canada acting on the advice of the King's
16 Privy Council for Canada.

17 The King's Privy Council, in turn, is a technical
18 term that describes the full group of people who have the
19 authority to advise the sovereign or the Governor-General acting
20 as the representative of the sovereign. In practical terms,
21 however, references to the King's Privy Council are references
22 to the Federal Cabinet. The Federal Cabinet is a committee of
23 the Privy Council and is effectively its only operative branch.

24 And by constitutional convention, the Governor-
25 General is required to follow the advice given by Cabinet. This
26 is, of course, a fundamental part of our system of responsible
27 government.

28 Next slide, please.

1 So here we have an organizational chart depicting
2 the structure of the Federal Executive Branch. You'll see that
3 while the formal authority to govern is vested in the Governor-
4 General, that authority is exercised on the advice of the Prime
5 Minister and Cabinet. In turn, Prime Minister and Cabinet are
6 supported by two central offices: the Privy Council Office and
7 the Prime Minister's Office.

8 So to put it into context, the four Orders in
9 Council that were issued by the Governor in Council in the
10 context of the Public Order emergency were issued on the advice
11 of the Prime Minister and Cabinet.

12 Next slide. Thanks.

13 The Federal Cabinet is a political decision-
14 making body that consists of all Federal Ministers as well as
15 the Prime Minister. The Cabinet is sometimes referred to as the
16 Federal Ministry.

17 Cabinet is the forum wherein the government of
18 the day sets its priorities and decides how to advance these
19 priorities. The Prime Minister sets the agenda and will lead
20 Ministers to agreement in making Cabinet decisions, but the
21 final and ultimate decision-making authority rests with the
22 Prime Minister.

23 Cabinet members are governed by two related
24 conventions, Cabinet solidarity and Cabinet confidentiality.
25 Cabinet solidarity requires that Ministers as a group be held
26 accountable to Parliament for their government's actions.
27 Cabinet confidentiality requires that Ministers not disclose the
28 substance of their Cabinet discussions to the public.

1 The two principles are, of course, intertwined
2 because Cabinet confidentiality allows Ministers to frankly and
3 vigorously discuss their views with their colleagues in private
4 while remaining united in their decisions to the public.

5 Ministers are also individually responsible for
6 the federal departments they oversee. The powers and duties in
7 respect of their departments are set out in their departmental
8 statutes. In practice, however, the day-to-day operations of a
9 federal department or agency are carried out by the Deputy
10 Minister and civil servants.

11 A Deputy Minister is the senior-most member of
12 the professional non-partisan public service.

13 Finally, every Minister is supported by a
14 Ministerial Office consisting of a political staff in carrying
15 out their duties as members of Parliament. Political staff are
16 sometimes referred to as exempt staff because they are not bound
17 by the strict impartiality rules that apply to the public
18 service and are, instead, temporary political appointees.

19 So there's a clear separation between political
20 staff and the public servants who work with in federal
21 departments in that political staff do not have the authority to
22 give direction or instruction to public servants.

23 Next slide, please.

24 So here we have another organizational chart that
25 depicts the work of Cabinet and Cabinet committees. The work of
26 the government is also carried out by several Cabinet
27 committees.

28 The protests and the government's response to the

1 protests were discussed by two Cabinet committees in particular.
2 The first was the Cabinet Committee on Safety, Security and
3 Emergencies, or SSE, which was chaired by the Minister of
4 Emergency Preparedness. The SSE met on February 3rd, 6th and
5 8th.

6 The second Cabinet committee was the Incident
7 Response Group, or IRG. The IRG took over the management of the
8 issue after February 8th and was chaired by the Prime Minister
9 and, therefore, had decision-making authority. The IRG met on
10 February 10th, 12th and 13th, and then daily thereafter between
11 February 16th and February 23rd.

12 I will also add that there were two full Cabinet
13 meetings at which the protests and the invocation of the
14 *Emergencies Act* was discussed. These meetings took place on
15 February 3rd and February 15th.

16 Turning now to the Prime Minister's Office, the
17 PMO is a central political agency supporting the Prime Minister
18 in his three roles as the head of government, the leader of a
19 political party and a Member of Parliament. PMO staff advise
20 the Prime Minister on policy issues, communications and
21 Parliamentary affairs, and PMP is led by a Chief of Staff who
22 reports directly to the Prime Minister and is also appointed by
23 the Prime Minister.

24 Like the staff at Ministerial offices, all staff
25 at the PMO are exempt staff in that they are temporary political
26 appointees.

27 The PMO operates as a critical link between the
28 partisan interests and agenda of the Prime Minister and the

1 general workings of government. For instance, PMO maintains
2 close relationships with political staff at Ministers' offices
3 as well as with officials at the Privy Council Office, and PMO
4 officials often attend Cabinet meetings.

5 The Privy Council Office, or PCO, is the central
6 coordinating agency within the federal government. And in
7 contrast to PMO, the PCO provides non-partisan advice to the
8 Prime Minister and Cabinet and ensures that the government's
9 agenda is implemented across all federal departments and
10 agencies. And for this reason, PCO is sometimes referred to as
11 the Prime Minister's Department.

12 PCO is led by the clerk of the Privy Council.
13 The clerk holds the additional titles of the Deputy Minister to
14 the Prime Minister, the Secretary to Cabinet and the Head of the
15 Public Service. And as a Secretary to Cabinet, the clerk is
16 responsible for the smooth operation of Cabinet business,
17 including the preparation of Cabinet memoranda and the keeping
18 of Cabinet confidences.

19 In addition to its primary role as the central
20 coordinating agency, PCO also serves as the department for some
21 Ministers. This includes the Minister of Intergovernmental
22 Affairs, who is supported by the Intergovernmental Affairs
23 Secretariat, as well as the Minister of Emergency Preparedness,
24 who is supported the Emergency Preparedness and COVID-19
25 Recovery Secretariat.

26 Another important PCO actor is the National
27 Security and Intelligence Advisor, or the NSIA. The NSIA holds
28 the title of Deputy Secretary to Cabinet and provides national

1 security advice and intelligence briefings to the Prime
2 Minister, as well as to Cabinet.

3 The Office of the NSIA plays a coordinating and
4 convening function amongst national security agencies and the
5 Office of the NSIA itself consists of four secretariats and is
6 responsible for convening two standing committees of senior
7 civil servants. The NSIA also acts as the Secretary to the
8 Incident Response Group.

9 So this chart depicts the relationship between
10 the Privy Council Office, federal departments and agencies, and
11 the various secretariats within PCO.

12 It should be noted that there is no legislation
13 governing the role of the NSAI or PCO, as these entities are
14 meant to play only an advisory, secretarial, and coordination
15 function to Cabinet.

16 The NSAI chairs the Deputy Minister's Operations
17 and Coordination Committee, or DMOCC, and the Assistant
18 Secretary to Cabinet Security and Intelligence cochairs the
19 Assistant Deputy Minister's Committee on National Security and
20 Operations, or ADMNSOPs. Both the ADMNSOPs and DMOCC met
21 frequently, in fact almost daily, in late January and throughout
22 February 2022 to discuss the government's response to the
23 protests.

24 Finally, the departments and agencies listed on
25 this slide were also involved in the Federal Government's
26 response to the protests and blockades and the decision to
27 invoke the *Emergencies Act*. And as I mentioned earlier,
28 witnesses from each of these departments are expected to testify

1 in the coming weeks, and I would invite the parties to consult
2 the Institutional Reports prepared by each department for a
3 fuller explanation of the Department's mandate and involvement.

4 So that concludes the presentation on this
5 overview report.

6 But before I go, I would also like to enter three
7 additional overview reports prepared by Commission Counsel and
8 that I understand the parties have had the chance to review.

9 First, Commission Counsel are entering a ---

10 **COMMISSIONER ROULEAU:** Can you slow down for the
11 interpreters, please?

12 **MS. NUSRA KHAN:** Commission Counsel are entering
13 a report summarizing the proceedings commenced in response to
14 the protests in January and February 2022, including judicial
15 review proceedings commenced to challenge the invocation of the
16 *Emergencies Act*. The document ID for this report is
17 COM.OR00000001.

18 The second report that Commission Counsel are
19 entering is a report summarizing the protests that occurred at
20 six international ports of entry in January and February 2022.
21 The document ID for this report is COM.OR00000006.

22 And the final overview report that Commission
23 Counsel are entering is a report summarizing the oversight
24 responsibilities of Parliament and the Parliamentary Review
25 Committee under the *Emergencies Act*. The document ID for this
26 report is COM.OR00000007.

27 And with that, that concludes my comments. Thank
28 you.

1 **COMMISSIONER ROULEAU:** Thank you.

2 And the parties will find that document, the
3 overview report, useful for determining who they should be
4 questioning, as we go through the various departments, because
5 for obvious reasons, the amount of time for cross-examination is
6 limited for each of the parties. So you should be, as much as
7 possible, targeting the departments and witnesses who are likely
8 to have the answers to the questions you may pose.

9 So with that brief introduction, I call on the
10 next witness. I think it's a panel, as I understand it.

11 **MS. SHANTONA CHAUDHURY:** Thank you, Mr.
12 Commissioner. My name is Shantona Chaudhury, co-lead Commission
13 Counsel. I'd like to call Mr. Rob Stewart and Mr. Dominic
14 Rochon to the stand.

15 **THE REGISTRAR:** Mr. Stewart, will you swear on a
16 religious document or do you wish to affirm?

17 **DM ROBERT STEWART:** Affirm.

18 **THE REGISTRAR:** For the record, please state your
19 full name and spell it out.

20 **DM ROBERT STEWART:** Robert Neil Affleck Stewart.
21 Spell it?

22 **THE REGISTRAR:** Yes, please.

23 **DM ROBERT STEWART:** R-O-B-E-R-T N-E-I-L A-F-F-L-
24 E-C-K S-T-E-W-A-R-T.

25 --- DM ROBERT STEWART, Affirmed:

26 **THE REGISTRAR:** Thank you.

27 Mr. Rochon, will you swear on a religious
28 document or do you wish to affirm?

1 **ADM DOMINIC ROCHON:** I will affirm.

2 **THE REGISTRAR:** For the record, please state your
3 full name and spell it out.

4 **ADM DOMINIC ROCHON:** Dominic James Rochon. D-O-
5 M-I-N-I-C R-O-C-H-O-N.

6 --- ADM DOMINIC ROCHON, Affirmed:

7 **THE REGISTRAR:** Thank you.

8 **COMMISSIONER ROULEAU:** Okay. Go ahead.

9 --- EXAMINATION-IN-CHIEF BY MS. SHANTONA CHAUDHURY:

10 **MS. SHANTONA CHAUDHURY:** Good morning, Mr.
11 Stewart. Good morning, Mr. Rochon. Nice to see you again.

12 I'll just start by introducing your witness
13 summary.

14 So you'll recall sitting for an interview with
15 Commission Counsel on September 1st, 2022?

16 Mr. Clerk, I'll ask you to pull up WTS.0000066.

17 Okay. So Mr. Stewart and Mr. Rochon, you'll
18 recall that some of your colleagues were not with us today, were
19 not called to testify, also sat for that interview, namely Mr.
20 Talal Dakalbab. I'm not sure I'm pronouncing that right.

21 **DM ROBERT STEWART:** Dakalbab.

22 **MS. SHANTONA CHAUDHURY:** Pardon me?

23 **DM ROBERT STEWART:** Dakalbab.

24 **MS. SHANTONA CHAUDHURY:** Dakalbab. Thank you.

25 Mr. Deryck Treheame also participated in that
26 interview.

27 I'll just ask you to confirm that you've reviewed
28 the summary of the interview, and if you have no changes to

1 make, confirm that insofar as it contains your information, you
2 adopt it, and insofar -- and it's accurate to the best of your
3 knowledge and belief insofar as it contains the information of
4 your colleagues, and you believe them to have accepted it as
5 accurate.

6 **DM ROBERT STEWART:** I accept it. I believe it's
7 accurate.

8 **MS. SHANTONA CHAUDHURY:** Thank you. Mr. Stewart,
9 at the time of the Freedom Convoy events in January and
10 February, you were the Deputy Minister of Public Safety? Is
11 that correct?

12 **DM ROBERT STEWART:** That is correct.

13 **MS. SHANTONA CHAUDHURY:** Okay. And you've since
14 moved on to become the Deputy Minister of International Trade?

15 **DM ROBERT STEWART:** That is correct.

16 **MS. SHANTONA CHAUDHURY:** And when was that?

17 **DM ROBERT STEWART:** Just recently. The 17th of
18 October.

19 **MS. SHANTONA CHAUDHURY:** The 17th of October?
20 Okay.

21 Mr. Rochon, at the time of the events, you were
22 the Senior Assistant Deputy Minister of Public Safety's National
23 and Cyber Security Branch? Is that right?

24 **ADM DOMINIC ROCHON:** That's correct.

25 **MS. SHANTONA CHAUDHURY:** And you've also since
26 left Public Safety to take another position? Is that correct?

27 **ADM DOMINIC ROCHON:** That is correct.

28 **MS. SHANTONA CHAUDHURY:** Okay. Associate Deputy

1 Minister of Transport?

2 **ADM DOMINIC ROCHON:** Correct.

3 **MS. SHANTONA CHAUDHURY:** And when was that?

4 **ADM DOMINIC ROCHON:** October 31st was my first
5 day.

6 **MS. SHANTONA CHAUDHURY:** Okay. So also very
7 recent.

8 The next thing I'll just ask you to introduce the
9 Public Safety's Institutional Report, despite the fact that
10 neither of you are currently with Public Safety.

11 Mr. Clerk, that's DOJIR0000008.

12 Okay. So, Mr. Stewart, you'll recall that Public
13 Safety Canada prepared and filed with the Commission this
14 Institutional Report. Have you reviewed it?

15 **DM ROBERT STEWART:** I have.

16 **MS. SHANTONA CHAUDHURY:** Okay. And is it
17 accurate to the best of your knowledge and belief?

18 **DM ROBERT STEWART:** Yes.

19 **MS. SHANTONA CHAUDHURY:** Okay. And can you
20 confirm that it's been filed with the Commission as part of
21 Public Safety's evidence?

22 **DM ROBERT STEWART:** I believe it has.

23 **MS. SHANTONA CHAUDHURY:** Thank you.

24 Okay. With those introductions out of the way,
25 I'll just ask you to start by giving an overview of the
26 structure of Public Safety. It's a slightly complicated
27 department. As we know, it's the Department of Public Safety
28 and Emergency Preparedness.

1 So Mr. Stewart, can you walk us through Public
2 Safety writ large?

3 **DM ROBERT STEWART:** By all means. Public Safety
4 is a relatively small department that covers all matters
5 associated with security of Canada. It has three main branches,
6 which deal with National and Cyber Security, that's one branch,
7 Crime Prevention, that's another, and Emergency Management,
8 that's the third.

9 It has other branches which do more coordinating
10 or corporate work.

11 **MS. SHANTONA CHAUDHURY:** Okay. But the three
12 that you mentioned are the ones that were most implicated in the
13 events of the convoy? Is that right?

14 **DM ROBERT STEWART:** Those are the policy
15 branches.

16 **MS. SHANTONA CHAUDHURY:** Okay. And Mr. Rochon, I
17 understand the National and Cyber Security Branch manages five
18 directorates. Can you tell us about that? And if you'd like to
19 have the reference for your notes, it's DOJIR at page 8,
20 paragraphs 25 and 26. So we can just pull that up.

21 **ADM DOMINIC ROCHON:** I think if you just move up
22 the page just slightly, but I can speak to them, yes.

23 So the National Cyber Security Branch has five
24 divisions. Primarily it is responsible for national security
25 policy matters, national security operations matters, critical
26 infrastructure, cyber security and over the last three years,
27 there was a special task force regarding economic security.

28 **MS. SHANTONA CHAUDHURY:** Okay. And if we can

1 just scroll down a little bit, Mr. Clerk.

2 Under Critical Infrastructure and Strategic
3 Coordination, it says:

4 "This Directorate supports the Ministers
5 in leading the national effort to
6 enhance the resilience of critical
7 infrastructure against a variety of
8 hazards."

9 Do those hazards include protest?

10 **ADM DOMINIC ROCHON:** They could. Essentially,
11 that particular Directorate oversees the critical infrastructure
12 strategy that has been in place since 2010. We have been, over
13 the last couple of years, in the midst of refreshing that
14 strategy. We -- that particular Directorate engages with the 10
15 critical infrastructure sectors. There are private sector leads
16 and public sector leads for each of those sectors and they deal
17 with matters of -- we provide risk assessments when there are
18 threats. They could be cyber-related threats, but any threats
19 to any critical infrastructure across those 10 critical
20 infrastructure sectors.

21 **MS. SHANTONA CHAUDHURY:** Okay.

22 **ADM DOMINIC ROCHON:** And then the next not bullet
23 there, but the next line in the chart, the Task Force on
24 Economic Security, tell us a little bit about the work of that
25 task force and whether or not it played into the convoy at all.

26 **ADM DOMINIC ROCHON:** It did not. That task force
27 was stood up over the last three years, as I pointed out, in
28 order to look at the broader framework that is economic

1 security.

2 Economic security is a term that can mean a lot
3 of things. From a national security perspective, that task
4 force was looking into -- through various lenses potential
5 threats to Canada's economy stemming from threat actors,
6 potentially hostile state actors. Those threats can emanate
7 from -- and indeed, we have an elaborate control system across
8 Canada. We have export controls, we have the *Investment Canada*
9 *Act*.

10 We have a series of tools, but the Economic
11 Security Task Force was looking at whether or not those tools
12 were fit to purpose and, indeed, whether that tool set was
13 adequate in order to protect ourselves against the threats of
14 today.

15 And so most of that work looked at and is moving
16 towards an economic security strategy that would introduce
17 research security to protect intellectual property, for example,
18 things of that nature.

19 So specifically that task force did not have a
20 role to play with regard to the -- this particular situation.

21 **MS. SHANTONA CHAUDHURY:** Okay. Now, getting to
22 your own individual roles and responsibilities, Mr. Stewart, can
23 you tell us, first of all, a little bit about your general role
24 as a Deputy Minister of Public Safety and then describe at a
25 very high level your role with respect to the events of the
26 convoy.

27 **DM ROBERT STEWART:** By all means, I -- as a
28 Deputy, I'm responsible for the administration of the department

1 and providing policy advice to the Minister on matters
2 associated with public safety and overseeing program delivery.
3 The department runs a number of contribution programs that
4 provide funding for various activities.

5 And I also work with deputy heads of
6 organizations that are in the portfolio. And by the portfolio,
7 I mean these are organizations who are responsible to the
8 Minister.

9 In the public safety portfolio, there are five
10 main organizations, RCMP, CBSA, Canadian Border Service Agency,
11 Canadian Security Intelligence Service, the Correctional Service
12 of Canada and the Parole Board. Thank you.

13 And they all are independently accountable to the
14 Minister, but we work together as a group and provide advice
15 and, if necessary, the department will do legislation or
16 regulation on their behalf.

17 **MS. SHANTONA CHAUDHURY:** Okay. Sorry, go on.

18 **DM ROBERT STEWART:** In the context of the
19 protest, I was working with a subset of that group who were
20 involved in daily calls and briefings. That would be the RCMP
21 and CBSA primarily and, to a degree, CSIS.

22 **MS. SHANTONA CHAUDHURY:** I think we're going to
23 hear a lot more about that shortly, and thank you for speaking
24 without acronyms. It's appreciated.

25 On the first day of federal government evidence,
26 we're still getting used to all the acronyms.

27 I think CSIS we can handle, and probably CBSA,
28 but when it gets deeper than that it's going to be a struggle.

1 Okay. Mr. Rochon, can you tell us at a high
2 level, first of all, your role at the time and your role in the
3 convoy?

4 **ADM DOMINIC ROCHON:** I would describe my role
5 specifically having gone through the five Directorates in my
6 branch. The one Directorate in particular, the National
7 Security Operations Directorate, through that Directorate I have
8 a responsibility -- and I'll refer to the presentation that was
9 given to us this morning where we highlighted the Privy Council
10 Office and its role.

11 With the Privy Council Office, they have a
12 Security and Intelligence Secretariat. The assistant secretary
13 responsible for that secretariat and I have a responsibility of
14 convening the security and intelligence community, which is some
15 16 departments and agencies, on a regular basis to discuss
16 ongoing operational national security matters for situational
17 awareness and, indeed, to be able to make sure that we're
18 coordinating with community to be able to respond to potential
19 threats to national security.

20 So that particular committee is called the
21 Assistant Deputy Minister National Security Operations
22 Committee, ADMNSOPs, if you don't mind me that acronym. I'll
23 probably refer to that a lot.

24 So ADMNSOPs meets every week, once a week.
25 During the convoy situation, I would say that the regular
26 meeting on Tuesday, January 25th we discussed the convoy, but
27 after that date, we decided to have *ad hoc* meetings, so every
28 day, daily meetings of that committee pretty much throughout the

1 rest of the operational situation, if I could put it that way.

2 So I guess my role primarily was to convene along
3 with my PCO colleague, the Privy Council Office colleague, all
4 the various representatives of these departments and agencies in
5 the security and intelligence community. And I'm happy to walk
6 you through who they might be. But we would get together and
7 discuss whether or not this issue was an issue of national
8 security and whether or not it could lead to threats to national
9 security.

10 **MS. SHANTONA CHAUDHURY:** Okay. I certainly do
11 want you to elaborate on that.

12 First of all, who was your PCO colleague?

13 **ADM DOMINIC ROCHON:** Mike MacDonald is the
14 Assistant Secretary to the Secretariat for Security and
15 Intelligence.

16 **MS. SHANTONA CHAUDHURY:** Okay. Well, you've
17 anticipated essentially my next question because the first sort
18 of broad topic that I think we're going to cover here is public
19 safety's preparation for the convoy, and that feeds into, Mr.
20 Rochon, what you were telling us about public safety's
21 intelligence role.

22 So at this point I'll ask you to, I guess, please
23 explain that and explain how it was -- how it fed into public
24 safety's preparation.

25 **ADM DOMINIC ROCHON:** So I'll start by explaining
26 that intelligence with regard to the federal family, you have
27 collectors of intelligence, you have assessors of intelligence
28 and you have consumers of intelligence.

1 Public Safety Department is a consumer. We don't
2 per se collect intelligence and we don't assess intelligence.
3 We consume it.

4 Why does one consume intelligence? In order to
5 be able to be better informed so that decisions -- so that
6 decisions can be made. And those decisions are made across all
7 departments and agencies.

8 The key collectors of intelligence, CSIS, the
9 Communications Security Establishment, CBSA to a certain extent,
10 what they collect and what they see at the border, RCMP, but
11 indeed, beyond the federal family, there's also collection of
12 intelligence that occurs within police of jurisdiction, which
13 I'm sure you would have heard about it, municipal level, at the
14 provincial level, et cetera.

15 Intelligence is -- can be very broad. It's not
16 an exact science, and really only provides a piece of
17 information at a moment in time.

18 The federal family also has assessors of that
19 intelligence, which means they pull different threads of
20 intelligence together in order to be able to fuse it and provide
21 a more holistic picture to again better inform potential
22 decisions related to national security matters.

23 Assessors are the Integrated Terrorism Assessment
24 Centre, ITAC. You have the Privy Council Office also has a
25 secretariat, the Intelligence Assessment Secretariat, but to a
26 certain extent, CSIS, the Communications Security Establishment,
27 perform their own assessments and are able to provide reports,
28 as does the RCMP.

1 When we convene the ADMNSOPs group, typically we
2 will use different pieces of intelligence in order to be able to
3 inform us on various issues that are happening all over the
4 world that could lead to or are posing a threat to national
5 security. So throughout the particular situation with the
6 convoy, I would say that there was some intelligence that was
7 likely being pulled together at a police of jurisdiction level.
8 That isn't something that would make its way to our federal
9 family table as a matter of course. The RCMP sits at that table
10 and would bring any information that they would learn, as
11 they're stitched up with different police of jurisdiction across
12 the country, they would bring that information to the table if
13 there was something relevant that needed to be flagged. But
14 there is a distinction between something rising to (a), national
15 security level, and something that is a police matter that they
16 might be dealing with throughout the country.

17 **MS. SHANTONA CHAUDHURY:** Okay. And in your
18 interview -- we're going to go back to some of that as we go
19 along, but you explained that prior to the convoy's arrival --
20 this is taking you up on your last point -- NCSB, so the
21 National Cyber Security Branch, wasn't gathering or
22 dissemination intelligence about the convoy because, at that
23 point, there was no indication that the events would be a
24 national security threat. So can you explain and elaborate on
25 that a little bit, what that threshold is and when, if at all,
26 NCSB did start doing that and why?

27 **ADM DOMINIC ROCHON:** So, again, our branch does
28 not collect intelligence. We're consumers of it. So we would

1 be receiving that intelligence from different parties, be it
2 CSIS or be it the RCMP in the federal family context.

3 The Government Operations Centre is another
4 element of Public Safety. They fall under the Emergency
5 Management Branch. They don't fall under my branch.
6 Nevertheless, the Government Operations Centre, otherwise known
7 as the GOC, does have a role to play with regard to any
8 potential emergency in terms of pulling together information and
9 disseminating that information about a potential emergency.
10 They're a 24/7 OP Centre at Public Safety.

11 So the reason I mention them is, obviously, if
12 there is a potential protest -- or, for example, on Canada Day
13 when there are provisions that need to be made in terms of
14 securing a particular area, or if there's a potential threat
15 that may be arising, the Government Operations Centre does start
16 collecting open source information and sharing that information
17 across the federal security and intelligence community in order
18 for there to be situational awareness about a potential for
19 social disruption or something that may be of concern.

20 So I would say the GOC was aware, and within
21 Public Safety would have been the first entity that would have
22 started collecting information. I think that the weekend before
23 the convoy decided to make its way to Ottawa, they would have
24 started collecting some information and disseminating it.

25 Following that, Transport Canada, obviously given
26 their mandate, would have started having concerns about slow
27 rolls and disruptions to traffic. And the member of Transport
28 Canada that is a member of the ADM in this OPs, Kevin Brousseau,

1 would have called both Mike MacDonald and I to say that he
2 wanted to make sure that the issue was brought to the attention
3 of the ADMNSOPs Committee because it did have the potential of
4 rising to a national security level given the fact that this was
5 happening across Canada.

6 **MS. SHANTONA CHAUDHURY:** Okay. And when you say
7 he would have called, you mean he did call?

8 **ADM DOMINIC ROCHON:** He did call, yes.

9 **MS. SHANTONA CHAUDHURY:** That actually happened?
10 Okay.

11 **ADM DOMINIC ROCHON:** Yes.

12 **MS. SHANTONA CHAUDHURY:** And so I understand the
13 GOC started monitoring this, as you said, around January 19th and
14 it started producing 2 types of reports. One is called "Key
15 Points on Potential Impacts to Critical Infrastructure" and the
16 other is "Daily Operations Briefs." So these were being
17 produced as of around January 25th, January 28th. Is there any
18 difference, a marked or noticeable difference between those
19 types of reports?

20 **ADM DOMINIC ROCHON:** No.

21 **MS. SHANTONA CHAUDHURY:** No? Okay. And who
22 receives those reports? Who are they disseminated to?

23 **DM ROBERT STEWART:** I can't say for sure what the
24 broad distribution list is, but it's pretty much federal,
25 provincial, and then the key points would have been going to a
26 selected group of deputies and senior public servants.

27 **MS. SHANTONA CHAUDHURY:** Okay. And I appreciate
28 that it's your colleague, Mr. Trehearne, who was in charge of

1 the GOC, so he's the person with the best knowledge on this but
2 ---

3 **DM ROBERT STEWART:** If you'd like, I could just
4 clarify a point here.

5 **MS. SHANTONA CHAUDHURY:** Of course.

6 **DM ROBERT STEWART:** Because my colleague has
7 talked about the intelligence side of the operation. The GOC
8 does not consume intelligence or report it. All it does is
9 bring together open source information and operational
10 information that it obtains from various parties. And in the
11 event of a protest or an event in Ottawa that requires
12 coordination with police forces, it will sit in on that and
13 it'll report that information, but none of that is considered to
14 be intelligence and therefore classified.

15 **MS. SHANTONA CHAUDHURY:** So maybe you could help
16 us here a little bit to understand this -- oh, sorry -- the
17 distinction between information and intelligence. Who wants to
18 tackle that one?

19 **DM ROBERT STEWART:** Well, I'll go first, and
20 Dominic can follow. Information is anything that you can obtain
21 via open source, and is not, by its nature, classified to a --
22 any degree. I suppose you could, you know, quibble about that,
23 but as a general matter, and to the point that I was making, it
24 really isn't needed to be protected in any way. Whereas,
25 intelligence, which is classified at various levels, needs to be
26 guarded and protected and, you know, represents a threat to the
27 security of Canada if it's disclosed.

28 **ADM DOMINIC ROCHON:** I would just elaborate that

1 there are different forms of intelligence. You have human
2 source -- so human intelligence that you get from human sources,
3 you have signals intelligence. So there are a whole series of
4 different types of intelligence that can be collected and
5 different departments in the agencies can collect that
6 intelligence under their respective mandates. So they can only
7 collect that information, provided that it follows the various
8 legislation that underpins their existence.

9 **MS. SHANTONA CHAUDHURY:** Okay. And appreciating
10 that Public Safety is a consumer, and neither a collector or a
11 gatherer of intelligence, and the fact that we are going to be
12 hearing from both CSIS and ITAC next week, I won't spend too
13 much more time on this, but there was one thing I did want to
14 raise with you.

15 Mr. Clerk, could you please pull up TRN0000011?
16 So this is an excerpt from a transcript of Commissioner
17 Carrique's evidence from a couple of weeks ago. I'll set the
18 context for you and then I'll ask you to maybe elaborate a bit
19 on what he was discussing. So the reference is page 90, and
20 just pull that up.

21 So the context here is Commissioner Carrique was
22 being questioned by my colleague Mr. Brousseau about a reference
23 in an OPP Hendon report, and I'll just stop there. In the
24 interview -- the Commission's heard quite a bit of evidence
25 about Project Hendon and OPP's Hendon reports. And in the
26 interview that we had in September, you told us that neither of
27 you had heard of Project Hendon at the time specifically and
28 that the Project Hendon reports hadn't been fed up to you. And

1 I take it that that goes to your point of provincial law
2 enforcement intelligence would likely not be directly fed up to
3 you, but I'm wondering if you can -- or if it did, it would be
4 through the RCMP. But I'm wondering if you could just explain,
5 elaborate on that a little bit?

6 **ADM DOMINIC ROCHON:** I certainly can. I would
7 say, and you'll have the opportunity, I assume, to speak with
8 the RCMP and with CSIS, as you have with police of jurisdiction,
9 whether it be provincial or municipal. Every -- at every level,
10 I would assume, and I believe it is the case, there are
11 intelligence bodies that pull together intelligence on a wide
12 variety of issues. And if there's a particular incident that is
13 occurring, they will pull together a particular operation and
14 start collecting information, intelligence about that particular
15 issue. So I'm assuming here, in this case, that the Ontario
16 Provincial Police will have -- would have started Operation
17 Hendon.

18 Now police of jurisdiction will get together and
19 liaise with the RCMP, so I would be -- I am quite certain that
20 the RCMP would have been privy to anything coming out of Project
21 Hendon, as they would have been privy to anything coming out of
22 the Ottawa Police Service and other police of jurisdiction
23 across Ontario or indeed across Canada. And for the purposes of
24 our National Security Committee that looks at operational
25 situations, the RCMP would be feeding us any relevant
26 information, but they would not be referring to an Operation
27 Hendon or an operation -- whatever the various operations. They
28 wouldn't tell us where the information would be coming from

1 specifically, they would simply be flagging anything that would
2 be of interest for the table.

3 **MS. SHANTONA CHAUDHURY:** Okay. So if I can just
4 summarize that; if the RCMP was privy to anything from Project
5 Hendon that was relevant, you would expect to have knowledge of
6 that through them?

7 **ADM DOMINIC ROCHON:** Yes.

8 **MS. SHANTONA CHAUDHURY:** Okay. Thank you, that's
9 helpful.

10 So just getting back to this little transcript
11 excerpt here. So Comm. Carrique is being asked about a
12 reference in an OPP Hendon report to a potential threat to
13 Canada's sovereignty and national security; that's around line
14 19, I believe?

15 **ADM DOMINIC ROCHON:** M'hm.

16 **MS. SHANTONA CHAUDHURY:** And if we can just
17 scroll down now to the next page, page 91.

18 **ADM DOMINIC ROCHON:** Ninety-seven (97)?

19 **MS. SHANTONA CHAUDHURY:** Ninety-one (91).

20 **ADM DOMINIC ROCHON:** Oh, sorry. Yes.

21 **MS. SHANTONA CHAUDHURY:** No problem. Okay. So
22 I'm just going to read through the first few paragraphs here.
23 Comm. Carrique says:

24 "What is required is further analysis
25 of that threat, Hendon...did have those
26 conversations with the appropriate
27 security partners...to see if that
28 potential threat rose to the point that

1 would warrant them enacting their
2 mandates for the items...they're
3 responsible for. And...as we know,
4 [slow down]... It in the *CSIS Act*, it
5 says [threat to the secure -- or] it
6 says 'the security of Canada.' doesn't
7 actually say national security.
8 Public Safety Canada goes to a much
9 broader context when describing
10 national security, and one of the items
11 in national security, if you look at
12 the national security strategy and how
13 it's described by Public Safety Canada,
14 actually includes impact to economy,
15 activities at critical infrastructures,
16 international border crossings."

17 So Mr. Rochon or Mr. Stewart, whoever's best
18 placed to answer this, can you explain and elaborate a little
19 bit on what Comm. Carrique is referring to here; Public Safety
20 Canada's national security strategy and definition?

21 **ADM DOMINIC ROCHON:** I'll give it a go.

22 To be honest, the national security strategy
23 dates back to 2004. And there are several academic institutions
24 as of late that have recommended that the Government of Canada
25 come out with a more -- a newer version, or at least refresh
26 that strategy.

27 I'll start by explaining what was meant in terms
28 of *CSIS* and whether or not the threshold was met with regard to

1 their Act. What that -- what I think Comm. Carrique was
2 referring to was the fact that, as I was mentioning earlier,
3 CSIS has the ability to collect intelligence, but they can only
4 collect intelligence if certain thresholds have been met. CSIS
5 are only but one of a number of inputs into the national
6 security landscape. And so they do have targets, whether it be
7 -- and I'll use a term here that I'm sure is going to come up,
8 or probably already has come up that will come up fairly
9 frequently, that of ideologically motivated violent extremism.

10 Public Safety also has a counterterrorism
11 strategy; we have a cybersecurity strategy; we're developing an
12 economic security strategy, as I mentioned earlier. We're
13 looking to create a hostile activities of state actors'
14 framework to deal with foreign interference.

15 So the reason why we don't have a -- perhaps an
16 up-to-date national security strategy is because national
17 security now permeates a whole host of things, all walks of life
18 in terms of Canadian society. And I won't even get into threats
19 posed by climate change; indeed, the pandemic itself, the Public
20 Health situation.

21 Unfortunately, there is no -- as far as I know,
22 no definition in legislation of national security. CSIS does
23 have a definition of threats to the security of Canada. I
24 believe the *Security of Canada's Information Disclosure Act*,
25 SCIDA, also speaks to a definition of threats and security of
26 Canada.

27 We have review bodies for the security and
28 intelligence community: the National Security and Intelligence

1 Review Agency, the National Security and Intelligence Committee
2 of Parliamentarians; NSIRA and NSICOP. They have gone to great
3 pains to sort of define what their purview is, in terms of
4 national security. And indeed it covers, as I mentioned
5 earlier, some 16 departments and agencies.

6 So when it comes to national security, we're not
7 necessarily looking at one specific threat, a terrorism threat,
8 but rather the impact on Canada's ability to maintain the
9 security of its institutions, its democracy, its people, its
10 economy, the resilience of all of these things.

11 **MS. SHANTONA CHAUDHURY:** Okay. So from Public
12 Safety's perspective then, or its -- in its *modus operandi*,
13 there's a distinction between national security and threat to
14 the security of Canada, as defined in the *CSIS Act*; is that
15 fair?

16 **ADM DOMINIC ROCHON:** Yes, absolutely.

17 **MS. SHANTONA CHAUDHURY:** Okay.

18 Okay. Moving on from there, I just want to
19 situate us in time here. With the information that Public
20 Safety was receiving prior to the arrival of the convoy; so the
21 information that it was receiving from its various sources --
22 and Mr. Clerk, I'll just ask you to pull up, at this point,
23 PBCAN00000703; this is the GOC key points from January 27.

24 But as that's being pulled up, feel free to
25 already start in describing what your state of knowledge was at
26 that point, and what you anticipated happening when the convoy
27 arrived.

28 **DM ROBERT STEWART:** So it -- maybe I'll back up

1 just one step to ---

2 **MS. SHANTONA CHAUDHURY:** Of course ---

3 **DM ROBERT STEWART:** --- for that, is just to say
4 that we were monitoring, as you noted earlier, the rising level
5 of protest around the vaccine mandate, which came into force on
6 the 15th of January. So we were, through various groups,
7 monitoring just that there were protests that were likely to
8 arise. And we started getting word of the convoy's formation on
9 around January 20th, and were, through the GOC and its connection
10 to planning and coordination groups, and one in particular
11 called Intersect, which is a group that brings together all the
12 police of the region and various other entities that have an
13 interest in the security of the national capital. That would've
14 been meeting and talking about that. And we were hearing
15 reports and we were -- and then they would be reflected in these
16 key points, those discussions.

17 So this would've been January 27th, is on the eve
18 of the arrival of the early -- in Ottawa, of the trucks, and, I
19 believe, just prior to the blockade at Coutts. But the -- so we
20 were growing -- paying a lot of attention to it, getting
21 somewhat concerned about how it would manifest, how many trucks
22 and from where. And there many -- there many convoys coming
23 from east and west, and I believe south, and so we were trying
24 to get a handle on that, and the RCMP were informing us about
25 the numbers of trucks and when they were likely to arrive. And
26 we were asking questions about what is the plan for, you know,
27 managing this protest when it manifests.

28 **MS. SHANTONA CHAUDHURY:** Okay. Thank you.

1 Mr. Clerk, if we can just scroll up, I guess, or
2 down; sorry. Keep scrolling, keep scrolling, keep scrolling.

3 So as you've mentioned, convoys coming from
4 several directions.

5 Keep scrolling.

6 Mr. Stewart, I think you covered most of this in
7 your introduction.

8 Keep scrolling. Okay, stop around there.

9 So we see:

10 "Ottawa Police are planning for around
11 1,000 to 2,000 vehicles..."

12 The Convoy is going to be directed to Sir John A.
13 The second-to-last or third-to-last bullet there:

14 "Near Vanier, old Jetform park will be
15 used to park trucks and passenger
16 vehicles with cabs and LRT available
17 for demonstrators to get downtown..."

18 So we've heard a lot of evidence on the
19 Commission -- at the Commission already about what the plans may
20 or may not have been, but I understand this reflects the notion
21 that protesters would be -- would park at, I think what's now
22 referred to as, in common parlance, as Coventry Road, and then
23 be bused in from there, or from various locations. And then if
24 we just scroll down here to "Assessment":

25 "Ottawa police assessment determines
26 [there's] no need for people to stay
27 home or for businesses to close....OPP
28 is advising motorists to avoid

1 travel...[because of the]
2 delays....Ottawa Police, OPP...RCMP as
3 well as the City of Ottawa,
4 are...coordinating a
5 response....disruption to government
6 activities...expected to be minor..."

7 Because most employees are at home:

8 "INTERSECT is indicating...this will be
9 a significant and extremely fluid event
10 that could go on for a prolonged
11 period."

12 It's anticipated to be peaceful. Does that
13 reflect, essentially, the information that you had at the time
14 and your expectations?

15 **DM ROBERT STEWART:** Yes.

16 **MS. SHANTONA CHAUDHURY:** Okay. So is it fair to
17 say you anticipated that it would be -- well actually, I'll just
18 ask it open ended. How long did you think it would last? What
19 were you expecting to happen when the convoy arrived?

20 **DM ROBERT STEWART:** The expectation that I had
21 was that the convoy would park and stay for the weekend and
22 leave on the Sunday.

23 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Rochon, was
24 that your expectation?

25 **ADM DOMINIC ROCHON:** As far as the Ottawa
26 situation was, yes. And we were also watching to see whether
27 other protests that were bubbling across the country would also
28 -- but the expectation was they would all be peaceful and they

1 would last for that weekend.

2 **MS. SHANTONA CHAUDHURY:** Okay. Is there anything
3 in particular you'd like to highlight about what was going on
4 across the country at that time?

5 **ADM DOMINIC ROCHON:** No, other than to say, you
6 know, transport obviously had some concerns with regards to
7 various protests happening and how it might affect the flow of
8 traffic, how it might affect supply chain issues, from a
9 transport perspective. Canada Border Services Agency, I think,
10 started to ask questions about particular ports of entry.

11 And so from the critical infrastructure
12 perspective, and this is really why GOC was involved, is to make
13 sure that we were mindful that there could be impacts to
14 critical infrastructure. And as a result, you were being
15 watchful.

16 But the expectation, although it does say in this
17 document, I note, that INTERSECT, which was the broader group
18 that Mr. Stewart referred to a moment ago, they indicated that
19 the situation was very fluid and that it could go on for a more
20 prolonged period, particularly in Ottawa.

21 **DM ROBERT STEWART:** I would like to add to that,
22 if I may.

23 **MS. SHANTONA CHAUDHURY:** Please do.

24 **DM ROBERT STEWART:** So the convoys were very
25 organic kind of protest, and it was very difficult, and I've
26 used the word "intelligence" in a very technical sense before,
27 but to be -- have good intel of what the plans were for any of
28 the convoys as they manifested. And we were starting to see

1 slow roll convoys in other places in the country, and as Dominic
2 has said, we were concerned that this movement would grow and it
3 wouldn't be just a one time only event, that this would, in the
4 end, manifest across the country in various places.

5 And I believe right by the end of January, we
6 were starting to see the blockade in the Coutts Port of Entry.
7 So therefore, you know, we had evidence that it could in fact
8 impair critical infrastructure and, you know, the economy and
9 the lives of Canadians.

10 **MS. SHANTONA CHAUDHURY:** Okay. So one eye open
11 that this could develop into something, but essentially, with
12 respect to Ottawa at least, the expectation was that it would
13 end after the weekend. And as we know now, that didn't happen.
14 And it didn't end after the weekend. Some trucks stayed. Many
15 protestors stayed.

16 So the next sort of topic I want to address is,
17 very broadly, how did the Federal Government respond?

18 Let's start by talking -- we know that there were
19 a variety of committees struck and calls and meetings taking
20 place.

21 So Mr. Stewart, I'll ask you to walk us through
22 that, starting with the internal Federal Government response.

23 **DM ROBERT STEWART:** All right. So we've
24 established that prior to the convoy's arrival in Ottawa, there
25 were discussions taking place in the regular fora, which
26 included the Deputy Minister's Operational and Coordination
27 Committee, and bilateral discussions across departments,
28 including transport, to just take stock, basically, and make

1 sure we had situational awareness. And I believe PCO officials
2 would have been informing political officials at their end. We
3 were certainly keeping the Minister apprised in his office.

4 As the weekend progressed and it became clear
5 that the convoy was intending to stay and the original thinking
6 was that they would only stay a couple of days, and then it
7 gradually morphed into an extended period of time, we ramped up
8 the internal discussions and started to have a regular briefing
9 on a daily basis of a small group of Ministers, including the
10 Minister of Public Safety and the Minister of Emergency
11 Preparedness, quite often the Minister of Transport and the
12 Minister of Intergovernmental affairs as well, and occasionally
13 the Minister of Justice. So these were key Ministers in the
14 context of the protests. And they were -- they -- we started
15 daily briefings of that group at the beginning of the first week
16 after the weekend. And they were supported by regular daily
17 meetings of the DMOCC, Deputy Ministers Operational Committee --
18 Coordination Committee meetings, as well as other discussions
19 that we were having, and that goes outside of government, but
20 with other officials around the country.

21 So those two groups, that DMOCC group of senior
22 officials, and the Ministerial Briefing Group were the principle
23 for -- in which the ongoing protestor on the country and the
24 situation in Ottawa was discussed.

25 **MS. SHANTONA CHAUDHURY:** Okay. So DMOCC is
26 another acronym ---

27 **DM ROBERT STEWART:** Sorry.

28 **MS. SHANTONA CHAUDHURY:** --- that we're going to

1 have to get used to pretty quickly. No, no, no. That's one
2 that's going to come up a lot over the next couple of weeks, so
3 we'll learn it now. Deputy Minister Operations Committee, the
4 DMOCC.

5 Who attended the DMOCC? Who participated in it?

6 **DM ROBERT STEWART:** The standing membership would
7 be Chair of National Security Intelligence Advisor, the
8 Intelligence Agencies, the Canadian Security Establishments, and
9 CSIS, RCMP, Department of -- or Deputy Minister of Transport,
10 Deputy Minister of Public Safety, Deputy Minister of Global
11 Affairs, Deputy Minister of Immigration and Citizenship. I'm
12 going to miss one here. The Chief of Defence staff. Sorry, I'm
13 ---

14 **MS. SHANTONA CHAUDHURY:** CBSA?

15 **ADM DOMINIC ROCHON:** Defence, CBSA ---

16 **DM ROBERT STEWART:** CBSA. Yes, of course.

17 **ADM DOMINIC ROCHON:** --- interact.

18 **DM ROBERT STEWART:** Defence.

19 **MS. SHANTONA CHAUDHURY:** Okay. And so you
20 referred just now to the Communications Security Establishment.
21 Can you just explain what that is?

22 **DM ROBERT STEWART:** It's one of the two primary
23 Intelligence Agencies that does signals intelligence.

24 **MS. SHANTONA CHAUDHURY:** Signals intelligence.
25 Can you explain what signals intelligence is?

26 **ADM DOMINIC ROCHON:** Well on signals
27 intelligence, I should point out the Communication Security
28 Establishment is responsible for two things. One, collecting

1 foreign signals intelligence on non-Canadians outside of Canada.
2 It's a very strict mandate. But they also have the
3 responsibility for the Canadian Cyber Centre. So they produce
4 threat assessments, for example, for cyber incidents and things
5 of that nature.

6 **MS. SHANTONA CHAUDHURY:** Thank you.

7 Okay. Mr. Stewart, sorry about that. A little
8 interlude. So there was the DMOCC and then you said there was
9 these daily ministerial briefings. And at a high level, can you
10 explain what those daily ministerial briefings were about?

11 **DM ROBERT STEWART:** They had multiple purposes.
12 the first was, of course, situational awareness. So there was a
13 briefing at the beginning of it, typically by the Commissioner
14 of the RCMP, and as well by the President of the Canada Border
15 Services Agency on the situation on the ground across the
16 country.

17 That would be supplemented by any information
18 obtained from other sources. If I had had conversations with
19 other officials elsewhere, I would report on that.

20 And then we would discuss, you know, the Federal
21 Government's ability to deal with the protest, what we were able
22 to mobilize or what we were doing, such as the provision of RCMP
23 officers to support the Ottawa Police Service. And we would
24 also discuss, you know, what Ministers' messages would be for
25 Canadians, because they were making frequent public appearances.

26 **MS. SHANTONA CHAUDHURY:** Okay. And you mentioned
27 that the principal briefer was often Commissioner Lucki from the
28 RCMP?

1 **DM ROBERT STEWART:** Yes.

2 **MS. SHANTONA CHAUDHURY:** Why was that?

3 **DM ROBERT STEWART:** Well the police of
4 jurisdiction in Ottawa were connected to the RCMP and are on a
5 regular basis. The RCMP coordinates because they have
6 jurisdiction over some areas of the city, small areas that are
7 federal. And so they worked very closely together.

8 And of course, the police were, including the
9 OPP, they had an integrated command. They had a National
10 Capital Region Crisis Centre that they were -- that they had
11 staffed, and that was where the RCMP was getting the
12 information.

13 But the OPP was not in these calls, nor was the
14 Ottawa Police. So they were, in a sense -- the Commissioner of
15 the RCMP was, in a sense, the person who collected that
16 information and brought it to the table.

17 **MS. SHANTONA CHAUDHURY:** Okay. So these two
18 things that we're talking about, the DMOCC and the Ministerial
19 Briefings, these are entirely internal to the Federal
20 Government?

21 **DM ROBERT STEWART:** That's what you asked for.

22 **MS. SHANTONA CHAUDHURY:** It's exactly right.
23 Okay.

24 And before we move on to external, Mr. Rochon,
25 just ask you to explain, you touched on this before, but what
26 the ADMNSOPs was doing at the time?

27 **ADM DOMINIC ROCHON:** So commensurate with those
28 two meetings that Mr. Stewart just described, ADMNSOPs was also

1 meeting daily and essentially feeding into those meetings. So
2 it's just one layer below in terms of Assistant Deputy Ministers
3 from all of those same departments and agencies coming together
4 and discussing situational awareness around the various
5 incidents that were occurring across the country.

6 **MS. SHANTONA CHAUDHURY:** So would it be fair to
7 say that the information chain would sort of be ADMNSOPs up to
8 DMOC and then from DMOC up to Cabinet where warranted?

9 **ADM DOMINIC ROCHON:** Yeah.

10 **MS. SHANTONA CHAUDHURY:** The Ministerial level.
11 Okay, Mr. Stewart, now I'll ask you about the
12 meetings that were happening that included actors external to
13 the federal government.

14 **DM ROBERT STEWART:** So a couple of different
15 points of note there.

16 As a standing matter, there is a committee of
17 federal-provincial Assistant Deputy Ministers which was our
18 colleague, Talal Dakalbab, who is a co-chair of that committee,
19 and it was a committee to discuss crime prevention and policing
20 matters. And it exists on a permanent basis and involves ADMs
21 from across the country, all provinces and territories.

22 So that for a was used for outreach and
23 discussion, information sharing ---

24 **MS. SHANTONA CHAUDHURY:** And that's what's
25 referred to as the FPTCPCC, I think?

26 **DM ROBERT STEWART:** That is correct. Crime
27 Prevention and Policing Committee.

28 **MS. SHANTONA CHAUDHURY:** CPCC.

1 **DM ROBERT STEWART:** CPPC.

2 So that was one forum. On an *ad hoc* basis, we
3 convened Deputy Ministers of federal, provincial and territorial
4 governments to discuss the situation with the protests around
5 the country, and that happened more than once because I co-
6 chaired a call and then my colleague, the Deputy Minister of
7 Transport, had calls with Deputy Ministers of Transport
8 departments around the country as the protest went on. I'm sure
9 we'll come back to that.

10 But there was, generally speaking, Deputy
11 Ministers at calls and meetings and, as well, I reached out to
12 the City of Ottawa early in the week that the protests became
13 entrenched and we stood up calls and discussions amongst
14 officials and also at the Ministerial level involving the city
15 and the province.

16 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can I
17 ask you to pull up ONT00000159?

18 These are notes that we received from Ontario
19 from a meeting on February 6th, which I understand was one of
20 the situation in Ottawa meetings that you describe, Mr. Stewart.
21 And as you said, I believe you convened these meetings in order
22 to have some input on what was going on in Ottawa and assist
23 with that situation.

24 Okay. So I just want to take you to the various
25 things that you're reported to have said in this meeting, so the
26 first thing is you convened the meeting and you were looking to
27 get a sense of what the -- what was going on on the ground in
28 Ottawa and steps to resolving the situation.

1 First thing is you noted that some of your
2 federal Ministers were concerned and wanted a quick resolution
3 to the matter. In addition, there continues to be concern from
4 the federal Ministers about coordination of activities federally
5 and with other partners.

6 Can you just elaborate on what you were reporting
7 there?

8 **DM ROBERT STEWART:** So I was reflecting the fact
9 that the federal government was taking -- and the Ministers of
10 the federal government were taking the protests very seriously
11 and were very concerned about how it was evolving. I've
12 referred earlier to its kind of organic nature, the uncertainty
13 that prevailed, the sense of, quite frankly, menace that was
14 starting to manifest itself.

15 And given that it was happening on a national
16 basis, Ministers were actively, to the best of my knowledge,
17 talking to counterparts across the country and trying to bring
18 things -- bring powers and plans to the table.

19 It's important to note, I think, at least for the
20 record, that at no time did anybody start to think about
21 instructing police to do anything, but they were very interested
22 in what the plans of the police were in various parts of the
23 country and as well, you know, how we would mobilize, you know,
24 for border crossings with the Canadian Border Service Agency and
25 local -- local police.

26 So the sense here that, you know, there was a
27 growing set of protests occurring, that it was taxing the
28 abilities of local authorities to manage or to address them and

1 the lack of, at that point in time, a particular sort of
2 coordinated federal-provincial approach, that was what I was
3 referring to.

4 **MS. SHANTONA CHAUDHURY:** Okay. And just moving
5 down, if we can scroll down to the next time you see Rob
6 Stewart.

7 There we go. Just keeping scrolling down a
8 little bit, Mr. Clerk, so we can see.

9 Rob Stewart posed the following question to Chief
10 Peter Sloly, "What is the nature of the support that Ottawa is
11 likely going to ask for?". And it says here:

12 "Note Rob Stewart was trying to
13 understand in unsaid terms whether the
14 OPS will directly request non-law
15 enforcement assistance."

16 Can you tell us a little bit about what was going
17 on there?

18 **DM ROBERT STEWART:** Well, I didn't take these
19 minutes and I don't think that's accurate.

20 The Chief-- Chief Sloly was saying very openly,
21 almost right from the beginning after the weekend, that he
22 needed more resources. And fairly early on, the RCMP did add
23 resources to help the Ottawa Police and the number was quite a
24 bit lower than Chief Sloly was asking for, so we weren't
25 entirely clear as to what exactly he needed in terms of the type
26 of resources, and here we're talking about policing resources.

27 I had already spoken to the City, and here I mean
28 City Manager Steve Kanalokos, and clarified that the federal

1 government had no intention of mobilizing the Canadian Armed
2 Forces to deal with the protests.

3 And so it was not -- it really, I think, is
4 subject of discussion at that time and the issue was more just
5 the scope and nature of the policing resources that the city was
6 calling for.

7 **MS. SHANTONA CHAUDHURY:** Okay. And the next
8 bullet point is what are the obvious and visible successes that
9 Ministers could be told and can also see? What were you
10 referring to there or what were you asking Chief Sloly about?

11 **DM ROBERT STEWART:** Well, Chief Sloly and I think
12 the -- the document does give some clarity to this, was
13 reporting on what the Ottawa Police Service was trying to do to
14 limit and contain the protests and there had been, for instance,
15 a kind of a shack erected in one of the parks, federal parks,
16 which was causing quite a lot of heartburn in that the police
17 were successful in negotiating being taken down. It was storing
18 gas and was actually, I think, a barbecue stand.

19 But that was, as an example, one of the things
20 that, you know, Chief Sloly was reporting on the police having
21 achieved.

22 And you know, he was projecting a sense of
23 intention that, you know, they were going to continue, the
24 Ottawa Police, to the best of their ability with the resources
25 that they had stretched as they were to take steps to interdict
26 and to disrupt the protest. And so this is what that question
27 gets at, is what are your plans in the short run to do that kind
28 of thing.

1 It wasn't -- it wasn't -- this is not predicated
2 on that kind of thing. It wasn't -- it wasn't this is not
3 predicated on, at that point in time, the expectation that the
4 Ottawa Police would be able to actually bring the protests to an
5 end.

6 **MS. SHANTONA CHAUDHURY:** Okay. And that, I
7 suppose, reflects the fact that these meetings are information
8 sharing and aimed at -- sorry, information sharing and
9 attempting to sort of brainstorm solutions. Would that be fair?

10 **DM ROBERT STEWART:** That's right.

11 **MS. SHANTONA CHAUDHURY:** Okay. Now, if we can
12 just keep scrolling down.

13 Sorry. Just stop right there. No, keep going
14 until you see Jodie Thomas, National Security Advisor.

15 And scroll down a little bit more, please.

16 Okay. There we go.

17 So Mr. Stewart, I just want to ask you a little
18 bit here about these meetings were meetings at the official's
19 level largely; is that right?

20 **DM ROBERT STEWART:** Yes.

21 **MS. SHANTONA CHAUDHURY:** Okay. And there was
22 participation from Ontario, Mr. Di Tommaso ---

23 **DM ROBERT STEWART:** Yes.

24 **MS. SHANTONA CHAUDHURY:** --- would participate in
25 these meetings, and we heard from Mr. Di Tommaso last week. And
26 you'll see that quote that's attributed to Jody Thomas, who is
27 the National Security Advisor, and you've already told us that
28 the National Security Advisor is an official at PCO ---

1 **DM ROBERT STEWART:** Yes.

2 **MS. SHANTONA CHAUDHURY:** --- who was involved in
3 I think both chairing the DMOC and coordinating federal
4 government response here. So Ms. Thomas is said to have said --
5 she noted that it was a positive meeting and regrets to end on
6 this point, but would the Province be looking to the Federal
7 Government if this protest was happening outside the City of
8 Ottawa, e.g., happening in other places like Kingston?

9 Mr. Di Tommaso when he was here last week, the
10 transcript reference for this is TRN0000021, page 262, testified
11 that he understood this comment to mean that Ms. Thomas was
12 trying to have the federal government wanting -- or this comment
13 indicated that the federal government was wanting to wash its
14 hands of the entire thing. And I was wondering if you could
15 comment on that? Was that your understanding of Ms. Thomas's
16 comment here?

17 **DM ROBERT STEWART:** Not at all. And I believe
18 Mr. Di Tommaso misinterpreted what she was driving at. I think
19 that it wasn't -- it was never the view of federal officials or
20 ministers that the federal government didn't have some degree of
21 ownership of the protest and some degree of responsibility for
22 dealing with it, as it was a national event.

23 And so it wasn't predicated -- the question I
24 don't believe was predicated on the federal government is
25 looking to not take action. In fact, it was the opposite. I
26 believe that the concern here was that the province was not
27 taking as much action as they might be taking.

28 And I want to caveat that by saying that at no

1 time did I think the OPP was not rising to the -- to deal with
2 the event. Their response was, as far as I was aware and
3 through the Commissioner of the RCMP, what it should be in terms
4 of coming to the city and participating in planning and
5 response. So -- and Mr. Di Tommaso, in my conversation with
6 him, of which there were many, was always assuring me that the
7 OPP was on the job, and this pertained to Ottawa, it pertained
8 to Windsor, it pertained to other places in the province where
9 slow roll protests occurred.

10 So I think, you know, I would interpret this
11 exchange as being largely about whether or not provincial
12 politicians would be coming to the table as federal Ministers
13 were coming to the table, to discuss what tools and tactics they
14 could contribute.

15 **MS. SHANTONA CHAUDHURY:** Okay. And that leads
16 into something I want to ask you about more specifically. I
17 think you've already introduced it here, but which is Ontario's
18 general position and attitude towards the Ottawa protests and
19 what was going on in late January, early February.

20 Mr. Clerk, can I just ask you to pull up
21 WTS0000066?

22 This is your witness summary. I'd like to refer
23 directly to some of the things you said in our interview.

24 Okay. If we can go to page 17? There we go.

25 So in the interview you said,

26 "...it was never clear whether the
27 Government of Ontario was willing to
28 assist Ottawa."

1 And you noted the Mayor of Ottawa, in your
2 recollection, was frustrated. And then you added,

3 "...there was a question about how
4 quickly the provincial government would
5 endorse the OPP and whether it would
6 put its weight behind the OPP..."

7 And then I think you just answered that the OPP
8 was fully behind this. But then you noted,

9 "There is a misconception that in the
10 normal course, protests in Ottawa are
11 not a provincial issue, but rather
12 [they're] dealt with by a combination
13 of federal and local police. As he
14 explained it, [he being you,] they were
15 treating Ottawa as Washington, DC"

16 Can you explain what you meant by that, they were
17 treating Ottawa as Washington, DC, and sort of walk us through
18 what your viewpoint was in the early days in February of
19 attempting to deal with the situation on behalf of the federal
20 government and the response you were getting from Ontario.

21 **DM ROBERT STEWART:** So in the normal course, the
22 OPP does not come to Ottawa to deal with small-scale protests or
23 Canada Day or any other major event. That tends to be
24 coordinated -- that's within the scope and capacity of the
25 Ottawa Police Service and it tends to be coordinated with the
26 RCMP, who have responsibilities in the jurisdiction, as I've
27 said before, for protecting Ministers and federal -- certain
28 federal sites, and also the Parliamentary Protective Service,

1 who have the responsibility of protecting the precinct, the
2 Parliamentary Precinct. So those would be the people who would
3 normally, you know, coordinate around the kinds of events that
4 have occurred in the past, where the scale of the protest is not
5 major. Here, we were talking about a situation where it had
6 clearly gotten out of control and had become illegal. And
7 notwithstanding that the Ottawa Police were being backstopped by
8 the OPP and the RCMP, there was clearly more that needed to be
9 done and ultimately was, to add, you know, rules and powers to
10 address the situation. And this was lurking in the background
11 on all the calls that we had with Ministers is where's Ontario.

12 And the technical point that I think should be
13 made here though is -- and I believe Mr. Di Tommaso touched on
14 this. You know, municipalities are creatures of provinces. And
15 under the law, if the Ottawa Police Service is in need of
16 assistance, technically, they should be asking the OPP first and
17 not the RCMP. That's according to the law. This isn't normal
18 course, and indeed, it wouldn't be the RCMP's -- I believe it
19 would not be the RCMP's position that they wouldn't do anything
20 if Ottawa needed help. Police come to the help of each other
21 all the time. But this issue here of Ottawa turning to the
22 federal government, and asking for RCMP, and not really
23 articulating, you know, how many more OPP they needed I think
24 was also kind of a question that was floating around in the
25 background.

26 **MS. SHANTONA CHAUDHURY:** When you say according
27 to the law they should go first to the OPP, what law are you
28 talking about there?

1 **DM ROBERT STEWART:** I can't tell you the specific
2 law. It's the one that Mr. Di Tommaso cited.

3 **MS. SHANTONA CHAUDHURY:** I believe that was the
4 *Police Services Act*.

5 **DM ROBERT STEWART:** I believe so.

6 **MS. SHANTONA CHAUDHURY:** Okay. So in addition to
7 the meetings that we've already talked about then, the DMOC
8 meetings and the Ministerial briefings, there were also a series
9 of tripartites convened. Can you tell us a bit about those?

10 **DM ROBERT STEWART:** So bootstrapping, in the same
11 way we did with DMOC and Ministers, from the calls that we had
12 with Ontario and the City, City Manager, City Police, OPP, Mr.
13 Di Tommaso, we convened Ministers and the Mayor and invited
14 provincial Ministers to attend. In the end, only Mr. Di Tommaso
15 attended those calls, but they were called tripartite because
16 they were the City, the Province and the Federal Government.
17 And they were of a very similar nature to the kinds of calls we
18 were having with Ministers in turn with the Federal Government,
19 a discussion of the situation, a discussion of what people's
20 position and concerns were, a discussion of what we knew the
21 plans to be at that stage. And largely, a sharing of
22 information and concerns.

23 **MS. SHANTONA CHAUDHURY:** Okay. And you noted
24 that those calls were not attended by any political -- any
25 politicians from Ontario?

26 **DM ROBERT STEWART:** It did not have political
27 representation of Ontario.

28 **MS. SHANTONA CHAUDHURY:** Who convened the

1 tripartites?

2 **DM ROBERT STEWART:** I think the federal
3 government did, although it was very much collective with the
4 City. The City Manager and I would agree that this needed to be
5 done.

6 **MS. SHANTONA CHAUDHURY:** And did you attend all
7 of the tripartites?

8 **DM ROBERT STEWART:** I did.

9 **MS. SHANTONA CHAUDHURY:** Okay. And I believe the
10 dates of those would be February 7th, February 8th, and February
11 10th?

12 **DM ROBERT STEWART:** Yes.

13 **MS. SHANTONA CHAUDHURY:** Before we leave this
14 document, your witness summary here, the other statement I
15 wanted to ask you about was the one where you say the provincial
16 government was more engaged in Windsor because the Ambassador
17 Bridge blockade impacted the Ontario economy. I realize we
18 haven't talked about Ambassador Bridge in Windsor here yet this
19 morning, but we heard several days of evidence about it last
20 week, so we're aware of what happened in Windsor. Can you speak
21 to a little bit that viewpoint that you held or hold that the
22 Ontario was more engaged in Windsor than it was in Ottawa?

23 **DM ROBERT STEWART:** Well, to a certain extent, I
24 believe it speaks for itself. In my conversations with Mr. Di
25 Tommaso, we were also discussing, of course, what was happening
26 in Windsor and what the plans were for ending the protest there.
27 And it was clear that there was a lot of attention being paid to
28 it at the provincial government level. And but there was -- and

1 part because it was a smaller-scale protest, a much more active
2 set of plans going on to bring it to an end. So in other words,
3 as I understand it, I'm not a police official, you know, there
4 are different skillsets the police have, and one of the
5 skillsets, or one of the types of policing units that was
6 necessary in both Ottawa and Windsor was Public Order Units, who
7 wear, you know, who wear the helmets and carry the batons.
8 These were needed and had to be mobilized from across the
9 province. And so I was aware that that was the plan that was
10 underway, that they were mobilizing to take out the protest in
11 Windsor, and therefore, this would support the comment that I
12 made.

13 **MS. SHANTONA CHAUDHURY:** Okay. The next series
14 of meetings that I'd like you to tell us a bit about you've
15 already referred to. The acronym is FPTCPPC, so Federal
16 Provincial Territorial Crime Prevention Policing Committee.

17 Mr. Clerk, can I ask you to pull up
18 PB.NSC.CAN.0000005 -- 000000005. I see you nodding, so you know
19 better than I do. Okay. Can we just scroll down?

20 So these are -- this is a read out of the FPT --
21 actually, this is a FPT DMs ad hoc meeting on February 7th. Do
22 you recall this meeting, Mr. Stewart?

23 **DM ROBERT STEWART:** Yes, I mentioned it earlier.

24 **MS. SHANTONA CHAUDHURY:** Okay. Perfect. So
25 here's the read out. And the first comment I want to take you
26 to is just at the, sort of the end of that first paragraph where
27 it says,

28 "Intel. There [has been -- there] has

1 not been significant element of violent
2 extremism. We've discussed this
3 before, can set up another meeting with
4 CSIS and how monitoring threats to
5 democracy. For now there is no
6 planning going on [...] no degree of
7 violent extremism going on, not saying
8 this will happen."

9 Can you just tell us a bit about what you were
10 saying there?

11 **DM ROBERT STEWART:** So CSIS officials and the
12 CSIS Director was on many calls, Minister calls. In fact, I
13 think it attended a tripartite meeting call.

14 **MS. SHANTONA CHAUDHURY:** And actually, can I just
15 ask you to tell us who attended this particular meeting? What
16 was this meeting?

17 **DM ROBERT STEWART:** This particular meeting?
18 This would have been the -- all the Deputy Ministers, those at
19 least that were available across the country from provinces and
20 territories, plus myself, and I believe Michael Keenan, the
21 Deputy Minister of Transport.

22 **MS. SHANTONA CHAUDHURY:** So would these be all
23 Public Safety Deputy Ministers or ---

24 **DM ROBERT STEWART:** Yes. Yes. I mean, they're
25 not all Public Safety ---

26 **MS. SHANTONA CHAUDHURY:** Fair enough.

27 **DM ROBERT STEWART:** --- in various jurisdictions,
28 but that's what their responsibility is. And this -- the

1 purpose of this call was to share, as I've mentioned,
2 information, you know, help people come to terms with what was
3 going on, make plans in their own jurisdictions. And as we
4 know, police of jurisdiction across the country learned very
5 quickly, but there was still the broader issue of why are these
6 protests happening, and what can we do to de-escalate them.

7 So the Director of CSIS had been reporting fairly
8 consistently that in terms of the threshold for monitoring under
9 the *CSIS Act*, he was not observing any increase in activity or
10 any evidence of plans, and this is, to be clear here, a very
11 high threshold. CSIS -- and my colleague Mr. Rochon can explain
12 this in more detail if you wish -- can only monitor people that
13 they believe to be of certain threats to the security of Canada,
14 and that's a high bar for them. And so they're -- it's not a
15 very large number of people that they're monitoring. It's quite
16 small. It does not, as a general matter, include the population
17 or large elements of the population. They are very targeted in
18 their activities.

19 So in that context, given their targets, they
20 were reporting they were not seeing any activity on the part of
21 those targets. And that's what I was reporting there. And then
22 the simple observation that on the ground in Ottawa, things were
23 kind of chaotic. We didn't have the evidence of planning,
24 weren't hearing about planning, and no sense of extremism in the
25 violent sense, although there was plenty of criminality by that
26 point.

27 **MS. SHANTONA CHAUDHURY:** Okay. And we will be
28 hearing from CSIS directly next week, but I think it might be

1 useful, Mr. Rochon, you can just elaborate briefly on what CSIS
2 can and cannot do and what it was and was not monitoring here,
3 following what Mr. Stewart said.

4 **ADM DOMINIC ROCHON:** Well, in this particular
5 case it, again, refers to extremist elements. So from a
6 terrorism perspective, I had mentioned earlier the ideologically
7 motivated violent extremism, which is something that CSIS is
8 coming to grips with, and indeed, have provided language in and
9 around defining that, because historically, I would say,
10 individuals are influenced by a singular definable belief
11 system. And that's how we used to treat terrorism. There's
12 been an evolution with regard to terrorism as of late. Now
13 there is a confluence of a whole series of grievances that can
14 come to bear, and it becomes a lot more difficult to track
15 exactly how a particular threat can manifest itself in this IMVE
16 environment.

17 So there are xenophobic violence, anti-authority
18 violence, gender-driven violence, other grievances that CSIS now
19 have to wrap their minds around, how do we go after and collect
20 information to protect Canadians against these emerging threats,
21 when it can -- as opposed to a, as I mentioned earlier, a
22 believe system where there is a clear head and a org structure
23 behind a particular organization. In today's world now, we're
24 seeing more and more that a lone wolf, a lone actor can actually
25 perpetrate a particular extremist violent event.

26 Nevertheless, the tools at our disposal and at
27 CSIS's disposal is very much the *CSIS Act* that was written in
28 1984. And there is part 2C of the *CSIS Act*, or indeed part 2 of

1 the *CSIS Act* gives 4 different distinctions as to what they can
2 collect intelligence on, and it describes threats to the
3 security of Canada.

4 So in this particular instance, what we were
5 referring to, as you can appreciate, federal provinces and -- or
6 sorry, provinces and territories, representatives would be under
7 the impression that federal government is sitting on a treasure
8 trove of classified intelligence. And based on that
9 intelligence, they would want to know, are we seeing something
10 from an intelligence perspective that would show that these
11 protests are organized and that, ultimately, they constitute an
12 extremist threat to overthrow the government or something to
13 that effect.

14 So specifically, with regard to that extremist
15 element, what we were saying here, or what the Deputy was
16 referring to here is that as of yet, CSIS has not met a
17 threshold to cause them to collect additional intelligence on a
18 broader set of Canadians because they had not seen evidence of
19 that.

20 That being said, I should just also qualify that
21 that doesn't mean that they weren't monitoring certain extremist
22 targets of theirs that have met that threshold and seeing
23 whether or not they were interested. And I also want to qualify
24 a comment that I might have made earlier, intelligence, again,
25 is not an exact science, and it's not foolproof. So just
26 because you have a piece of evidence, or a piece of intelligence
27 rather, doesn't mean that you have the full picture. And it
28 becomes a very difficult mosaic to try and pull together in

1 terms of pulling together intelligence emanating from CSIS,
2 emanating from police forces, emanating from Canada Border
3 Services Agency, pulling that picture together to determine
4 whether there's a national security threat is a different
5 proposition than indicating whether or not CSIS specifically had
6 evidence of a violent extremism meeting their threshold.

7 **MS. SHANTONA CHAUDHURY:** Thank you. That's
8 helpful in understanding that.

9 So the second bullet point then, to go back to
10 Mr. Stewart, on people protesting in accordance with the law,

11 "In Ottawa, the law has been
12 disregarded. The norms of behaviour
13 and laws."

14 You talk about what's going on in downtown
15 Ottawa:

16 "Police have not been able to control.
17 Have heard comments made to federal
18 ministers: do something. CBSA,
19 Transport and PS [that's Public Safety]
20 officials have heard from our
21 Ministers. Roles of police and govt,
22 have not tried to get involved in
23 enforcement but staying in touch with
24 police. Police including rcmp and
25 outside of Ottawa have supported [...]
26 Have strayed [I think that's probably
27 stayed] in close touch. Political
28 layer is engaged."

1 And then the last line is:

2 "Strong desire [not to] engage
3 protestors and to let enforcement take
4 tis course."

5 Do you recall what that referred to? In
6 particular that last line?

7 **DM ROBERT STEWART:** That last line refers to
8 essentially the decision by Ministers not to speak to the
9 protestors.

10 **MS. SHANTONA CHAUDHURY:** Okay. So this was -- to
11 situate us in time, this was on February 7th and at that point,
12 that was the position being taken?

13 **DM ROBERT STEWART:** That was the position.

14 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, we can
15 take that document down. And the next one to pull up is
16 SSM.NSC.CAN00000246.

17 So these are the NSIA's talking points on
18 February 8th, and it looks like they're for a Cabinet briefing.
19 We're going to get into the specific Cabinet meetings in a bit.

20 But for now, if we can go to page 4 of that
21 document, Mr. Clerk?

22 There's just a couple of specific points I'd like
23 to ask you about.

24 Oh, sorry, up a bit.

25 "Yesterday an FPT table of FM of Public
26 Safety and [Transport] met to discuss a
27 national and coordinated strategy [...] that
28 is built upon 'maximum and strategic

1 enforcement' using any and all tools
2 available at all 3 levels of government,
3 and need to align all communications to
4 protestors about 'maximum enforcement' and
5 the consequences. General support for
6 approach - more to come."

7 So the first question is, is that FPT table that
8 happened the day before, is that the call that we just looked
9 at?

10 **DM ROBERT STEWART:** Yes.

11 **MS. SHANTONA CHAUDHURY:** Okay. Now, I think
12 we're going to hear a lot more about this in detail when you
13 colleague, Deputy Minister Keenan from Transport Canada
14 testifies, which is on Wednesday, but can you briefly explain to
15 us what this idea of a maximum strategic enforcement strategy
16 was?

17 **DM ROBERT STEWART:** The idea here was to use
18 tools that would not normally be used in addition to the powers
19 that the police have.

20 So that would -- in a sense, it would include
21 enforcement of bylaws and traffic laws, but it would also
22 involve, as a means of deterring people from joining protests or
23 being party to protests, the use of regulations and other
24 provincial authorities, which are related to trucking.

25 So here, you know, as an example, and as you
26 said, Mr. Keenan -- Deputy Minister Keenan can speak to this,
27 you know, we're talking about deregistering a commercial
28 vehicle, making it unable to be used for, you know, commerce.

1 Not renewing license. Or various other ideas that were being
2 floated around that we could do -- we could use at the Transport
3 level, Transport authority level, that would have some effect.
4 So that's the general idea.

5 **MS. SHANTONA CHAUDHURY:** Okay. And if we scroll
6 down a little bit more to page 5:

7 "Departments have developed a rolodex of
8 'creative alternatives' to be explored in
9 addressing this matter."

10 So that refers to -- that's what you were just
11 talking about? This idea of trying to come up with alternatives
12 or ideas. And can you give us some examples of what those --
13 that rolodex would have contained?

14 **DM ROBERT STEWART:** Well certainly what I just
15 spoke of, I would really need to refer to the lists that we
16 developed to be accurate, and there are lists in evidence, which
17 come up or manifest a little bit later.

18 So off the top of my head, I don't recall any
19 other specific things, other than in the Transport realm.

20 **MS. SHANTONA CHAUDHURY:** Okay. Well, again, I
21 think Deputy Minister Keenan will be taking us through this in
22 great detail.

23 But sort of skipping to the conclusion, what
24 happened with the idea of the maximum enforcement strategy? Did
25 that ever materialize? Were steps taken by the provinces to --
26 or municipal authorities to actually implement some of these?

27 **DM ROBERT STEWART:** Well the most obvious
28 manifestation of action would have been the Ontario Emergency

1 Order on the 11th of February.

2 **MS. SHANTONA CHAUDHURY:** Okay. Before we get
3 there, there's another topic I'd like to ask you about, which is
4 requests for federal assistance. So this again falls within the
5 rubric of what was going on between the provinces,
6 municipalities, and the Federal Government at the time.

7 So request for federal assistance. I understand
8 that that's a responsibility that falls to the GOC. So can I
9 ask you -- to an extent, at least -- be processed through the
10 GOC, if I can put it that way. Can you explain, Deputy Minister
11 Stewart, how that process works?

12 **DM ROBERT STEWART:** So it's under the *Emergency*
13 *Management Act* and a responsibility of the Department, and then
14 that's delegated to the Government Operation Centre to
15 coordinate. And the Government Operation Centre, for the
16 record, is a coordination unit, a surveillance and coordination
17 unit. It doesn't have powers. It doesn't have authorities. It
18 just works to bring partners to the table.

19 So an RFA is, in essence, a situation in which
20 the provincial capacity to deal with an issue or -- yeah, it's
21 the provincial and territorial capacity to deal with an issue
22 has been surpassed and they need federal assistance. And the
23 role of the GOC is to discuss the request and to coordinate the
24 response.

25 They occur most frequently in the world of, you
26 know, natural events, fires, floods, but there were many in the
27 context of the pandemic as well. In fact, there were, I think,
28 well over 190 in the last two and a half years or so, which is

1 way, way beyond the normal level.

2 In the context of the protests, there were only
3 three. And some of them can be very routine. So one of -- the
4 first one was for to use a federal space, the Cartier Drill Hall
5 to park police vehicles. And that was just -- that's a federal
6 land, it needed permission granted.

7 There was also an RFA from the Parliamentary
8 Protective Service at one point in time to make sure that they
9 could be supplied with food and support in the event that they
10 were barricaded in due to police enforcement.

11 So those are two RFAs that occurred.

12 The main RFA that I think is of note is the one
13 that came in from Alberta. And that one did not follow the
14 normal course. The normal course for an RFA is for it be
15 flagged by a provincial emergency authority to the GOC, allows
16 for some back and forth about, you know, is this possible? Can
17 we meet this need? And how are we going to respond to this?
18 And, you know, that just smooths and expedites the process. In
19 this case, it came in by letter from an Alberta Minister
20 directly to a Federal Minister, and we had no forewarning of its
21 appearance.

22 So do you want me to further explain that?

23 **MS. SHANTONA CHAUDHURY:** Sure. And maybe,
24 actually, at this point, it would be helpful to bring up the
25 document. It's PB.CAN00000718.

26 So this the RFA, Request for Federal Assistance,
27 from Minister McIver to Minister Blair. And the request here is
28 for tow trucks and personnel, described largely.

1 So I believe, Mr. Stewart, you were in the
2 process of telling us how that RFA was dealt with in Public
3 Safety?

4 **DM ROBERT STEWART:** Yes. So background. This is
5 with respect to the situation in Coutts. The RCMP is the police
6 of jurisdiction and were, you know, faced with a problem of
7 getting the trucks off the border crossing and the highway, and
8 the absence of tow trucks. And in a general sense, it was a
9 feature of these protests across the country, and particularly
10 where they manifested as encampments, that the local tow truck
11 industry would refuse to provide service, ostensibly due to
12 threats to their livelihood.

13 So this letter came in. It, as you said, came a
14 bit out of the blue. It wasn't hard to understand why the
15 request was being made.

16 And the question became, you know, is this a RFA
17 that we can address. And, you know, two issues surfaced. One
18 was whether we had the resources, and that would be, in effect,
19 the towing equipment of the Armed Forces. You know, they have a
20 base in Edmonton quite a long way from the border, and it has
21 equipment to tow heavy vehicles. However, there's a very
22 limited number of those units I understand, and moreover, they
23 were not of the same type as heavy lift tow trucks and would
24 have, had they been used, likely damaged the trucks they towed.
25 So the general conclusion was that the resources of the Canadian
26 Armed Forces were not appropriate to the task. And of course,
27 we didn't have any other tow trucks elsewhere.

28 The other issue that surfaced was whether the

1 province had exhausted its authorities. And here, I note that
2 the province had a *Critical Infrastructure Defence Act*, which
3 gave them the power to command tow truck industry, as we did
4 with the *Emergencies Act*, and that had not been used. So for
5 both of those reasons, we signalled that we would not be meeting
6 this RFA, although we bore it very much in mind. It's when we
7 formulated the orders under the *Emergencies Act*.

8 **MS. SHANTONA CHAUDHURY:** Okay. So just to make
9 sure I understand that, on the one hand, it was determined that
10 the Canadian Armed Forces did not have the appropriate
11 equipment, that was not suited to task, and on the other hand,
12 Alberta did have in its own powers the ability to compel tow
13 trucks under its *Critical Infrastructures Act*?

14 **DM ROBERT STEWART:** Right.

15 **MS. SHANTONA CHAUDHURY:** Okay. The next topic
16 I'd like to address briefly is the engagement between Public
17 Safety and the U.S. Department of Homeland Security. I
18 understand there were a couple of calls around February 10th,
19 February 11th. Are you able to speak to those at all and tell us
20 a bit about what you were hearing from Homeland Security?

21 **DM ROBERT STEWART:** Well, I'll expand a bit. I
22 was party to a call involving an official from the White House
23 and the National Security Intelligence Advisor, and the call was
24 essentially to express the concerns that the U.S. had with the
25 situation at the Windsor -- at the Ambassador Bridge, and also
26 what was going on generally in terms of public order. And that
27 conversation was a situational update. We were -- we explained,
28 and the National Security Intelligence Advisor provided some

1 insight into the thinking in Canada around what we were doing
2 and how we intended to address the protests. The White House
3 official offered support, you know, whatever they could think
4 of, and in particular, say tow trucks from Detroit. So that was
5 that call.

6 There were subsequent calls. She -- that person
7 was the White House person responsible for the Department of
8 Homeland Security.

9 **MS. SHANTONA CHAUDHURY:** What was her name?

10 **DM ROBERT STEWART:** I think it's Elizabeth
11 Sherwood-Randall.

12 **MS. SHANTONA CHAUDHURY:** Okay.

13 **DM ROBERT STEWART:** That was the only call I was
14 on. There was calls with the Department of Homeland Security
15 officials, and I believe you did one.

16 **ADM DOMINIC ROCHON:** I did two.

17 **DM ROBERT STEWART:** Two.

18 **ADM DOMINIC ROCHON:** So the Assistant Secretary
19 responsible for Counterterrorism and Threat Prevention, Samantha
20 Vinograd, did reach out to my National Security Policy
21 Directorate to ask about, you know, for situational awareness
22 about what was going on with regard to the protests, and whether
23 or not threats were manifesting themselves. And so I was
24 brought in. I don't have the date off the top of my head, but I
25 was brought in I think the week of February 10th. During that
26 week, I provided a brief to her and some of her officials in
27 terms of the situation happening in Canada and whether or not we
28 had any -- how we were coping with the potential threat to

1 national security.

2 And similarly, obviously, on her side of the
3 border, you know, following -- the year prior with the January
4 6th capital event, they still had potential extremist elements
5 and there was also the possibility of convoys happening in and
6 around various activities happening in Washington. So we were
7 just comparing and we agreed to keep each other in touch with
8 regard to the threat situation from the counterterrorism
9 perspective.

10 **MS. SHANTONA CHAUDHURY:** Were they expressing
11 concern about various convoys happening through the U.S. as
12 well?

13 **ADM DOMINIC ROCHON:** From my recollection, not
14 specifically, but they certainly had it on their radar as --
15 they were expressing concern about what they were hearing about,
16 and seeing in Canada, and wanted to make sure that they
17 understood how we were coping with it and whether or not it
18 could manifest itself on their side of the border.

19 **MS. SHANTONA CHAUDHURY:** The next topic I want to
20 get into is the inputs that you were providing to Cabinet over
21 the course of the convoy.

22 So, Mr. Commissioner, I don't know if you'd like
23 me to start now or if this would be a good time for the break?

24 **COMMISSIONER ROULEAU:** If it's a good time for
25 you, it's a good time for me. So ---

26 **MS. SHANTONA CHAUDHURY:** Oh, it's a good time for
27 me.

28 **COMMISSIONER ROULEAU:** --- we'll take a 15-minute

1 break and come back in 15 minutes to continue.

2 **THE REGISTRAR:** The Commission is in recess for
3 15 minutes. La commission est levée pour 15 minutes.

4 --- Upon recessing at 11:14 a.m.

5 --- Upon resuming at 11:30 a.m.

6 **THE REGISTRAR:** Order. À l'ordre.

7 The Commission is reconvened. La commission
8 reprend.

9 --- DM ROBERT STEWART, Resumed:

10 --- ADM DOMINIC ROCHON, Resumed:

11 **COMMISSIONER ROULEAU:** Go ahead.

12 --- EXAMINATION-IN-CHIEF BY MS. SHANTONA CHAUDHURY (cont'd):

13 **MS. SHANTONA CHAUDHURY:** So as I mentioned before
14 the break, the next topic I'd like to address with you is the
15 various inputs that you were providing to Cabinet over the
16 course of the convoy. So, Mr. Clerk, I'll ask you to pull up
17 SSM.NSC.CAN.00000292.

18 These are minutes from a Cabinet Committee on
19 Safety, Security and Emergencies on February 3rd. So, Mr.
20 Stewart, the first thing I'll ask you to do is can you tell us
21 what the Committee on Safety, Security and Emergencies or SSE
22 is?

23 **DM ROBERT STEWART:** It's a standing committee of
24 Cabinet under the current government, created to provide a forum
25 for discussion on issues associated with its title. And it's
26 chaired by Minister Blair, meets periodically. And generally,
27 is a forum for bringing forward policy and expenditure items in
28 this domain. But it also is a forum for discussion of

1 extraordinary events.

2 **MS. SHANTONA CHAUDHURY:** Okay. And I understand
3 that the SSE Committee met three times in relation to the convoy
4 and this was the first meeting that addressed the events of the
5 convoy; is that right?

6 **DM ROBERT STEWART:** I think that's right. I
7 could quibble a bit and say I think one of those meetings was a
8 regular meeting and they talked about the convoy, but I believe
9 there were two ad hocs.

10 **MS. SHANTONA CHAUDHURY:** Okay. If we can just
11 scroll down to page 5, Mr. Clerk? We'll see about halfway down
12 that page the Deputy -- there we go.

13 Deputy Minister of Public Safety. So, Mr.
14 Stewart, I'll read this slowly, for the benefit of the
15 interpreters.

16 "The Deputy Minister of Public Safety
17 provided an overview of engagements to
18 date with the City of Ottawa, and the
19 province of Ontario. The Deputy
20 Minister stated that the view of the
21 Ottawa Police is that they will not be
22 able to bring the protest to a
23 conclusion without the assistance of
24 the federal government due to concerns
25 for public safety. There is a risk
26 that increased enforcement will provoke
27 some protesters. There is work being
28 done by the city on an injunction

1 however, there is no timing on if and
2 when it could be issued. Finally,
3 Ottawa may seek compensation for
4 policing costs and consideration for
5 compensating the businesses and people
6 impacted..."

7 So if I understand correctly, what you were
8 putting forth to Cabinet at that point was the result of all of
9 the various conversations you were having both within the
10 federal government and with counterparts from Ottawa, Ontario,
11 et cetera. So this was the state of the situation that you were
12 reporting on February 3rd; is that right?

13 **DM ROBERT STEWART:** That's correct.

14 **MS. SHANTONA CHAUDHURY:** Okay. So a couple of
15 specifics in here. The view that the Ottawa -- the view of the
16 Ottawa Police is that they will not be able to bring the protest
17 to an end without the assistance of the federal government. Can
18 you tell us where that view that you're expressing comes from?

19 **DM ROBERT STEWART:** Chief Sloly.

20 **MS. SHANTONA CHAUDHURY:** Okay. And more
21 generally, what was he expressing and also, was he -- you say
22 specifically here without the assistance of the federal
23 government. Was it federal specifically or was it both
24 provincial and federal? So essentially, just convey to us what
25 Chief Sloly had conveyed to you and what you were bringing up to
26 Cabinet here?

27 **DM ROBERT STEWART:** I would say that a general
28 matter, Chief Sloly was not trying to pick who would come to his

1 assistance and the assistance of the Ottawa Police Service. And
2 so what I would say, I was just focusing on the Federal
3 Government for the purposes of this meeting. It's implicit that
4 the provincial police would also be required to assist to meet,
5 I believe the number he was using on or about that time was
6 1,800 police officers, which is a very large number.

7 So I wasn't meaning to suggest that the
8 provincial government was not involved at this stage.

9 **MS. SHANTONA CHAUDHURY:** But what you're
10 conveying essentially is that at this point, he'd formed the
11 conclusion that the OPS couldn't do this alone, they needed
12 help?

13 **DM ROBERT STEWART:** Absolutely.

14 **MS. SHANTONA CHAUDHURY:** Okay. That's enough of
15 that document. Can we go, Mr. Clerk, to SSM.NSC.CAN00000293?

16 So this is the next SSE meeting, which was on
17 February 6th. These are the minutes from that.

18 And again, at page 5, please. There we go.

19 Paragraph 3 there:

20 "The Deputy Minister of Public Safety
21 provided an overview of engagements to
22 date with the City of Ottawa, and the
23 province of Ontario. The Deputy Minister
24 stated that there is a clear indication
25 that the City of Ottawa will declare a
26 state of emergency. An emergency council
27 meeting is planned for Monday to identify
28 options which will likely result in a

1 request to the Government of Canada for
2 police support. The Deputy Minister
3 indicated that the Ottawa Police Services
4 view the dismantling of structures at
5 Confederation Park [as] a success and will
6 continue to enforce further. The Deputy
7 Minister reiterated the views of
8 provincial colleagues that negotiation is
9 the ongoing preferred option for
10 resolution at this time".

11 So can you tell us what essentially in, not these
12 words, but your own words now, where that information was coming
13 from and what you were attempting to convey here?

14 **DM ROBERT STEWART:** It was an extension of the
15 activities that we'd discussed. My conversations, bilateral
16 conversations with the City Manager, multi-lateral conversations
17 involving the Chief of Police, and the OPP, and the RCMP,
18 conversations -- bilateral conversations with the Commissioner
19 of the RCMP, and with Deputy Minister Di Tommaso. Those are the
20 principal points of contact that I had.

21 **MS. SHANTONA CHAUDHURY:** Okay. Now I want to
22 take you to something specifically that actually arose in the
23 last extract and was sort of alluded to here as well.

24 But the law enforcement response in Ottawa
25 generally. So what happened in Ottawa, the OPS' reaction and
26 response to the protests as they happened. And I'll take us
27 away from the minutes for a second to pull your interview
28 summary up again.

1 So Mr. Clerk, that's WTS0000066. Can you go to
2 page 12, please, Mr. Clerk?

3 Okay. So this is a topic, Mr. Stewart, that we
4 canvassed fairly in depth at your interview. And you're
5 starting here, I think, from the very initial reaction of the
6 OPS to the protests. And you say from the beginning -- well
7 you're actually conveying Commissioner Lucki's words here, or
8 her views:

9 "She reported that from the beginning, the
10 OPS were on their heels. The volume of
11 people exceeded their ability to do
12 policing and they made a mistake in
13 allowing trucks to come into the downtown
14 core and park on the street. Commissioner
15 Lucki also reported [...] that the NCRCC was
16 not working particularly well because
17 there were personality issues involved.
18 [Deputy Minister] Stewart explained that
19 he got the sense that as time went on, the
20 OPS pulled it together and the OPP got
21 involved."

22 So I'll just stop there and ask you to describe,
23 in general terms, what you were hearing about the OPS response
24 and what views you formed about it?

25 **DM ROBERT STEWART:** My understanding, both first
26 hand and in conversations with Chief Sloly, and second or third
27 hand through the Commission of the RCMP, was that the situation
28 having come to where it was, in other words, an embedded protest

1 that, you know, had formed a perimeter, in essence, that was
2 hard to enter and to do any enforcement within, that there was
3 considerable debate behind the scenes as to what the strategy
4 would be for enforcement.

5 And kind of a chicken and egg situation, where
6 the various police forces involved, and here I'm not just
7 referring to the OPP and the RCMP, but also other Ontario police
8 who ultimately came to Ottawa to assist, were waiting for a
9 clear plan of action before they mobilized the vast amount of
10 police officers that ultimately came to the city to take action.

11 And that plan, you know, in the early going, was
12 very fragmentary in the sense that it involved some enforcement
13 actions, but it wasn't a take down the protest plan. And the
14 formulation of the take down the protest plan took time.

15 And in general, I think there were differences,
16 as far as I could tell, of a view about what the right strategy
17 would be, and it took a couple of weeks before the right
18 chemistry in behind the scenes in the Integrated Command Centre
19 was attained. That was my impression.

20 **MS. SHANTONA CHAUDHURY:** Okay. And if we could
21 just scroll down a little bit here to page 13? Paragraph 3. So
22 just scroll down a little bit. So here you're adding:

23 "...it was difficult to get people to come
24 to an agreement about a plan because there
25 were personality issues in the mix."

26 And then you go on to talk about that. So that
27 probably refers to what you were just saying about chemistry at
28 the NCRCC? Can you elaborate a little bit on the personality

1 issues that you were hearing about?

2 **DM ROBERT STEWART:** Not really. I mean, this --
3 in a sense, what I said before is probably the main substance of
4 this and what I knew and understood. And I don't -- I would not
5 want to lay this at the door of Chief Sloly, to be honest with
6 you. I was hearing that he was very involved and that it was
7 difficult, partly because everybody was stretched so thin, to
8 get to a landing zone on a plan, and that there were
9 disagreements about what the right strategy was.

10 My own first-hand experience with Chief Sloly was
11 quite limited, and to the calls that we had with the City, I had
12 seen him before in another context, but not met him. And I knew
13 he had a strong personality.

14 **MS. SHANTONA CHAUDHURY:** And then just scroll up
15 again, sorry. The previous page. There we go.

16 "The RCMP's position was that the OPS
17 should have asked the OPP more resources
18 and it was the OPP's responsibility to
19 come and serve. He explained [this is you
20 explaining] that the RCMP felt pressed by
21 the OPS, but that the OPP was the force
22 that OPS should look to pursuant to
23 legislation..."

24 So that's what you were telling us about
25 according -- so that information is information that you were
26 being given by the RCMP, "We're not the right people. The OPP
27 are the first, sort of, call to action here." Is that right?

28 **DM ROBERT STEWART:** I just want to correct the

1 last part.

2 **MS. SHANTONA CHAUDHURY:** Okay.

3 **DM ROBERT STEWART:** The RCMP was always willing
4 to come and assist and always wanted to, you know, sort of play
5 a role, and were willing to do so. But to get RCMP officers
6 into Ontario is actually quite a significant logistical issue,
7 because they only have federal police in the province. They
8 don't have contract people. Now, RCMP is contract police in a
9 number of provinces and territories, which is your regular
10 police, and who are trained and equipped to do public order and
11 enforce the law, and relatively speaking, they had very few
12 federal police in Ontario.

13 So to get RCMP officers into Ottawa required them
14 to be mobilized outside the province, and that requires, you
15 know, some paperwork and agreement and a request of the Minister
16 of the jurisdiction and approval by the Minister of Public
17 Safety.

18 So they were -- they were concerned that they
19 were being pressed to do this without a plan and they wanted the
20 OPP to be first in line to come and help, but they were always
21 willing to help.

22 **MS. SHANTONA CHAUDHURY:** That's fair.

23 I was sort of talking about the order as opposed
24 to willingness, so that's a fair response. Thank you.

25 And just the next issue I want to raise here is
26 the issue of swearing in.

27 So if we can just scroll down a little bit.

28 There we go.

1 So there's also the obstacle, you say, of
2 swearing in RCMP officers so they would have the jurisdiction to
3 enforce municipal and provincial laws.

4 We've heard again evidence about this already in
5 the Commission. Mr. Clerk, if you can just scroll to page 13.

6 Now, I appreciate here that it was your
7 colleague, not you, speaking. But can you speak to the
8 swearing-in process at all and how that may have played into
9 difficulties on the ground?

10 **DM ROBERT STEWART:** My understanding is
11 essentially reflected in these -- in these comments, which was
12 that when the RCMP had come to a decision about people to bring
13 into the province, they had to go through this administrative
14 process of getting sworn in, which was a decision of the
15 Solicitor-General of Ontario, and as for that purpose then they
16 had to send a detailed list of names and then when that list was
17 sent, it wasn't coming back -- that's what I was hearing -- as
18 quickly as, you know, it might otherwise.

19 I can't really put a time on that, to be honest
20 with you.

21 But it was a material enough issue that, of
22 course, when we did the Orders under the *Emergency Act* we
23 decided to, you know, exempt the RCMP from that requirement so
24 that they could move a lot of people into the province very
25 quickly.

26 **MS. SHANTONA CHAUDHURY:** So that was a concern
27 that had been raised.

28 **DM ROBERT STEWART:** It was an impediment to

1 mobilizing police resources.

2 **MS. SHANTONA CHAUDHURY:** Thank you.

3 Mr. Clerk, can we pick up the February 6th
4 minutes again, so SSM.NSC.CAN.00000293?

5 Page 5.

6 So Mr. Stewart, the last line of that little
7 blurb of what you were saying says:

8 "The Deputy Minister reiterated the
9 views of provincial colleagues that
10 negotiation is the ongoing preferred
11 option for resolution at this time."

12 What were you referring to there?

13 **DM ROBERT STEWART:** Well, two things, in essence.

14 One, it was my experience two years before when
15 we had the Wet'suwet'en protests and we had the situation in
16 Tyendinaga where the trains were blocked. And my conversations
17 with, again, Deputy Minister Di Tommaso at that time where he
18 was very clearly and strongly expressing the view, and this was
19 based on history through the OPP, that de-escalation is very
20 important to managing a protest, and enforcement can only lead
21 to further trouble. And that was certainly -- seemed very
22 likely in the context of the Wet'suwet'en protests.

23 But I'd say as a more general matter in the
24 context of the conversations that I was having with him he just
25 always held that view, that from a policing point of view -- and
26 I want to say this -- actually, I want to say this very quickly.
27 The police, as I understand them -- and I've come to know them
28 fairly well in the three years I've been in the job, at least

1 the RCMP, are very concerned about public safety and protecting
2 public safety and keeping the peace. And they will always
3 prefer, given the latitude to do so, to de-escalate and to find
4 ways to stop protests and prevent violence from occurring
5 without taking enforcement action because it's safer for their
6 members and it's safer for the public.

7 And so this is, in a sense, the first principle
8 of policing, protect the members and the public from, you know,
9 things escalating.

10 And in that context, you know -- and it's been
11 mentioned, I think, in testimony before the activities of the
12 Police Liaison Teams is very important.

13 **MS. SHANTONA CHAUDHURY:** Okay. So this -- in
14 time, we're in February 6th here and this was a view that you
15 say you held from your own experience and was being expressed by
16 Mr. Di Tommaso from his policing experience. Okay.

17 Mr. Clerk, can we now bring up February 8th
18 minutes, which is SSM.NSC.CAN00000295.

19 Page 10, please.

20 There we go. Paragraph 8.

21 So here the Deputy Minister provided an update on
22 engagement with Ottawa, confirming that since the injunction has
23 been in place, there have been no horns used in Ottawa by the
24 protestors.

25 "The OPS is reporting that their staff
26 are tired and need enforcements. It is
27 evident that the protest is well
28 organized and that the blockade at

1 Ambassador Bridge is designed to divide
2 the attention of the Ontario Provincial
3 Policy. The Deputy Minister confirmed
4 that Ottawa has developed a plan that is
5 being reviewed by the OPP and the RCMP,
6 which includes four key elements:
7 reliance on negotiation; ongoing
8 enforcement; containing the
9 demonstrations once an area's cleared,
10 and gathering intelligence of various
11 trucking companies."

12 Okay. So a couple of things I want to ask you
13 about here.

14 First of all, just to situate us in time, this is
15 now February 8th and the blockade at Ambassador Bridge has
16 happened and sort of coalesced on February 7th. So one thing
17 you note is that there's -- the Ambassador Bridge blockade is
18 designed to divide the attention of the OPP and that this is
19 evidence that the protest is well organized.

20 Can you comment on that and whether -- where that
21 observation came from and...?

22 **DM ROBERT STEWART:** It may have been an
23 overstatement.

24 It is evident that the protests were being
25 organized in a way that attracted significant numbers of
26 individuals, and it wasn't, in fact, just the Ambassador Bridge.
27 It was elsewhere in Ontario, ultimately, other ports of entry
28 where convoys manifested.

1 So well is perhaps too strong a word, but there
2 were -- there was definitely organization happening. And I want
3 to be a little bit clear here that, you know, we were not well
4 sited when it came to how people were communicating with each
5 other. They were using different social media platforms and
6 maybe others -- other tools. But we -- in part going back to
7 comments made by my colleague -- weren't monitoring other than
8 through open source what was going on.

9 So we would -- we would not have felt -- we did
10 not feel well equipped to understand what plans were, and yet
11 things were happening, so that's the genesis of that comment.
12 And also, just to flag that, you know, we were sensing that this
13 was nationwide because convoys were happening across the
14 country.

15 **MS. SHANTONA CHAUDHURY:** Okay. And I'm going to
16 ask you to tell us a little bit about that keeping in mind that
17 we're going to be hearing directly from CBSA, Canada Border
18 Services Agency, and from Transport Canada, who will have a lot
19 to say about the specifics of what was going on at various ports
20 of entry and places across the country.

21 Would you be able to give us sort of a high level
22 overview of what you were seeing and what you were being
23 informed about around this time across the country?

24 **DM ROBERT STEWART:** Well, there was quite a list,
25 actually. I'd have a hard time itemizing it, but there were --
26 the principal places in which disruption was occurring were
27 Windsor, of course. And that happened well after Coutts started
28 being blockaded, and shortly after Coutts started, we had

1 Emerson in the Province of Manitoba.

2 And slow roll and traffic highway blocking
3 protests near the Blue Water Bridge in Ontario, you know, the
4 Peace Bridge in Niagara and some sense that this -- something
5 could happen in Cornwall.

6 In -- later on in British Columbia, we had the
7 Pacific Highway convoy.

8 So those would be the principal ones.

9 Every day in our calls with Ministers, CBSA would
10 be reporting across a whole set of ports of entry what they were
11 observing, and they had -- they had taken steps to better equip
12 themselves to see what was going on and to talk to local police
13 authorities to see if it could all be met, could be managed that
14 if a trucking or a convoy manifested itself, it could be
15 directed away from the port of entry and couldn't install itself
16 in the port, or on the bridge, or whatever the case may be.

17 **MS. SHANTONA CHAUDHURY:** Okay. So essentially,
18 as you've said, you in your position as DM Public Safety, were
19 looking at not just what was happening in Ottawa, but what was
20 happening across the country and ---

21 **DM ROBERT STEWART:** Yes, the federal government
22 was as a group. We were all conscious that this was not
23 something which limited to Ottawa. Ottawa is the most extreme
24 example. But the general impression we had was that what had
25 begun as a protest about vaccine mandates had become something
26 more than that and was attracting various -- people from various
27 -- with various issues and causes and had become kind of a
28 popular thing. And we were seeing in other countries, by the

1 way, too.

2 **MS. SHANTONA CHAUDHURY:** Can you tell us a bit
3 about that?

4 **DM ROBERT STEWART:** Yeah, there were convoys in
5 New Zealand with Canada flags, which were just essentially
6 emulating the protest.

7 **MS. SHANTONA CHAUDHURY:** That was happening in
8 Canada?

9 **DM ROBERT STEWART:** Yeah.

10 **MS. SHANTONA CHAUDHURY:** Okay. Now let's go to
11 now the February 10th minutes, so this is SSM.NSC.CAN.00000209.
12 So these are now minutes from a different Cabinet Committee
13 called the Incident Response Group. And we will be hearing from
14 PCO later in the week of the details of what that is and how
15 that transpired, but again, can you just give us a very brief
16 definition of what the Incident Response Group is?

17 **DM ROBERT STEWART:** Well, to begin with, I
18 wouldn't call it a Cabinet Committee as such.

19 **MS. SHANTONA CHAUDHURY:** Fair enough.

20 **DM ROBERT STEWART:** Cabinet committees, in the --
21 I guess in the normal course are standing committees to deal
22 with various, you know, policy and -- policy matters. The
23 Incident Response Group is an *ad hoc* committee that the Prime
24 Minister convenes as and when required, and so it doesn't have
25 regular meetings, and indeed, it only meets when something
26 extraordinary is happening.

27 **MS. SHANTONA CHAUDHURY:** Okay. So and an IRG,
28 that's the acronym that we'll come to know and love over the

1 next couple of weeks, the IRG was convened on February 10th, so
2 this is the first meeting of the IRG; is that right?

3 **DM ROBERT STEWART:** That's correct.

4 **MS. SHANTONA CHAUDHURY:** Okay. Can we go to page
5 6, please? Scroll down a little bit until you see Public Safety
6 Canada. There we go.

7 Okay.

8 "Public Safety Canada reported on a
9 conversation with the lead negotiator
10 (OPP) who noted that in Ottawa,
11 approximately 80 [percent] of
12 protesters had a weak connection to the
13 cause, 5 [percent] had a strong
14 devotion to it, and 15 [percent] were a
15 swing factor. The negotiator suggested
16 that the leaders of the protest could
17 potentially be encouraged to leave and
18 denounce the blockade in exchange for a
19 commitment to register their message
20 with the Government."

21 Okay. Mr. Stewart, first question is, is the
22 lead negotiator OPP you were speaking about there, who is that?

23 **DM ROBERT STEWART:** Marcel Beaudin.

24 **MS. SHANTONA CHAUDHURY:** Okay. Marcel Beaudin.
25 So we've heard Mr. Beaudin come and testify here.

26 Can you start off by just telling us a little bit
27 what you were reporting here to Cabinet at this time?

28 **DM ROBERT STEWART:** So I've mentioned earlier

1 that the federal government, to the best of my knowledge, had
2 made a decision not to engage formally the leaders or the
3 protesters in -- you know, just allowing them to represent their
4 views. And that was, as far as I was aware, an issue of
5 principle and rooted in a sense that it was hard to know who to
6 engage and also what that engagement would lead to. And there
7 was definitely no desire to get into discussions around the
8 Federal Public Health Policy, which was one of the original
9 reasons the protests occurred.

10 As time passed, the notion of engagement kind of
11 morphed into more of what I've already mentioned as being kind
12 of a police tactic and a potentially useful one. So shortly --
13 the day before, in fact, this meeting occurred, we were -- we
14 Deputy Ministers were meeting and agreed that we would pursue
15 any ideas we could come up with from our list, which you have I
16 think attached to this document, and see what it turned up by
17 way of possible decisions, possible actions for the federal
18 government.

19 So I had reached out, in fact, on the morning of
20 this day to Marcel Beaudin, who had been identified to me by the
21 -- no, by Mario Di Tommaso and echoed by the Commissioner,
22 Commissioner Lucki, that he would be the right person to talk
23 to. And we had a general conversation around, you know, the
24 role of PLTs and de-escalation, and which was very educational
25 for me. And what I took from that conversation was that there
26 was some possibility that if they could identify appropriate
27 interlocutors, and he said that they knew of six people that
28 they could talk to who were leaders of a sort within the

1 protest, and offer an opportunity for them to be heard, that
2 this would have the effect of allowing people to achieve
3 something, and some success, and feel that their objectives had
4 been achieved and therefore leave. And this is where the
5 statistics come up is that, you know, 80 percent of the
6 protesters -- at particularly 2 and 2-and-a-half weeks into the
7 protest, you know, where they'd been sitting on the streets of
8 Ottawa in freezing weather were probably likely to go if they
9 had the right offer. And so we were talking about that
10 possibility.

11 And it was really at that point in time, not
12 about engagement in the way that it had been about engagement
13 before. It was more in the context of engagement as a
14 steppingstone to enforcement, because it was very clear by the
15 10th of February that the RCMP, the OPP and the Ottawa Police
16 Service were beginning to come together on a plan, and
17 enforcement was only a matter of time.

18 And so in the background, of course, was this
19 question which I think was very material in the overall decision
20 to invoke the act of what would that enforcement engender by way
21 of reaction. And we had strong concerns, as Mr. Rochon has
22 mentioned, about, you know, lone wolves, and people who'd been
23 attracted to the protest that could act out in a violent way.
24 So there was a virtue to de-escalation in this context.

25 **MS. SHANTONA CHAUDHURY:** Okay. Engagement as a
26 steppingstone to enforcement. I just want to unpack that a
27 little bit. So you said -- at this point, the engagement that
28 was being contemplated would not -- was not something that would

1 lead to an end to the protest in and of itself.

2 **DM ROBERT STEWART:** Correct.

3 **MS. SHANTONA CHAUDHURY:** So the intention would
4 have been ---

5 **DM ROBERT STEWART:** Shrink it.

6 **MS. SHANTONA CHAUDHURY:** --- to shrink it. To
7 shrink the footprint, as they say in the lingo that we've
8 learned. Okay. And we know what ultimately comes of this, or
9 at least part of what comes of this is something that's come to
10 be known as the engagement proposal. Can you tell us how that
11 proposal came to be?

12 **DM ROBERT STEWART:** Well, it flowed directly from
13 what I've just spoken about. In the context of coming up with
14 options for federal government action, at a point in time when
15 the protests were in Ottawa in particular, but just nationwide
16 given the slow roll convoys manifesting all over the place, what
17 could we do that would help. And so with the aid of Inspector
18 Beaudin, I drafted a very short document. It's attached to the
19 minutes of one of these IRG meetings. And, you know, brought it
20 forward for consideration. Essentially, it was the notion that
21 the federal government would acknowledge the desire to meet and
22 offer to do so at a later time, away from the protest, on the
23 basis that a protester would denounce the protest and leave. So
24 it was essentially a, you know, a bargain. And it was
25 positioned to be just a hearing of protester's views and not any
26 discussion of what the federal government would do or could do.

27 There was at -- it happened very quickly. We did
28 it over a day or so and didn't have time to do anything other

1 than consult with sort of key authorities, which would have been
2 the RCMP and the OPP and colleagues at PCO, who obviously were
3 leading the overall effort. It could have been consulted more,
4 it could have been, you know, talked about, but it was raced
5 forward to the Cabinet table two days after this conversation
6 occurred.

7 **MS. SHANTONA CHAUDHURY:** Okay. You noted that
8 there were some colleagues from PCO involved. Do you recall who
9 was involved ---

10 **DM ROBERT STEWART:** When I talked to Inspector
11 Beaudin, I was accompanied by a PCO official, Jeff Hutchinson,
12 and I included him in the call because I wanted PCO to be fully
13 plugged in to what we were -- what I was doing.

14 **MS. SHANTONA CHAUDHURY:** Okay. So but Mr.
15 Hutchinson's role there was essentially ---

16 **DM ROBERT STEWART:** Observer.

17 **MS. SHANTONA CHAUDHURY:** --- observer. Okay.

18 And I understand there was some back and forth
19 that you had with the RCMP and with Inspector Beaudin about the
20 proposal itself.

21 So, Mr. Clerk, if we can just pull up
22 OPP00000150? Excuse me.

23 So this is an email that is not sent to you, so
24 you may not have seen it before, but this is Commissioner Lucki
25 speaking to Commissioner Carrique and Inspector Beaudin, I
26 believe. So she attaches a draft of the engagement proposal and
27 then says,

28 "I am not the SME [-- SME we know

1 stands for subject matter expert --] in
2 this area, but my folks are a bit
3 worried on a few items and need[...] to
4 get your thoughts."

5 Do you know what Commissioner Lucki's concerns
6 were at that time? And I'll just say two things. One, we're
7 going to hear from her directly, so we can ask her that
8 question; and, two, in the course of our interview, you
9 mentioned that one of Commissioner Lucki's concerns may have
10 been around the issue of police independence, so just to situate
11 a little bit -- you a little bit.

12 **DM ROBERT STEWART:** I believe that Commissioner
13 Lucki's concerns were essentially (a), in the issue of, you
14 know, if this came forward to a Cabinet table and was decided
15 upon would it constitute some kind of direction to police to do
16 it, and, of course police want to maintain operational
17 independence and maximum flexibility. So it -- she did not want
18 it to be construed in that fashion.

19 She may also have had concerns -- she didn't
20 express them to me -- about how it played out. So were it to
21 have been used as a strategy and failed, would it -- would the
22 RCMP or the OPP, PLTs, the Police Liaison Teams be held
23 accountable for that in some way.

24 **MS. SHANTONA CHAUDHURY:** So I think the line
25 we've heard expressed is there may have been some concern that
26 it crossed the line between church and state. That would be the
27 ---

28 **DM ROBERT STEWART:** That's a good way to put it.

1 **MS. SHANTONA CHAUDHURY:** Okay. One thing you
2 noted when we were speaking in your interview is that the
3 government could benefit from some clarity around where that
4 line is in police independence. Is there anything you'd like to
5 add or share about that in this context?

6 **DM ROBERT STEWART:** I believe there is virtue in
7 clarifying the *RCMP Act* on this basis. Recent experience in
8 other contexts has led me to think that too.

9 **MS. SHANTONA CHAUDHURY:** Sorry, you just said
10 recent experience?

11 **DM ROBERT STEWART:** In other contexts.

12 **MS. SHANTONA CHAUDHURY:** And what would those be?

13 **DM ROBERT STEWART:** The discussions that were
14 going on with respect to developments in Nova Scotia and the
15 role of Minister Blair and ultimately a decision to ban assault
16 rifles. It engendered a lot of questions about the
17 communications between the Ministers and the police.

18 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can we
19 bring up OPP00000171?

20 So, Mr. Stewart, as you've noted, this is
21 something that evolved over the course of the one or two days,
22 and we're just trying to put together the chronology of how
23 things evolved. So if we can scroll down, top of page 3 I
24 believe?

25 Okay. So in this email, you're raising some
26 concerns about the engagement proposal, but to the very last bit
27 of the email now. Sorry.

28 "If I can manage to work through this

1 process, and the RCMP Commissioner will
2 be privy to the discussion, I think I
3 can assure you that the federal
4 government's commitment will be solid.
5 But we have to get there first!
6 Thanks"

7 So at this point in time, and this is Saturday,
8 February 12th at 11:23 in the morning, what was your
9 understanding of what level of support there was in the
10 government for this notion and where it came from?

11 **DM ROBERT STEWART:** I had support from colleagues
12 to bring it to the Cabinet table for discussion. I couldn't
13 tell you about the specific, you know, views in terms of whether
14 they thought it was a good or bad idea. It was just in the
15 options sent.

16 **MS. SHANTONA CHAUDHURY:** Okay. And the next
17 document then that we want to look at is SSM.NSC.CAN.00002958.
18 So this is a text between Minister Mendocino and Katie Telford,
19 who's the Prime Minister's Chief of Staff, and I believe this is
20 on the evening of February 11th. And Minister Mendocino
21 expresses here that he's just learning about the engagement
22 proposal, so do I understand that, at this point, while this was
23 playing out, you hadn't yet had the opportunity to brief Mr.
24 Mendocino on this; is that right or ---

25 **DM ROBERT STEWART:** Well, Minister Mendocino was
26 aware that I was working on this idea, as it mentioned, the day
27 before in the context of the IRG meeting. He had not seen the
28 proposal, and as I say, it came together really very quickly,

1 and I only had time to solicit the news of -- and it wasn't the
2 Ontario government. It was the OPP, I believe. And just to
3 make sure that nobody had any objections to what it said, or put
4 on -- you know, put forward. So he would have just had seen it
5 in terms of paper, and he would have, I think felt -- feel
6 uncomfortable that he had not had an opportunity to contribute
7 to the drafting of it.

8 **MS. SHANTONA CHAUDHURY:** So it was the OPP as
9 opposed to Mr. Di Tommaso, you think, who you were speaking to
10 about it?

11 **DM ROBERT STEWART:** I'm pretty sure. I'd have to
12 check the emails, but I wasn't -- I mean, I was certainly
13 conveying to Mr. Di Tommaso that this is something that we were
14 considering. And there was a parallel event, I think I should
15 note it for the record. So he knew that I was talking to Marcel
16 Beaudin. He had given me the name. And he knew that, you know,
17 the general idea of what I was trying to bring forward. On the
18 day of Friday, the 11th, Ontario did their Emergency Order, which
19 I didn't know about. He called me in the morning and informed
20 me. And then later in the day he called me and he said that
21 they were planning to do enforcement over the weekend on the
22 Windsor bridge, the Ambassador Bridge, and that as a
23 steppingstone to that enforcement, they were going to adopt this
24 idea of offering a meeting, and that Minister Jones, Sylvia
25 Jones was interested in making that offer, and would the federal
26 government join the Ontario government in making that offer.
27 And I signalled that that was not possible. We had yet to
28 discuss engagement at the federal level. And so, you know,

1 there was no way on an hour's notice that he was going to get a
2 decision to sign on. But he sent me a draft letter that --
3 which is referred to here, that they were going to use with the
4 protesters, the OPP was going to use with the protesters on the
5 Ambassador Bridge.

6 So it was a kind of a parallel exercise, which
7 was really an independent exercise of the Ontario government,
8 but in a very similar way to what was put forward to the Cabinet
9 table the next day.

10 **MS. SHANTONA CHAUDHURY:** Okay. And so when you
11 communicated to him that you couldn't get the federal government
12 to sign on to Windsor, that was a matter of timing as opposed to
13 a position being conveyed?

14 **DM ROBERT STEWART:** That's right.

15 **MS. SHANTONA CHAUDHURY:** Okay.

16 **DM ROBERT STEWART:** Because they were going to do
17 it that evening.

18 **MS. SHANTONA CHAUDHURY:** And there was also,
19 we've heard evidence about another potential sort of engagement
20 possibility, which was the Mayor of Ottawa's sort of deal that
21 was happening to potentially move some trucks up to Wellington
22 Street, et cetera. That was playing around -- been around the
23 same time. What was your awareness of that at the time?

24 **DM ROBERT STEWART:** I had no awareness of it
25 until it was *fait accompli*, when the City Manager, Steve
26 Kanellakos called me and said, "We've made a deal with a
27 representative -- somebody ostensibly representing the
28 protesters to move these trucks and the Mayor is sending a

1 letter."

2 **MS. SHANTONA CHAUDHURY:** So would it be fair to
3 say that there's sort of these different branches of potential
4 engagement going on with not perfect sight over all of the ---

5 **DM ROBERT STEWART:** Right. No coordination at
6 all.

7 **MS. SHANTONA CHAUDHURY:** No coordination at all.
8 Okay.

9 And what ended up ultimately happening to the
10 engagement proposal? Where did it go?

11 **DM ROBERT STEWART:** It was not taken up.

12 **MS. SHANTONA CHAUDHURY:** Okay.

13 **DM ROBERT STEWART:** It was discussed, not taken
14 up.

15 **MS. SHANTONA CHAUDHURY:** So it was brought to
16 Cabinet, or to the IRG, rather?

17 **DM ROBERT STEWART:** That's correct.

18 **MS. SHANTONA CHAUDHURY:** On February 12th. But it
19 was not taken up.

20 So with the benefit of hindsight, and this I'm
21 going to ask you, although it's completely speculative, but what
22 effect, if any, do you think that that might have had? The
23 engagement proposal.

24 **DM ROBERT STEWART:** I only know what Inspector
25 Beaudin was telling me, which was that he believed it was worthy
26 of consideration and, you know, given the sense he has of the
27 behaviour of protests, that it might have effect. If I were to
28 push it, I would say I had the feeling that it was a very low

1 order of probability that it would have had a material effect,
2 because the protestors had been in Ottawa in a determined way
3 for an extended period of time. And, you know, I think the
4 general view here is just it's part of the toolkit of policing
5 and you want to try and discourage people from staying at a
6 protest if enforcement is going to occur, because it's going to
7 get rough.

8 **MS. SHANTONA CHAUDHURY:** So would it be fair to -
9 - it's an option worth considering, but not a *deus ex machina*?

10 **DM ROBERT STEWART:** Right.

11 **MS. SHANTONA CHAUDHURY:** Okay. I now want to
12 move to the invocation of the *Emergencies Act* itself. And
13 appreciating that we'll be hearing from a lot of people on this
14 topic, I'm going to target my questions quite specifically.

15 You mentioned in our interview that the
16 *Emergencies Act* started to be seriously considered around
17 February 11th. Is that about right in your recollection?

18 **DM ROBERT STEWART:** Yeah, I could go back a day,
19 maybe, to the 10th.

20 **MS. SHANTONA CHAUDHURY:** Okay. Well why don't
21 you just tell us your recollection of how it sort of came on the
22 radar?

23 **DM ROBERT STEWART:** Okay. So the *Emergencies Act*
24 has a history in discussions and rooted in the pandemic, where
25 at one point in the pandemic, the Federal Government conducted
26 consultations on whether the *Emergencies Act* would be a useful
27 tool to help address the pandemic. At the time, it was
28 determined that that was not the case. So it was always sort of

1 in the back of people's minds. And it came up in meetings along
2 the way as something that we should bear in mind.

3 Serious consideration of the use of the
4 *Emergencies Act* was -- began in the latter part of the week of
5 February 6th or 7th and then became, you know, a matter for
6 discussion and decision after that.

7 **MS. SHANTONA CHAUDHURY:** Okay. And I understand
8 that Public Safety was asked to provide its input on potential
9 measures that could be helpful under the *Emergencies Act*. Is
10 that right?

11 **DM ROBERT STEWART:** All departments involved in
12 this -- in these -- in managing the protests were asked for
13 ideas that would provide additional tools to police to -- and
14 generally, to deter protests and cause them to de-escalate.

15 So Public Safety, we were using the information
16 that we'd gained from our regular consultations and our calls
17 with federal and provincial colleagues. So an issue, for
18 instance, of note there is the use of tow trucks.

19 Other parts of the Public Safety portfolio, such
20 as the RCMP provide independent views in terms of what might be
21 added to an Emergency Measure Order -- *Emergencies Act* order,
22 and other departments did as well.

23 **MS. SHANTONA CHAUDHURY:** So this would have been
24 a topic of discussion at the DMOCCs happening around that time?

25 **DM ROBERT STEWART:** That's correct.

26 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can we
27 pull up SSM.CAN00000399, please?

28 So this is an email, and you weren't on this

1 email, so -- but it reports something that you said. It's from
2 Mike Keenan, who is the Deputy Minister of Transport, to Kevin
3 Brosseau, ADM of Transport. And it's reporting on the February
4 13th DMOCC.

5 And you'll see:

6 "Emergencies Act is fast -- don't need to
7 pass anything
8 Rob and I argued [Rob being you here, I
9 believe?]"

10 **DM ROBERT STEWART:** I believe.

11 **MS. SHANTONA CHAUDHURY:**

12 "... that [the] Emergencies Act can
13 backfired in building more energy."

14 What did you mean by that?

15 **DM ROBERT STEWART:** Well we were having a
16 discussion around the pros and cons of using the *Emergencies*
17 *Act*, and one of the concerns that I had at the time was of the
18 potential for serious violence. So in fact, one of the reasons
19 to invoke the Act was also a concern, in terms of what happens
20 when you invoke it?

21 And if it were to lead people to become violent,
22 then that would be, you know, an undesirable outcome. So that
23 was just one of the many considerations we were discussing.

24 **MS. SHANTONA CHAUDHURY:** So essentially it might
25 do more harm than good by inciting, rather than calming?

26 **DM ROBERT STEWART:** That's right.

27 **MS. SHANTONA CHAUDHURY:** Okay. Another document,
28 related topic, PB.CAN00001147, please. Okay. Scroll down a

1 little bit, pleased, until we see something that says "these are
2 okay". An email from Mr. Stewart. Page 5, please. Okay.
3 There we go.

4 So this is forward a bit in time, but it's on the
5 same topic. This is in preparation for, as it says, some
6 technical briefing remarks that Mr. Rochon was due to give on
7 February 15th about the *Emergencies Act* once it had been invoked.

8 And Mr. Stewart, your comments here are:

9 "These are ok, but will be duplicative, I
10 expect, of what Justice will say and
11 rather short of substance. If possible,
12 we need to weave in a few more 'for
13 instances' that suggest how law
14 enforcement authorities (and the CBSA, as
15 relevant) will deploy the new powers, e.g.
16 intercept and turn away attempted
17 blockades from critical infrastructure,
18 facilitate synthesis of local police and
19 the RCMP..."

20 And then you say:

21 "(I'm afraid I don't have a lot of great
22 ideas because there aren't a lot of
23 significant benefits, but we have to try
24 to PS portfolio specifics as much as we
25 can)."

26 So can you tell us what you were expressing her
27 vis a vie the measures that were being implemented?

28 **DM ROBERT STEWART:** Can I get the time stamp on

1 that email, please?

2 **MS. SHANTONA CHAUDHURY:** Sure. February 14th,
3 11:12 p.m.

4 **DM ROBERT STEWART:** Okay. So I believe that I
5 underestimated the impact of the *Emergencies Act* that in
6 aggregate, the measures that it contained had material benefit.
7 And this was not -- this was me reacting to what I'd seen
8 drafted and feeling that I hadn't really got a handle on how it
9 would be implemented, and also me saying, you know, to Mr.
10 Rochon, you're in these technical briefings and you're
11 representing Minister Mendicino and you've got to talk to the
12 elements of this portfolio that are going to be operationalizing
13 these powers.

14 **MS. SHANTONA CHAUDHURY:** Can you actually explain
15 what that technical briefing is?

16 **ADM DOMINIC ROCHON:** Sure. Following the
17 invocation of the Act, I was given the responsibility to lead a
18 number of government officials into a series of technical briefs
19 that occurred over the course of, I want to say three, possibly
20 four days.

21 Those briefs included briefing leaders of
22 opposition parties. In fact, culminating, I think we briefed
23 all members of the Senate and their -- and Senators' offices,
24 and we essentially offered up as many technical briefs as
25 necessary to explain why the Act was invoked and how it would be
26 implemented.

27 So I was chosen as -- given my position and my
28 role with regard to National Security Policy, as the main chef

1 d'orchestre of the brief, but included with me were members of
2 CBSA, RCMP, Department of Finance, Department of Transport, and,
3 of course, Department of Justice.

4 **MS. SHANTONA CHAUDHURY:** Okay. So they're
5 essentially explanatory brief meetings, sort of an explanatory
6 this is how -- what it is, this is how it works kind of
7 briefing?

8 **ADM DOMINIC ROCHON:** I should point out, I think
9 we also did -- offered same technical briefs for members of the
10 media.

11 **MS. SHANTONA CHAUDHURY:** Okay.

12 **DM ROBERT STEWART:** We do technical briefs a lot,
13 particularly when we table legislation.

14 **MS. SHANTONA CHAUDHURY:** Okay. Thanks. That's
15 helpful.

16 So just to take you back then, Mr. Stewart, to
17 what you were saying, would it be fair to say that, at the time,
18 so shortly before and immediately after the Act was invoked, you
19 had some hesitancy about it?

20 **DM ROBERT STEWART:** I saw pros and cons.

21 **MS. SHANTONA CHAUDHURY:** Okay. And then you said
22 that in hindsight, you think you underestimated the utility of
23 the *Emergencies Act*. Can you tell us a bit more about why that
24 is? Not why you underestimated, but why you say that it was an
25 underestimate?

26 **DM ROBERT STEWART:** Well, it's judgment only
27 because the police have attested to the value of the Act in
28 terms of getting the protests to disperse, and particularly in

1 Ottawa, but generally speaking, there was within two weeks very
2 little manifestation of those kinds of protests around the
3 country. So I think it's just -- it's essentially on the basis
4 of the fact that others have come forward to say that this was a
5 tool that they, in the end, used and found useful.

6 **MS. SHANTONA CHAUDHURY:** Okay. And you're
7 speaking there not just of Ottawa but of the situation across
8 the country?

9 **DM ROBERT STEWART:** Yeah, absolutely.

10 **MS. SHANTONA CHAUDHURY:** Okay. Another topic I
11 want to touch on briefly, and I appreciate the time is short, is
12 something you noted in your interview was the consultation with
13 the provinces. You said some of the consultation was discounted
14 because it wasn't premised on whether the government was going
15 to decide to invoke the Act. What did you mean by that comment?
16 I could pull up the reference if it's helpful.

17 **DM ROBERT STEWART:** Well, I'm going to infer
18 that, you know, what it represents is the view that, you know,
19 we had been actively engaged for over two weeks with a variety
20 of concerned parties, including police of jurisdiction, the
21 RCMP, federal, provincial officials. And we were not on the
22 face of it asking the question should we invoke the *Emergencies*
23 Act. We were asking what tools do you need? What are you
24 facing in terms of challenges? How can we work together to
25 overcome these challenges? And so we deemed that to be
26 consultation on the -- but what was ultimately the decision to
27 invoke the Act, because this was about the substance of that
28 decision.

1 **MS. SHANTONA CHAUDHURY:** Okay. So when Mr. Di
2 Tommaso testified last week, I can bring up the references if we
3 need them, but he noted that you spoke to him on February 13th
4 and essentially gave him a heads up, if I can put it that way,
5 told him or advised him that the federal government was
6 considering invoking the *Emergencies Act*. Do you recall that
7 conversation?

8 **DM ROBERT STEWART:** Not in its detail, but, yes,
9 I would have talked to him, and I do accept that I would have
10 said to him it's on the table.

11 **MS. SHANTONA CHAUDHURY:** Okay. Another thing --
12 and I'll come back to that in a second, but another thing he
13 noted you said was that the provincial declaration of emergency
14 that had come in on February 11th "had more teeth" than the
15 provisions in the Federal *Emergency Act*. Do you recall that and
16 what you were speaking about then?

17 **DM ROBERT STEWART:** Well, again, more by way of
18 inference than by, you know, clear memory, I would say I was
19 conveying to him that -- I would have been -- let me back up and
20 say I would have been trying to be a good colleague with a
21 provincial colleague, but not at the expense of betraying any
22 federal decisions or, you know, kind of thinking in a political
23 sense. I would just have been trying to keep him apprised of
24 the state of affairs. And I would have said to him, I believe,
25 that, you know, there are pros and cons of invoking the Act,
26 because that was my view. And one of the cons, which had been
27 noted in other discussions, was the fact that the penalties
28 under the *Emergencies Act* are not very big. It's, like, \$5,000

1 on indictment, 6 months in jail. Whereas, the Ontario order,
2 which was put out on the Friday, contained very significant
3 penalties, \$100,000. And so as a form of deterrence to anybody
4 thinking of joining a protest, it was clearly a more -- a
5 substantive tool, but that wasn't the only -- that was really
6 just one of a number of considerations.

7 **MS. SHANTONA CHAUDHURY:** So the reference to had
8 more teeth was specifically in reference to the penalties?

9 **DM ROBERT STEWART:** To the penalties, yes.

10 **MS. SHANTONA CHAUDHURY:** Okay. Are you aware of
11 any other discussions with provincial officials on the 13th or
12 before the invocation of the *Emergencies Act* in which they were
13 notified that the Act was under consideration?

14 **DM ROBERT STEWART:** Not aware.

15 **MS. SHANTONA CHAUDHURY:** So the other thing that
16 Mr. Di Tommaso mentioned was that you had a call with him the
17 following morning, I believe, on February 14th. And on that
18 call, he inquired as to whether the Act was going to be -- the
19 *Emergencies Act* was going to be invoked that day. And his
20 comment on the notes was "silence!" So I'm gathering that you
21 said nothing at that point about whether it was going to be
22 invoked. Can you just explain a little bit how that
23 conversation went?

24 **DM ROBERT STEWART:** Well, I can't really give you
25 the blow-by-blow. This would have been a normal conversation to
26 touch base on what's the status of things? Where's enforcement?
27 How are things going with the OPP? And I would have been --
28 because on that morning, I believe, the Prime Minister held the

1 first Minister's call to formally consult on the invocation of
2 the Act. And I was aware that that was going to take place.
3 And I didn't want to do anything that would get in the way of
4 that conversation. So I was not in a position, as I've said
5 before, to convey anything about what the state of federal
6 thinking was at that time.

7 **MS. SHANTONA CHAUDHURY:** Okay. We'll fast
8 forward now to the issue of revocation. So, Mr. Clerk, if I can
9 ask you to pull up SSM.CAN.00000429?

10 Okay. So just to situate us a little bit, you
11 told us in the interview that between invocation and revocation,
12 the government was tracking developments across the country, at
13 the ports of entry and receiving input from the RCMP as to what
14 powers were being used, whether they were necessary.

15 Mr. Clerk, can we just scroll down a bit here
16 until we get to an email from Rob Stewart?

17 So we'll see this email probably a couple of
18 times over the course of the next couple of weeks, but this is a
19 discussion that's happening between officials, including
20 yourself, Jody Thomas, the NSIA, several officials from PCO,
21 Mike Keenan at Transport and others, about what considerations
22 should go into revocation and when the Act should be revoked.
23 And your comment here is -- your quick comment,

24 "My quick comment is that, while these
25 are [probably] all worthy
26 considerations, they focus[...] too
27 much on the utility of the Act and not
28 its proportionality. In other words,

1 we need to assess the threat in terms
2 of serious violence, not in terms of
3 whether the truckers are hanging
4 around."

5 What were you attempting to convey here to your
6 colleagues?

7 **DM ROBERT STEWART:** Well, I think in the back of
8 my mind was the grounds for invoking the Act, and that's a high
9 bar, which Ministers decided was met. And in that context,
10 serious violence was an important element. There was economic
11 impacts as well, but particularly from a Public Safety point of
12 view, the uncertainty and risk of serious violence was an
13 important consideration. And so given that that was the reason
14 for invoking the Act, I thought it should be the reason for
15 considering revoking it.

16 **MS. SHANTONA CHAUDHURY:** Okay. So essentially,
17 bring revocation right back to invocation, coming full circle.

18 **DM ROBERT STEWART:** Same grounds.

19 **MS. SHANTONA CHAUDHURY:** Okay. That takes us to,
20 essentially, the end of our time together today. But I'll just
21 before leaving completely ask you, is there anything that we
22 haven't covered in the last two-and-a-half that you think we
23 should have, or anything else you would like to say about the
24 events.

25 **DM ROBERT STEWART:** I'd just like to do a
26 technical clarification on "intel", if I may ---

27 **MS. SHANTONA CHAUDHURY:** Of course.

28 **DM ROBERT STEWART:** --- for the record, because

1 it's used in many different ways.

2 And when we spoke about it earlier today, I
3 conveyed the impression that it was all classified and very, you
4 know, kind of secretive, and in fact, intel is a vast spectrum
5 of things. And one of the issues that has surfaced in this
6 context and more generally, frankly, is the compilation of
7 intelligence in the general sense from not just, you know, use
8 of our intelligence agencies, but from open sources, is a real
9 challenge, and it's one that we are grappling with today.

10 And so you know, intelligence is something that
11 is -- was underneath the rationale for invoking the Act, was the
12 lack of good intel as to what was going on. And when I say
13 that, I don't mean top secret. I mean a compilation of
14 information from any possible source.

15 **MS. SHANTONA CHAUDHURY:** So sort of a -- can you
16 elaborate on what was lacking, essentially?

17 **DM ROBERT STEWART:** Any information about the
18 plans and intentions of protestors around the country.

19 **MS. SHANTONA CHAUDHURY:** And that was a result of
20 inability to gather that information or was it at the gathering
21 level or the sharing level or ---

22 **DM ROBERT STEWART:** It may have been both. It
23 was certainly in the context of having a clear line of sight.
24 And when I say plans and intentions, I mean to convoys and slow
25 rolls and obstructing, you know, critical infrastructure. I
26 don't mean the causes that they were espousing. That was quite
27 clear.

28 **MS. SHANTONA CHAUDHURY:** Okay. So maybe some

1 lessons to be learned in the information gathering, sharing and
2 line of sight.

3 **DM ROBERT STEWART:** Yes.

4 **MS. SHANTONA CHAUDHURY:** Mr. Commissioner, those
5 are my questions.

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

7 So we can now start with the cross-examinations.

8 So first I'd like to call on the convoy
9 organizers.

10 **--- CROSS-EXAMINATION BY MR. BRENDAN MILLER:**

11 **MR. BRENDAN MILLER:** Good morning. For the
12 record, my name's Brendan Miller. I'm counsel to Freedom Corp,
13 which is the organization that represents the protestors that
14 were in Ottawa in January and February of 2022.

15 Thank you for coming here today and testifying.

16 First, before I begin, sir, I am going to be
17 referring to one document that I believe I need leave before I
18 do so. It has been referred to in the notice I gave already,
19 but because it is a witness statement with a witness who's not
20 yet testified, but it's relevant to this, it's WTS00000060.

21 It's the statement from the CSIS panel. The
22 relevance and materiality of that is that these gentlemen were
23 the -- essentially the consumers of information and there is a
24 lot of statements in there with respect to what the government
25 was told and when, and I'm intending to put that to them. So I
26 would ask for leave to be able to refer to that document through
27 my examination.

28 **COMMISSIONER ROULEAU:** Okay. Seeing no

1 objection, that's fine.

2 **MR. BRENDAN MILLER:** Thank you, sir.

3 So just to begin, Deputy Minister Stewart, you've
4 been the Deputy Minister of Public Safety since December of
5 2019. Is that fair?

6 **DM ROBERT STEWART:** Until just recently, yes.

7 **MR. BRENDAN MILLER:** Until just recently. All
8 right.

9 And when you took over that portfolio, I take it
10 that you had familiarized yourself with the process of law
11 enforcement and the intelligence agencies with respect to
12 investigations. Is that fair?

13 **DM ROBERT STEWART:** Let's say I learned on the
14 job.

15 **MR. BRENDAN MILLER:** You learned on the job,
16 right.

17 And -- because prior to that, you were with
18 Finance. Is that correct?

19 **DM ROBERT STEWART:** That's correct.

20 **MR. BRENDAN MILLER:** Right. And prior to your
21 appointment into the portfolio of Public Safety, is it fair to
22 say that other than financial intelligence, that you had not
23 worked in the area of law enforcement or the intelligence field.
24 Is that fair?

25 **DM ROBERT STEWART:** Not entirely.

26 **MR. BRENDAN MILLER:** Not entirely?

27 **DM ROBERT STEWART:** In the world of finance,
28 there were criminal issues.

1 **MR. BRENDAN MILLER:** Right. Exactly. So
2 financial intelligence within the criminal sphere of the
3 Ministry of Finance.

4 **DM ROBERT STEWART:** Anti-money laundering,
5 securities crimes, those kinds of things.

6 **MR. BRENDAN MILLER:** Right, right. And so in
7 your evidence here today already, you've spoken about the
8 thresholds for investigations in your chief, and I want to
9 discuss that for a moment. Okay?

10 So you understand, I take it, that law
11 enforcement and intelligence agencies in Canada, the threshold
12 that you're speaking of with respect to opening an
13 investigation, it's referred to in Canada as reasonable
14 suspicion. Are you familiar with that term?

15 **DM ROBERT STEWART:** Reasonable grounds to
16 suspect, yes.

17 **MR. BRENDAN MILLER:** Yeah. So there's -- and
18 we'll get into that.

19 And you can agree with me that that's a pretty
20 low threshold, is it not, in law enforcement terms?

21 **DM ROBERT STEWART:** I would not agree.

22 **MR. BRENDAN MILLER:** Okay. And you're aware that
23 the law recognizes, though, that reasonable suspicion
24 essentially requires more than a mere suspicion, but something
25 less than a belief based on reasonable grounds. Is that your
26 understanding?

27 **DM ROBERT STEWART:** I would say it's reasonable
28 grounds to suspect.

1 **MR. BRENDAN MILLER:** Right. And so reasonable
2 grounds to suspect is different than reasonable grounds
3 generally. You understand that; correct?

4 **DM ROBERT STEWART:** No.

5 **MR. BRENDAN MILLER:** All right. So you don't
6 know the difference between reasonable grounds and reasonable
7 grounds to suspect.

8 **DM ROBERT STEWART:** I don't understand where --
9 what you're trying to get at here.

10 **MR. BRENDAN MILLER:** So there's two -- there's
11 two thresholds in Canada with respect to investigations
12 criminally and in intelligence. We have the lower threshold of
13 reasonable suspicion, which you call reasonable grounds to
14 suspect, and then reasonable grounds, which is also called
15 reasonable and probable grounds.

16 Reasonable and probable grounds is a higher
17 threshold than reasonable suspicion. You understand that.

18 **DM ROBERT STEWART:** I would have gone the other
19 way.

20 **MR. BRENDAN MILLER:** Pardon me?

21 **DM ROBERT STEWART:** I would have put it the other
22 way, so this just shows what I know.

23 **MR. BRENDAN MILLER:** So your understanding is
24 that reasonable suspicion is a higher threshold than reasonable
25 grounds.

26 **DM ROBERT STEWART:** If you're going to suspect
27 something, you're going to have a particular act in mind.

28 **MR. BRENDAN MILLER:** Okay. And it's the same

1 thing with reasonable grounds; right? You would also have a
2 particular act in mind.

3 Can you agree that reasonable grounds requires
4 some reliable information that there was a reasonable to believe
5 a person or group could have committed an offence or pose a
6 threat to the security of Canada?

7 Can you agree with that?

8 **DM ROBERT STEWART:** Yes.

9 **MR. BRENDAN MILLER:** All right. So whereas
10 reasonable suspicion, it just requires a reasonable suspicion;
11 right? It's a lesser threshold than reasonable grounds. Can
12 you -- can you agree? And you know that.

13 **DM ROBERT STEWART:** I'm a little concerned about
14 getting into a discussion about legal terminology on which I'm
15 not an expert.

16 **MR. BRENDAN MILLER:** All right. And so can you
17 agree, though, that it is CSIS who is the main agency that
18 administers the *CSIS Act*?

19 **DM ROBERT STEWART:** Yes.

20 **MR. BRENDAN MILLER:** All right. And they're the
21 agency that's primarily responsible for assessing if there's a
22 section 2 *CSIS Act* threat to the security of Canada; right?

23 **DM ROBERT STEWART:** Yes.

24 **MR. BRENDAN MILLER:** And under section 12 of the
25 *CSIS Act*, CSIS is only required to have a reasonable suspicion
26 that there is a section 2 *CSIS Act* threat to open an
27 investigation. Is that fair?

28 **DM ROBERT STEWART:** Yes.

1 **MR. BRENDAN MILLER:** And they're not required to
2 meet the higher threshold of reasonable grounds to open an
3 investigation.

4 **ADM DOMINIC ROCHON:** Well, for section 12 they
5 would have to get a warrant.

6 **MR. BRENDAN MILLER:** For section 12, and that's
7 reasonable suspicion. That's what it says.

8 **ADM DOMINIC ROCHON:** Again, I'm not an expert
9 when it comes to CSIS, *CSIS Act*.

10 **DM ROBERT STEWART:** When CSIS gets a warrant,
11 they have to bring a case to a Judge, a federal Judge.

12 **MR. BRENDAN MILLER:** Right.

13 **DM ROBERT STEWART:** So there's going to be more
14 than just reasonable grounds in that case.

15 **MR. BRENDAN MILLER:** Okay. So can I bring up
16 WTS00000060, please?

17 And can we scroll down to page 5?

18 Okay. And can we scroll down to the heading
19 "Intelligence"?

20 And just the first paragraph, I'll give you a
21 moment to read that.

22 Would you help me with the pronunciation of
23 Minister David's last name? We've all been debating about how
24 to pronounce it properly.

25 **DM ROBERT STEWART:** Vigneault.

26 **MR. BRENDAN MILLER:** Vigneault. All right.

27 So David Vigneault, he stated that at no point
28 did the service, being CSIS, assess the protests in Ottawa or

1 elsewhere, those referred to as the Freedom Convoy and related
2 protests and blockades in January and February 2022, constituted
3 a threat to the security of Canada as defined in section 2 of
4 the *CSIS Act*, and that CSIS cannot investigate activities
5 constituting a lawful protest.

6 And I take it you were advised of this; correct?

7 **DM ROBERT STEWART:** Correct.

8 **MR. BRENDAN MILLER:** All right. And can we
9 scroll down, then, to page 7?

10 And go to the heading "Foreign Influence".

11 So Director Vigneault explained that the use of
12 the term "foreign influence" under section 2 of the *CSIS Act*
13 refers to a foreign state interference as the term is used
14 within the national security community ---

15 **COMMISSIONER ROULEAU:** Just slow down, please.

16 **MR. BRENDAN MILLER:** Right.

17 "CSIS assessed there was no indication of
18 foreign state interference occurring in the
19 course of the protest. CSIS did not assess
20 that any foreign state supported the protest
21 through funding, that foreign states
22 deployed covert or overt disinformation
23 techniques, or that any foreign state actors
24 attempted to enter into Canada to support
25 the protest." (As read)

26 And I take it that you were advised of that by
27 CSIS and Director Vigneault; is that correct?

28 **DM ROBERT STEWART:** That is correct.

1 **MR. BRENDAN MILLER:** All right. And if we can go
2 down to page number 8, and the heading, "Recommendation to
3 Cabinet"?

4 There, Director Vigneault states that he learned
5 that the EA reference, the threat definition set out in section
6 2 of the *CSIS Act*, once the federal government began to
7 seriously consider invoking the EA between February 10th and 13th.
8 He requested that the service prepare a threat assessment under
9 risks associated with the invocation of the EA. He felt an
10 obligation to clearly convey the Service's position that there
11 did not exist a threat to the security of Canada as defined by
12 the Service's legal mandate. The threat assessment prepared by
13 the Service was that the invocation of the Emergencies
14 legislation risked further inflaming IMV rhetoric and
15 individuals holding accelerationists or antigovernment views.

16 You were told that; is that correct?

17 **DM ROBERT STEWART:** That is correct.

18 **MR. BRENDAN MILLER:** All right. So can we now
19 please bring up document number TS.NSC.CAN.00100000206_REL_0001.

20 So in this document, which is already actually in
21 evidence -- I just want to scroll down to page 5, please. So
22 there again:

23 "On February 3rd, CSIS assessed [there's
24 no indications] that known IMVE actors
25 were planning to engage in violence."

26 And it's on February 13th, I believe, that this is
27 the document that Director Vigneault is referring to that states
28 that, you know, it could've been a risk if you invoke the

1 *Emergencies Act* to making things worse; is that correct?

2 **DM ROBERT STEWART:** Yes.

3 **MR. BRENDAN MILLER:** Okay. And you knew about
4 that?

5 **DM ROBERT STEWART:** I did.

6 **MR. BRENDAN MILLER:** Right. And so did Cabinet;
7 they knew about all of this; correct?

8 **DM ROBERT STEWART:** Yes.

9 **MR. BRENDAN MILLER:** Right.

10 Okay, if I could bring up the next document,
11 which is going to be TSN.SCAN.001.00000160_REL_0001.

12 Now, before I get into this, you can agree that
13 it was clear to both you and Cabinet that CSIS did not have
14 reasonable suspicion that there existed a section 2 *CSIS Act*
15 threat during the protest; is that correct?

16 **DM ROBERT STEWART:** It was clear to me, and I
17 believe it was clear to Ministers.

18 **MR. BRENDAN MILLER:** Right.

19 **DM ROBERT STEWART:** I can't say with that with
20 authority, however.

21 **MR. BRENDAN MILLER:** And I also understand that
22 the Canadian Security Establishment, the CSE, they never advised
23 you or the government or Cabinet that they had identified a
24 section 2 *CSIS Act* threat either; is that correct?

25 **DM ROBERT STEWART:** That would be correct.

26 **MR. BRENDAN MILLER:** Right. And both the RCMP
27 and the OPP, from at least their evidence and things we've seen
28 today, they never identified or advised the government that

1 there was a section 2 *CSIS Act* threat, right?

2 **DM ROBERT STEWART:** To the best of my knowledge,
3 no.

4 **MR. BRENDAN MILLER:** Right. And so the entire
5 intelligence apparatus and law enforcement apparatus within
6 Canada, tells the Cabinet and the government that there is no
7 section 2 *CSIS Act* threat, is that right?

8 **DM ROBERT STEWART:** No, that is not right. *CSIS*
9 -- and, you know, Director Vigneault will be here to speak for
10 himself. *CSIS* assessed, according to their standards, under
11 their Act. Nobody else was assessing under the standards, under
12 the *CSIS Act*. You asked me, did they tell anybody that it met a
13 standard, they weren't -- they wouldn't use the *CSIS Act*, that
14 wouldn't be their tool. They would be looking at broader
15 national security issues.

16 **MR. BRENDAN MILLER:** Okay. So what intelligence
17 bureau or agency or law enforcement agency told the government,
18 "Here's the evidence of reasonable and probable grounds, of
19 reasonable grounds, of a section 3 *CSIS Act* threat"? And you
20 know, I take it now, 'cause it's advised to you, that that's
21 required to invoke the *Emergencies Act*, it's in the documents;
22 you were advised of that.

23 **DM ROBERT STEWART:** Yes.

24 **MR. BRENDAN MILLER:** Right. So what agency gave
25 you the evidence and the intelligence that said, "Hey, we have
26 reasonable grounds of a section 2 *CSIS Act* threat? There wasn't
27 one, was there?

28 **DM ROBERT STEWART:** So let me explain. Nobody

1 bringing advice to the table, other than CSIS, is assessing that
2 -- against that threat, nobody advising the Cabinet. The
3 Cabinet is making that decision. And their interpretation of
4 the law is what governs here, and the advice they get. And
5 their decision was, evidently, that the threshold was met.

6 **MR. BRENDAN MILLER:** And I understand that. But
7 you understand that when Ministers or administrative agencies et
8 cetera, are entitled to make a statutory decision, whether or
9 not a statutory requisite is met, they do so based on the
10 evidence that is before them and the submissions before them;
11 you know that.

12 **DM ROBERT STEWART:** And indeed, they had a lot of
13 evidence.

14 **MR. BRENDAN MILLER:** Right. And you have the
15 RCMP, you have CSIS, you have the entire intelligence apparatus
16 in the federal government, and none of them said that this
17 threshold was met, did they?

18 **DM ROBERT STEWART:** They weren't asked.

19 **MR. BRENDAN MILLER:** Okay. So -- and with
20 respect to the Ministers making the decision, when you're
21 talking about Ministers, you're talking about the elected
22 executive; correct?

23 **DM ROBERT STEWART:** I am.

24 **MR. BRENDAN MILLER:** All right. So the Prime
25 Minister.

26 **DM ROBERT STEWART:** Among others.

27 **MR. BRENDAN MILLER:** Right. To your knowledge,
28 what training in national security and law enforcement does the

1 Prime Minister have?

2 **DM ROBERT STEWART:** I couldn't answer that
3 question.

4 **MR. BRENDAN MILLER:** Yes. Can you agree with me
5 that he doesn't have any, to your knowledge?

6 **DM ROBERT STEWART:** I couldn't answer that
7 question, I'm sorry.

8 **MR. BRENDAN MILLER:** All right. And what about
9 Minister Mendicino? He, I understand, has training as a Crown
10 prosecutor at least, is that right?

11 **DM ROBERT STEWART:** That was his former job, yes.

12 **MR. BRENDAN MILLER:** Right. And Minister Blair,
13 he was the Chief of Police for the Toronto Police Service.

14 **DM ROBERT STEWART:** That's correct.

15 **MR. BRENDAN MILLER:** Right. And when did
16 Minister Blair first tell you that he was thinking about
17 invoking the *Emergencies Act*?

18 **DM ROBERT STEWART:** Minister Blair didn't tell
19 me. It came up in discussions ---

20 **MR. BRENDAN MILLER:** Okay.

21 **DM ROBERT STEWART:** --- at the officials' level,
22 and then it came up in discussions at the Ministerial level.

23 **MR. BRENDAN MILLER:** There's a record not yet in
24 evidence that states that Minister's Blair's strategy was from
25 February 4th on to invoke the *Emergencies Act*; were you aware of
26 that?

27 **DM ROBERT STEWART:** No.

28 **MR. BRENDAN MILLER:** Okay. Can you please bring

1 up the next document which is -- oh, we have the input, and I'll
2 just ask you about these.

3 These are the -- if you can scroll up to the top,
4 please?

5 I take it that this is the input that CSIS gave
6 to your Ministry, Public Safety, with respect to the key
7 messages they thought should be put out with respect to the
8 convoy, is that right?

9 **DM ROBERT STEWART:** Presumably. I don't have a
10 date on this document, so I'm not really sure where it falls in
11 the overall scheme of things.

12 **MR. BRENDAN MILLER:** Okay. So I'm just going to
13 go through it with you, then.

14 **COMMISSIONER ROULEAU:** You're out of time, so
15 you're going have to do it very quickly.

16 **MR. BRENDAN MILLER:** Right. I'll be quick.

17 This document, you agree that none of the
18 messaging from this document was actually incorporated into the
19 messaging from Public Safety, was it?

20 **DM ROBERT STEWART:** I -- really, I wasn't the
21 spokesperson for Public Safety; my colleague may be able to
22 answer it.

23 **MR. BRENDAN MILLER:** Right. And I have to be
24 quick so, I just want to bring up one last document. And that's
25 SSM.CAN.00001079_REL.0001.

26 No, that's not the correct document. It's okay.
27 I'll deal with it with another witness.

28 So thank you very much for answering my

1 questions.

2 **DM ROBERT STEWART:** You're welcome.

3 **COMMISSIONER ROULEAU:** Okay. Well, rather than
4 -- or maybe I could ask the City of Ottawa; are you going to be
5 taking your 10 minutes, or if -- because we can do it after
6 lunch, if you prefer?

7 **MS. ANNE TARDIF:** I'm content to either do it now
8 or after lunch. I think we will need our 10 minutes, and
9 there's a chance -- there's a better chance we get right under
10 the 10 minutes' mark if we have the lunch break to shorten it up
11 and tighten it up Commissioner.

12 **COMMISSIONER ROULEAU:** Okay.

13 **MS. ANNE TARDIF:** But I am content to go now if
14 that's your preference.

15 **COMMISSIONER ROULEAU:** We'll take the lunch
16 break. We'll take another one of our long lunches. We'll come
17 back at 2 o'clock and have an hour and five minutes for lunch.

18 **THE REGISTRAR:** The Commission is in recess until
19 two o'clock. La commission est levée jusqu'à 14 heures.

20 --- Upon recessing at 12:54 p.m.

21 --- Upon resuming at 2:01 p.m.

22 **THE REGISTRAR:** Order. À l'ordre.

23 The Commission is reconvened. La commission
24 reprend.

25 **--- DM ROBERT STEWART, Resumed:**

26 **--- ADM DOMINIC ROCHON, Resumed:**

27 **COMMISSIONER ROULEAU:** Okay. Is there a point of
28 clarification, I believe?

1 **MS. NUSRA KHAN:** Yes, thank you, Mr.
2 Commissioner.

3 **COMMISSIONER ROULEAU:** Yeah.

4 **MS. NUSRA KHAN:** Just a small clarification
5 coming out of the overview report that was presented this
6 morning. The first Cabinet meeting of full Cabinet in relation
7 to the convoy was held on February 13th and not February 3rd.
8 Thanks.

9 **COMMISSIONER ROULEAU:** Okay. Thank you.
10 So with that clarification, City of Ottawa,
11 please.

12 Ready? You're okay to go, go ahead, yes? Oui?

13 **DM ROBERT STEWART:** Yeah.

14 **ADM DOMINIC ROCHON:** Si.

15 **--- CROSS-EXAMINATION BY MS. ANNE TARDIF:**

16 **MS. ANNE TARDIF:** Good afternoon. My name's Anne
17 Tardif. I'm one of the lawyers for the City of Ottawa. Can I
18 ask Mr. Clerk to pull up PB.NSC.CAN.00009542?

19 And this is an email chain, and if we could --
20 well, you're not on it, gentlemen, but Mr. Dakalbab? Have I got
21 that correct? Thank you. You're both nodding. Is on the
22 chain, and I understand he was interviewed along with you and
23 some of your other colleagues by the Commission in this case;
24 right? And we'll need an audible answer, sorry.

25 **ADM DOMINIC ROCHON:** Yes.

26 **MS. ANNE TARDIF:** And he is at Public Safety as
27 well; correct?

28 **ADM DOMINIC ROCHON:** Yes.

1 **MS. ANNE TARDIF:** And if we scroll down to the
2 top of page 2, Mr. Clerk, and actually, just scroll up a little
3 bit, just so we get that email? Up a little bit higher. There
4 we go. This is an email from an individual with the Solicitor
5 General's office in Ontario to your colleague, Mr. Trehearne,
6 among others, at Public Safety; correct?

7 **ADM DOMINIC ROCHON:** Yes.

8 **DM ROBERT STEWART:** Yes.

9 **MS. ANNE TARDIF:** And he says,
10 "Hi, Trevor and Deryck [your
11 colleagues,] I was hoping for some
12 clarity on a few RFA [meeting requests
13 for assistance,] process-related item
14 based on some references I have been
15 seeing in recent media coverage for
16 Ottawa."

17 Scrolling down to number two, which is the one
18 that interests me, it's titled "Request for Law Enforcement
19 Support Under *Ontario Police Services Act*."

20 "this article [and there's a link that
21 we can't access] says that the feds
22 approved a request from Ottawa for RCMP
23 support. I would have assumed such a
24 request would have required a
25 provincial Minister request. But
26 clearly it didn't [as in did not]. I
27 am fine with that but want to check on
28 process. Was that a political decision

1 that by-passed process or this type of
2 request could be made by either a
3 municipal or provincial police
4 service?"

5 So scrolling back up, Mr. Clerk, this is a
6 question, as we've seen, that the Solicitor General's office is
7 putting to your colleagues, and I believe the date is February
8 4th. If we could scroll up, Mr. Clerk? Yeah, February 4th. And
9 if we scroll all the way up to the top, you'll see there's an
10 internal email chain within Public Safety and your colleague Mr.
11 Dakalbab says,

12 "This is far from being solved. Still
13 discussions on their way to clarify
14 [Question] 2"

15 Which is the one I just read. You see that
16 there? Yes? So fair to say that at least as at February 4th,
17 within Public Safety, there were still discussions in terms of
18 the process for OPS for Ottawa requesting law enforcement
19 resources from the RCMP; correct?

20 **DM ROBERT STEWART:** Yes.

21 **MS. ANNE TARDIF:** Okay. Now, Mr. Stewart, I
22 heard you say in your testimony that almost right from the
23 beginning, right after that first weekend, Chief Sloly was
24 adamant that he needed more resources than he had at his
25 disposal to dismantle the occupation; correct?

26 **DM ROBERT STEWART:** Correct.

27 **MS. ANNE TARDIF:** And you're aware that on
28 February 7th, I won't turn it up, the Mayor of Ottawa and Ms.

1 Deans, who was then the Chair of the Police Services Board,
2 wrote a letter to the federal government asking for 1800
3 additional officers to support the OPS: correct?

4 **DM ROBERT STEWART:** Correct.

5 **MS. ANNE TARDIF:** Okay. So I'd like to go --
6 that was on February 7th. I'd like to now turn to a read out of
7 the SSE Committee of Cabinet, which I take it is a committee
8 that deals with safety, security and emergencies?

9 **DM ROBERT STEWART:** Correct.

10 **MS. ANNE TARDIF:** Have I got the acronym right?

11 **DM ROBERT STEWART:** Well done.

12 **MS. ANNE TARDIF:** Okay. And, Mr. Clerk, it's
13 SSM.CAN.NSC.00002661.

14 And this should be a February 9th meeting of the
15 SSE Committee of Cabinet. It's a read out. And you'll see
16 there the date February 9th; correct?

17 **DM ROBERT STEWART:** I believe the Committee
18 meeting was on the 8th but ---

19 **MS. ANNE TARDIF:** Okay. So the Committee meeting
20 was on the 8th. The read out is being circulated on the 9th;
21 fair?

22 **DM ROBERT STEWART:** Sure.

23 **MS. ANNE TARDIF:** Can we go to the bottom of page
24 1, please? Right there. Thank you, Mr. Clerk. Do you see it
25 says, "RCMP resources deployed"? Are you with me, Mr. Stewart?

26 **DM ROBERT STEWART:** I am.

27 **MS. ANNE TARDIF:** "340 members on duty every day
28 within RCMP mandate."

1 And that would be in part the protective mandate
2 that you described earlier; right?

3 **DM ROBERT STEWART:** Yes.

4 **MS. ANNE TARDIF:** So to protect federal assets
5 and people?

6 **DM ROBERT STEWART:** That's right.

7 **MS. ANNE TARDIF:** "Increase in protective posture
8 associated with RCMP mandate."

9 And then this is what I wanted to draw your
10 attention to. It says,

11 "50 uniformed resources in support of
12 OPS mandates since last weekend."

13 So from January 31st to February 8th, roughly 50
14 uniformed RCMP officers in Ottawa; fair?

15 **DM ROBERT STEWART:** Yes.

16 **MS. ANNE TARDIF:** Under OPS command, I should
17 say; fair?

18 **DM ROBERT STEWART:** Yes.

19 **MS. ANNE TARDIF:** And then it says,

20 "Working to deploy another 200 people
21 on new plan with OPS and partners."

22 Right?

23 **DM ROBERT STEWART:** Yes.

24 **MS. ANNE TARDIF:** And then finally it says,

25 "OPP setting up integrated planning
26 cell to review OPS plan."

27 And that was going to include "2 RCMP members" as
28 well; correct?

1 **DM ROBERT STEWART:** Yes.

2 **MS. ANNE TARDIF:** If we can scroll to page 3,
3 please, the second bullet at the top of the page? There we go.
4 Again, we see that the plan, and this is the OPS plan, is going
5 to be "subject to review and verification by OPP [and] others",
6 presumably the RCMP; correct?

7 **DM ROBERT STEWART:** Yes.

8 **MS. ANNE TARDIF:** And that had to happen before
9 additional resources were committed to Ottawa by the RCMP;
10 correct?

11 **DM ROBERT STEWART:** I don't believe that's true.

12 **MS. ANNE TARDIF:** Okay. Let's keep going then.
13 So I'd like to turn then to the first meeting of the IRG, which
14 I understood occurred on February 10th?

15 **DM ROBERT STEWART:** Correct.

16 **MS. ANNE TARDIF:** Right. And that's day 13 of
17 the convoy or occupation here in Ottawa; correct?

18 **DM ROBERT STEWART:** Yes.

19 **MS. ANNE TARDIF:** Okay. Mr. Clerk, if we could
20 turn to SSM.NSC.CAN.00000209, please? Okay. And if we could
21 turn then to page 5, please, halfway through the first complete
22 paragraph. Yeah. So you'll see there it says, "The RCMP" --
23 it's about six lines down; do you see that? Thank you, Mr.
24 Clerk.

25 "The RCMP has provided all [recourses]
26 requested by the OPS."

27 Do you see that there?

28 **DM ROBERT STEWART:** I do.

1 **MS. ANNE TARDIF:** But I think we can agree that
2 the 1800 or any significant portion thereof requested on
3 February 7th was not yet in Ottawa by this date February 10th;
4 correct?

5 **DM ROBERT STEWART:** Correct.

6 **MS. ANNE TARDIF:** Right. And then if we scroll
7 to page 6, please, halfway through the page, right there, "The
8 Commissioner of the RCMP"; do you see that, Mr. Stewart?

9 **DM ROBERT STEWART:** I do.

10 **MS. ANNE TARDIF:** "...indicated that Windsor
11 remains the number one priority."

12 I don't think that's quite contentious. This is
13 February 10th, but that was what the Commissioner indicated on
14 that date; right?

15 **DM ROBERT STEWART:** Right.

16 **MS. ANNE TARDIF:** And I put it to you that that's
17 the reason that the IRG was not convened until this date, that
18 is, until Windsor had occurred, the blockade at Windsor?

19 **DM ROBERT STEWART:** I would not agree.

20 **MS. ANNE TARDIF:** Okay. And then why did it take
21 13 days for the situation in Ottawa before the IRG to be
22 convened?

23 **DM ROBERT STEWART:** That's not a question that I
24 can answer, other than to say that there was extensive
25 involvement at the federal officials and political level, right
26 from the start. So when the Prime Minister chose to convene the
27 IRG is a decision that you should ask either him or colleagues
28 of PCO about.

1 **MS. ANNE TARDIF:** Okay. Will do.

2 Okay. So I guess we'll jump ahead now to the
3 second IRG meeting. I only have a few minutes left. We can
4 turn it up. It's SSM.NSC.CAN.00000214, Mr. Clerk. If we can go
5 to page 6, please, at the bottom. And the last two sentences.
6 "There continue to be challenges..." and I should say the date.
7 It's February 12th. This is the second meeting of the IRG.

8 "There continue to be challenges
9 working with the Integrated Planning
10 Team in Ottawa around communication and
11 [I think that word should be
12 decisiveness] of the OPS Chief. Every
13 request made by the OPS has been
14 fulfilled with RCMP personnel exceeding
15 the 250 agreed upon in the MOU."

16 And maybe this comes back to what you were saying
17 earlier, Mr. Stewart, that you thought more had been provided
18 than that 200, even before the plan had been finalized.

19 But I take it we can agree that the large number
20 requested, the number that was eventually needed in order to
21 dismantle the occupation, was still not in Ottawa by this date
22 on February 12th?

23 **DM ROBERT STEWART:** To the best of my knowledge,
24 that is true.

25 **MS. ANNE TARDIF:** Right. And that was the number
26 that had been requested on February 7th; correct? The 1,800 from
27 both levels of government. That's not here yet at this point in
28 time; correct?

1 **DM ROBERT STEWART:** Yes, that's correct.

2 **MS. ANNE TARDIF:** Right. And you mention --
3 pardon me, Commissioner. If I could just have one minute? I
4 think I'm out, but I'm wrapping up. Thank you.

5 You said earlier that it took several weeks ---

6 **COMMISSIONER ROULEAU:** But on condition you speak
7 slower.

8 **MS. ANNE TARDIF:** Okay. Understood. I heard you
9 say earlier, Mr. Stewart, that it took several weeks for the
10 right chemistry to be achieved at the Integrated Command Centre.
11 Recall saying that?

12 **DM ROBERT STEWART:** I do.

13 **MS. ANNE TARDIF:** And I take it the ICC
14 established unified command over the operation to dismantle the
15 convoy; right?

16 **DM ROBERT STEWART:** That's my understanding.

17 **MS. ANNE TARDIF:** Between all three police
18 forces? OPS, OPP, and RCMP; right?

19 **DM ROBERT STEWART:** Right.

20 **MS. ANNE TARDIF:** And you described Chief Sloly
21 as a strong personality; right?

22 **DM ROBERT STEWART:** I did.

23 **MS. ANNE TARDIF:** You'd heard it was challenging
24 to get him to relinquish his authority?

25 **DM ROBERT STEWART:** That's what I had heard.

26 **MS. ANNE TARDIF:** And I expect we will hear
27 evidence that Commissioner Lucki of the RCMP told her
28 counterpart at the OPP on February 5th, so during that first

1 week, that the Federal Government was either losing or had lost
2 confidence in the OPS? Did you share that view?

3 **DM ROBERT STEWART:** No.

4 **MS. ANNE TARDIF:** Did you hear of any such
5 concerns, either from the Commissioner or from Ministers?

6 **DM ROBERT STEWART:** I heard concerns about the
7 ability of the OPS to manage the situation. Definitely.

8 **MS. ANNE TARDIF:** Now, you've said that the OPS
9 should look to the -- should have looked to the OPP first,
10 right, to fulfil its needs?

11 **DM ROBERT STEWART:** Technically speaking. But I
12 want to be clear on this point. This is not a situation in
13 which you go by the book.

14 **MS. ANNE TARDIF:** Fair enough. I think you also
15 said the RCMP was always ready and willing to assist?

16 **DM ROBERT STEWART:** I did.

17 **MS. ANNE TARDIF:** And I appreciate there were
18 logistical concerns, paperwork, swearing them in, getting them
19 to Ottawa if they're deployed elsewhere; right?

20 **DM ROBERT STEWART:** Right.

21 **MS. ANNE TARDIF:** But fair to say, the real issue
22 was what was perceived at least as the OPS lack of a plan;
23 right?

24 **DM ROBERT STEWART:** That was a major impediment.

25 **MS. ANNE TARDIF:** And what you understood to be
26 Chief Sloly's reticence to relinquish authority, because he was
27 controlling the approval of the plan? That's what you
28 understood?

1 **DM ROBERT STEWART:** You can put the two points
2 together. I'm not sure that I was -- I can testify in any
3 direct way that that was the case. I mean, two things seem to
4 be facts that I was hearing.

5 **MS. ANNE TARDIF:** Okay. The relationship between
6 the two, you can't put together?

7 **DM ROBERT STEWART:** That's correct.

8 **MS. ANNE TARDIF:** And the reason I put to you
9 that the OPS, or that the Government of Canada wanted the OPS to
10 look to the OPP first was that it hoped the OPP could resolve
11 the issues around leadership and the plan?

12 **DM ROBERT STEWART:** I don't know that.

13 **MS. ANNE TARDIF:** Thank you.

14 **COMMISSIONER ROULEAU:** Okay. Next, if I could
15 call on the Ottawa Police Service, please?

16 **--- CROSS-EXAMINATION BY MS. JESSICA BARROW:**

17 **MS. JESSICA BARROW:** Good afternoon to you both.
18 My name is Jessica Barrow and I'm one of the counsel to the
19 Ottawa Police Service.

20 My questions will be directed to you, Mr.
21 Stewart.

22 I just want to start by discussing some of the
23 information that was known to Public Safety prior to the arrival
24 of the convoy, and I know you went through some of that already
25 with Commission Counsel, but I wanted to clarify a couple of
26 things.

27 So you indicated in your witness statement that
28 there were challenges in obtaining information in relation to

1 the convoy because the novelty of the events made it difficult
2 to distinguish between things seen on social media that were
3 credible versus not credible. Is that correct?

4 **DM ROBERT STEWART:** That is correct.

5 **MS. JESSICA BARROW:** And in fact, you testified
6 this morning that because of the organic nature of the events,
7 it was difficult to obtain what you referred to as "good intel"?
8 Correct?

9 **DM ROBERT STEWART:** That is correct.

10 **MS. JESSICA BARROW:** And you would agree with me
11 that these would have been challenges that all law enforcement
12 agencies would have been facing as well; correct?

13 **DM ROBERT STEWART:** Yes.

14 **MS. JESSICA BARROW:** So Commission Counsel took
15 you to one of the key points documents, and I want to take you
16 to a couple as well. I'll start with January 26.

17 And Mr. Clerk, the number is PB.CAN.701. And if
18 we could scroll down to page 2 towards the bottom of the page?

19 In the third to bottom bullet, it says:

20 "Some supporters suggested they would not
21 leave Ottawa until vaccine mandates for
22 public servants, Canadian travelers and
23 cross-border truckers are lifted."

24 Do you recall seeing that?

25 **DM ROBERT STEWART:** I do.

26 **MS. JESSICA BARROW:** And so this suggests that
27 there was at least information available to you and others to
28 the effect that some protestors may not leave Ottawa; correct?

1 **DM ROBERT STEWART:** Yes.

2 **MS. JESSICA BARROW:** But again, as you've
3 indicated, with open-source information, it's difficult to know
4 whether that information was credible or not; correct?

5 **DM ROBERT STEWART:** And so from your perspective,
6 this information was not enough to raise any kind of alarm bells
7 that this was going to be the three-week occupation that we
8 ultimately saw here in Ottawa; correct?

9 **MS. JESSICA BARROW:** And the RCMP was presumably
10 privy to this same information as well?

11 **DM ROBERT STEWART:** I would believe so, yes.

12 **MS. JESSICA BARROW:** And you indicated in your
13 witness statement, at page 10, and I'm happy to turn it up if
14 necessary, but I suspect you'll recall saying this, that if the
15 RCMP had intelligence that the convoy was planning on becoming
16 entrenched in Ottawa and failed to report that information up to
17 Public Safety, that you would have considered that to be
18 problematic; correct?

19 **DM ROBERT STEWART:** Yes.

20 **MS. JESSICA BARROW:** And notwithstanding the fact
21 that we see that there's at least some information to suggest
22 that protestors might stay, the RCMP was similarly not raising
23 any kind of alarm bells around that; correct?

24 **DM ROBERT STEWART:** That is correct.

25 **MS. JESSICA BARROW:** And if we scroll to the top
26 of the document, if you go down a -- yes. The first sentence
27 there:

28 "The following relates to a planned

1 peaceful demonstration in Ottawa on 28-29
2 [January]."

3 So even with that information in mind, you're
4 still planning for, you know, a couple of days; correct?

5 **DM ROBERT STEWART:** That's correct.

6 **MS. JESSICA BARROW:** Okay. So I want to turn
7 back to the one on the 27th, which you did speak about briefly
8 with Commission Counsel.

9 That number, Mr. Clerk, is PB.CAN703. And if we
10 could go to page 3, please? That's perfect. Thank you.

11 My friend took you to one of the bullets in the
12 bolded section that we see here, but I want to turn to some of
13 the bullets that precede that one bullet.

14 So what we can see here is a number of directions
15 that appear to have been provided by OPS in relation to where
16 the trucks could park when they arrive; right?

17 **DM ROBERT STEWART:** Right.

18 **MS. JESSICA BARROW:** And is it your understanding
19 that this information was coming from INTERSECT?

20 **DM ROBERT STEWART:** That would be my
21 understanding.

22 **MS. JESSICA BARROW:** Okay. And so what we see is
23 a number of different options. The first one we see is from the
24 west, they're being directed to Sir John A. MacDonald Parkway;
25 correct?

26 **DM ROBERT STEWART:** Yes.

27 **MS. JESSICA BARROW:** And then following this,
28 Kent and Metcalfe exits can be used, the George-Étienne Parkway

1 can be used, and then ultimately we see in the third bullet
2 there that Wellington will be closed, but there will be three
3 lanes dedicated to the demonstration; correct?

4 **DM ROBERT STEWART:** Yes.

5 **MS. JESSICA BARROW:** And so you were provided
6 information prior to the convoy's arrival that the OPS plan was
7 to allow at least some of the truckers to park downtown;
8 correct?

9 **DM ROBERT STEWART:** Yes.

10 **MS. JESSICA BARROW:** And I'm just going to bring
11 you to the INTERSECT document.

12 That one is PB.CAN1234. If you could scroll down
13 a little bit, please?

14 So this is presumably then the INTERSECT
15 information that ultimately we see coming through that key
16 points document? Is that fair?

17 **DM ROBERT STEWART:** I believe so.

18 **MS. JESSICA BARROW:** and so again, we see here
19 that there is information to suggest that OPS' plan involved
20 having some truckers park on Wellington; correct?

21 **DM ROBERT STEWART:** Correct.

22 **MS. JESSICA BARROW:** And so again, this didn't
23 raise any kind of alarm bells from your perspective, that this
24 was the plan for OPS; right?

25 **DM ROBERT STEWART:** No alarm bells.

26 **MS. JESSICA BARROW:** And again, this information
27 would have been available to RCMP?

28 **DM ROBERT STEWART:** Yes.

1 **MS. JESSICA BARROW:** And similarly, RCMP didn't
2 raise any concerns with you in relation to the plan?

3 **DM ROBERT STEWART:** Not with me.

4 **MS. JESSICA BARROW:** And you understood at this
5 point, and I'm happy to turn back to the previous document if
6 necessary, but I think you would agree that this was a group at
7 this point that was cooperative, and from your perspective, was
8 exercising their democratic right to peaceful protest; correct?

9 **DM ROBERT STEWART:** Correct.

10 **MS. JESSICA BARROW:** Mr. Clerk, could we turn to
11 SAS12, please?

12 So these appear to be the minutes or notes from a
13 deputy minister's call on February 7th. Do you recall that
14 meeting?

15 **DM ROBERT STEWART:** I do.

16 **MS. JESSICA BARROW:** And so I just want to take
17 you through a couple of the comments that you've made in here on
18 February 7th.

19 The first bullet references, "A protest of
20 significant proportions we have not seen before."

21 Do you recall saying that?

22 **DM ROBERT STEWART:** I do.

23 **MS. JESSICA BARROW:** And if we can go down to the
24 third bullet point, please? And in there, we see, "Setting a
25 standard to worry about. Setting a standard for behaviour. How
26 to go above the norms and laws."

27 So I take it you agree that you made those
28 comments?

1 **DM ROBERT STEWART:** I do.

2 **MS. JESSICA BARROW:** And what you meant by this
3 comment was that what Ottawa was doing was unlike any protests
4 that any city in Canada had ever seen before; is that correct?

5 **DM ROBERT STEWART:** That is correct.

6 **MS. JESSICA BARROW:** And specifically, you were
7 saying that the behaviour of these protesters was unlike
8 anything seen in previous protests?

9 **DM ROBERT STEWART:** That may be too broad a
10 statement. There's certainly the aspect of having the trucks
11 involved and being used to essentially occupy physical spaces
12 was the unprecedented part.

13 **MS. JESSICA BARROW:** Right, as well as the
14 honking, some of the harassment that we saw exhibited by ---

15 **DM ROBERT STEWART:** Well, in terms of behaviour,
16 yes.

17 **MS. JESSICA BARROW:** The behaviours of some of
18 the protesters ---

19 **DM ROBERT STEWART:** Yes.

20 **MS. JESSICA BARROW:** --- as well as the trucks, I
21 take it you're saying.

22 And so the protesters were prepared, from your
23 perspective, to disregard the laws as well as the social norms
24 of behaviour that we had come to expect in a city and other
25 places as well with respect to the behaviour of protesters; is
26 that fair?

27 **DM ROBERT STEWART:** Yes.

28 **MS. JESSICA BARROW:** And when we walked through -

1 - I took you to two of the key points documents, and I take it
2 you would agree with me that the specific references to this
3 idea of honking or lawlessness or the departure from social
4 norms, there wasn't really any indication that the protesters
5 were going to engage in that type of behaviour; is that fair?

6 **DM ROBERT STEWART:** That is fair.

7 **MS. JESSICA BARROW:** And in fact, as far as
8 you're aware, they weren't engaging in that type of behaviour
9 before they arrived in Ottawa?

10 **DM ROBERT STEWART:** Well, there was quite a bit
11 of honking on the highway, but I -- we did not assume that they
12 would do anything other than peacefully protest.

13 **MS. JESSICA BARROW:** Fair enough. And so you
14 would agree with me then that the behaviour was unexpected?

15 **DM ROBERT STEWART:** I would.

16 **MS. JESSICA BARROW:** And I don't need to pull it
17 up, I don't think, but please correct me if that's not the case,
18 but on page 12 of your witness statement, you indicated that the
19 other cities that subsequently had similar events were able to
20 learn from what was seen in Ottawa. Do you recall saying that?

21 **DM ROBERT STEWART:** I do.

22 **MS. JESSICA BARROW:** And so you would agree with
23 me that it's because of what happened in Ottawa that other
24 cities may have been able to prepare in a different way?

25 **DM ROBERT STEWART:** That is correct.

26 **MS. JESSICA BARROW:** I just have one last issue I
27 want to raise, and that's in relation to the engagement proposal
28 that you went through with Commission counsel earlier.

1 And so I wonder if we could pull up OPP142, Mr.
2 Clerk?

3 And if we could scroll down to page 2, we'll see
4 an email between yourself and Inspector Beaudin, and that's
5 setting out some considerations in relation to the proposal.

6 If we can -- I think it might be up a little bit.
7 Yes, there.

8 Do you recall seeing this email with all the
9 considerations?

10 **DM ROBERT STEWART:** Yes, indeed.

11 **MS. JESSICA BARROW:** And what we see from
12 Inspector Beaudin is that he was of the view that this could
13 constitute a win of sorts for protesters in terms of providing
14 an exit strategy; is that -- do you recall that?

15 **DM ROBERT STEWART:** Yes.

16 **MS. JESSICA BARROW:** And would you agree with me
17 that the comments that come from Inspector Beaudin involve an
18 advocacy for a measured approach consistent with the national
19 framework rather than simply resorting first to enforcement?

20 **DM ROBERT STEWART:** Yes, I agree.

21 **MS. JESSICA BARROW:** And in your witness
22 statement, you indicated at page 18 that there were particular
23 difficulties, actually, to enforcement operations in Ottawa. Do
24 you recall saying that?

25 **DM ROBERT STEWART:** I do.

26 **MS. JESSICA BARROW:** And that was because the
27 protesters were very entrenched and they were aggressive towards
28 the police?

1 **DM ROBERT STEWART:** That's correct.

2 **MS. JESSICA BARROW:** And so the proposal was
3 presumably aimed at trying to change that posture; is that fair?

4 **DM ROBERT STEWART:** That would be true.

5 **MS. JESSICA BARROW:** Okay. And you indicated in
6 your witness statement that you did not share the proposal with
7 OPS; is that right?

8 **DM ROBERT STEWART:** I believe it was shared with
9 OPS because there was a question about who would -- if it were
10 actually approved, how it would be managed, and I think OPS was
11 alerted that their PLTs, their teams would be perhaps delivery
12 agents.

13 **MS. JESSICA BARROW:** Okay. I just ---

14 **DM ROBERT STEWART:** I didn't consult OPS.

15 **MS. JESSICA BARROW:** You did not consult them.
16 So maybe we'll just bring up one last document. I'm almost
17 completed, Mr. Commissioner.

18 OPP633, just to provide some clarity on this
19 point.

20 **COMMISSIONER ROULEAU:** So you're asking for more
21 time?

22 **MS. JESSICA BARROW:** If you wouldn't mind.

23 **COMMISSIONER ROULEAU:** Yes, you can have a little
24 more time.

25 **MS. JESSICA BARROW:** Thank you very much.

26 And so it's just that first email we see from
27 Inspector Beaudin, and he's indicating that it's the opinion of
28 Deputy Chief Ferguson that the letter go to her and she will

1 ensure the letter is disseminated to the proper people.

2 So you would agree with me that Deputy Chief
3 Ferguson was both aware and approved this, correct?

4 **DM ROBERT STEWART:** I would infer that, yes.

5 **MS. JESSICA BARROW:** Yes. Okay, thank you.

6 Those are my questions, and thank you, Mr. Commissioner.

7 **COMMISSIONER ROULEAU:** Okay, thank you.

8 Next is counsel for former Chief Sloly.

9 **--- CROSS-EXAMINATION BY MR. TOM CURRY:**

10 **MR. TOM CURRY:** Thank you, Commissioner.

11 I'm Tom Curry for former Chief Sloly. Thank you.

12 I just have a few questions. My colleagues have
13 covered some of the things I was going to ask you about, so the
14 -- Mr. Stewart, you said just a minute ago in response to one of
15 my friends that you don't go by the book in a situation like
16 this. Do you recall saying that?

17 **DM ROBERT STEWART:** I do.

18 **MR. TOM CURRY:** And does that capture the idea
19 that what you were dealing with during the time that we are
20 speaking about with protests in different locations across the
21 country was completely without precedent, and there is therefore
22 no playbook that you can follow?

23 **DM ROBERT STEWART:** I would agree with you that
24 we were in unprecedented and unanticipated circumstances,
25 absolutely.

26 **MR. TOM CURRY:** One of the things that you have
27 spoken to us about in your statement and today was the role of
28 various of the federal government entities that concern national

1 security. You recall that?

2 **DM ROBERT STEWART:** Yes.

3 **MR. TOM CURRY:** And did this -- did the events,
4 in your opinion, reach -- become a national security threat?

5 **DM ROBERT STEWART:** They were decided to be and
6 adjudicated to be a national security threat, yes.

7 **MR. TOM CURRY:** But was that your own view?

8 **DM ROBERT STEWART:** I was very concerned about
9 the possibility of physical and serious violence.

10 **MR. TOM CURRY:** Mr. Rochon?

11 **ADM DOMINIC ROCHON:** I would agree, yes.

12 **MR. TOM CURRY:** Same opinion?

13 **ADM DOMINIC ROCHON:** Yes.

14 **MR. TOM CURRY:** And as a consequence of -- and of
15 course, as you've described to, I think, one of my friends, it
16 was not thought to be a national security threat at the time
17 that the convoys began to organize and come to Ottawa?

18 **DM ROBERT STEWART:** No, it was not.

19 **MR. TOM CURRY:** Do you agree?

20 **ADM DOMINIC ROCHON:** It was not. I agree.

21 **MR. TOM CURRY:** I'm going to ask you, if I can,
22 about the -- one more thing, and I think you've probably covered
23 this, but former Chief Sloly has described these events as
24 representing a paradigm shift in protests in Canada, probably
25 for the reasons that you've given, Mr. Stewart, concerning the
26 use of heavy vehicles. You share that view?

27 **DM ROBERT STEWART:** Yes, I do.

28 **MR. TOM CURRY:** Mr. Rochon?

1 **ADM DOMINIC ROCHON:** I would agree, yes.

2 **MR. TOM CURRY:** Now, the -- you've spoken to my
3 friends about Chief Sloly's consistent requests for the need for
4 additional resources. Do you agree that those came in two
5 forms? First, there was a request for resources to maintain the
6 safety of the citizens, the protesters, and police service
7 members who were policing the areas on Ottawa that were the
8 subject of the protest?

9 **DM ROBERT STEWART:** Yes.

10 **MR. TOM CURRY:** And second, of course, that a
11 greater need for resources in the event that a dismantling of
12 the occupation was required?

13 **DM ROBERT STEWART:** I would agree.

14 **MR. TOM CURRY:** Two very separate ways of
15 thinking of resources; do you agree?

16 **DM ROBERT STEWART:** I agree.

17 **MR. TOM CURRY:** Do you also agree that the
18 second, that is the -- an effort to bring public order and to
19 dismantle an occupation requires the greater number of resources
20 that you were eventually speaking about?

21 **DM ROBERT STEWART:** I agree.

22 **MR. TOM CURRY:** And everyone understood, didn't
23 they, that the OPS itself did not have the resources needed to
24 do the second thing?

25 **DM ROBERT STEWART:** Agreed.

26 **MR. TOM CURRY:** And it's true also, of course,
27 they didn't even have the resources to do the first thing
28 because their own members were stretched so thin, I think you

1 said?

2 **DM ROBERT STEWART:** I agree.

3 **MR. TOM CURRY:** Now, this was, of course, the
4 same thing that occurred, in a sense, in both Windsor and Coutts
5 and probably other places in terms of the under-resourcing of
6 police services trying to manage those situations. Is that
7 true?

8 **DM ROBERT STEWART:** I think there's a confluence
9 of events here. Obviously, the unprecedented nature of these
10 protests did lead us into a situation where more resources were
11 required. I don't know if that equates to chronically under-
12 resourcing Police because if we were better prepared and is as
13 they were in other cities they didn't need more officers.

14 **MR. TOM CURRY:** Understood. I suppose that it
15 wasn't -- we know, don't we, that the protest in Coutts, the
16 blockade in Coutts, was not prevented or able to be prevented by
17 RCMP officers on the ground there.

18 **DM ROBERT STEWART:** It wasn't anticipated and it
19 happened before they could mobilize.

20 **MR. TOM CURRY:** And then once it did, once they
21 were -- the protesters were there, the vehicles were on the
22 road, and stopped, then enforcement became very challenging,
23 correct?

24 **DM ROBERT STEWART:** Exactly.

25 **MR. TOM CURRY:** And I think in fact one of the
26 lessons that was learned in Coutts by your team, I assume, and
27 others was that an effort, an early effort to enforce failed
28 because protesters resisted and police were required to fall

1 back. Do you recall that happening, February 1st?

2 **DM ROBERT STEWART:** I do.

3 **MR. TOM CURRY:** And that's an indication, isn't
4 it, of the challenge of enforcement. You need significant
5 resources to enforce that kind of a police operation.

6 **DM ROBERT STEWART:** I would agree.

7 **MR. TOM CURRY:** Now, in terms, quickly, about
8 Windsor, do you understand that the Windsor -- that resources
9 that were requested by the Windsor Police Service and by the OPP
10 were pledged by the RCMP prior to the completion of a plan by
11 the Windsor Police Service?

12 **DM ROBERT STEWART:** I don't know the details of
13 that.

14 **MR. TOM CURRY:** Okay.

15 **DM ROBERT STEWART:** I would be inclined to
16 believe that the RCMP would have made a commitment to support
17 whatever action would be taken.

18 **MR. TOM CURRY:** In the absence of a plan?

19 **DM ROBERT STEWART:** Just a commitment.

20 **MR. TOM CURRY:** Right. And of course, for the
21 reasons that you've given to one of my friends, the
22 circumstances of the blockade of the Ambassador Bridge was a
23 significant escalation in the national security threat, wasn't
24 it?

25 **DM ROBERT STEWART:** Absolutely.

26 **MR. TOM CURRY:** Now, of the protests across the
27 country, do you agree that Ottawa was the most complex and the
28 most challenging?

1 **DM ROBERT STEWART:** In the physical sense I
2 believe that's true. In the economic sense, not as much.

3 **MR. TOM CURRY:** Fair enough. In terms of the, as
4 you say the physical sense, or if one thought about it as a
5 security issue, it was the more volatile. It had the most
6 vehicles and the most protesters across a larger area; is that
7 fair?

8 **DM ROBERT STEWART:** Agreed.

9 **MR. TOM CURRY:** Now, the -- I think you indicated
10 that there was a time at least when there was a debate between
11 or perhaps even a disagreement between federal and provincial
12 officials in Ontario, that is, about which police service was
13 the first port of call for the Ottawa Police Service to call on;
14 is that fair?

15 **DM ROBERT STEWART:** Well, we've been shown
16 evidence to that effect. I didn't have that issue with my
17 colleague.

18 **MR. TOM CURRY:** All right. Understood.

19 Now, a couple of other things. You were also
20 aware -- and I think you've told the Commissioner, that
21 enforcement was not the preferred strategy here in any of these
22 protest locations -- negotiation, de-escalation was the
23 preferred strategy.

24 **DM ROBERT STEWART:** That is always the preferred
25 strategy.

26 **MR. TOM CURRY:** And yet the ministers -- the
27 federal government ministers with whom you were interacting were
28 demanding some kind of action. Is that fair?

1 **DM ROBERT STEWART:** The ministers we were
2 briefing wanted the situation to be resolved. There is no
3 question about that.

4 **MR. TOM CURRY:** And the same was true, to your
5 observation, of municipal officials here in Ottawa?

6 **DM ROBERT STEWART:** Absolutely.

7 **MR. TOM CURRY:** And of course, the community, the
8 residents?

9 **DM ROBERT STEWART:** Absolutely.

10 **MR. TOM CURRY:** A high level of impatience and a
11 high -- it was a highly challenging situation for the police
12 service and for Chief Sloly.

13 **DM ROBERT STEWART:** Yes, absolutely.

14 **MR. TOM CURRY:** You observed, and I'm sure you
15 felt that the two of you were in the middle of this too. Can
16 you tell the Commissioner, did you yourselves feel enormous
17 pressure to try to do something to solve this problem?

18 **DM ROBERT STEWART:** I did.

19 **MR. TOM CURRY:** Mr. Rochon?

20 **ADM DOMINIC ROCHON:** That would be fair, yeah.

21 **MR. TOM CURRY:** And you observed it across the
22 spectrum of police services and other government agencies; is
23 that fair?

24 **DM ROBERT STEWART:** That would be fair.

25 **MR. TOM CURRY:** Do you agree that Chief Sloly,
26 during the time that you were dealing with him, was a passionate
27 defender of the city's residents and of the Police Service in
28 trying to find a solution?

1 **DM ROBERT STEWART:** I would agree.

2 **MR. TOM CURRY:** And acted in good faith in the
3 performance of his duties?

4 **DM ROBERT STEWART:** I would agree.

5 **MR. TOM CURRY:** Now, one last area, if I may.
6 Chief Sloly has described options that were other
7 than enforcement and do you agree that Commissioner Lucki also
8 expressed a preference for even the effort of an interlocutor to
9 try to negotiate something with protesters? Do you recall that?

10 **DM ROBERT STEWART:** No.

11 **MR. TOM CURRY:** May I just show you, please, a
12 document then and see if you can assist us because I think you
13 received it. You're a member of the -- one of the acronyms --
14 the Deputy Minister's Committee on Operational Coordination?

15 **DM ROBERT STEWART:** Yes.

16 **MR. TOM CURRY:** True? DMOC? Could I please show
17 the witness the interview summary from -- oh now, I won't need
18 to go to that. Let me show you the document, PBCAN00000750.

19 See if this assists your recollection if you
20 would, please, Mr. Stewart. There's a suffix on that, REL.001.
21 I don't know if that's important, Registrar.

22 There we go. Thank you.

23 Do you recognize this document, "Truckers Convoy
24 and protective services key messages for DMOC," February 3rd, at
25 2:30 p.m.?

26 **DM ROBERT STEWART:** Well, these would be speaking
27 points for the Commissioner. I would not have received her
28 speaking points.

1 **MR. TOM CURRY:** All right. Can you conform for
2 the Commissioner, for this Commissioner, that you were at this
3 meeting?

4 **DM ROBERT STEWART:** Yes.

5 **MR. TOM CURRY:** Could you please just scroll down
6 if you would, please, Mr. Registrar, to an expression that
7 begins, "I will be honest..." the second page. There it is.

8 Just read that, if you would, Mr. Stewart. For
9 the record:

10 "I'll be honest. This may not be
11 something that can be negotiated out of
12 or resolved only with enforcement.
13 There may need to be some other
14 solutions, maybe the engagement of an
15 interlocutor."

16 Does that refresh your recollection that on the
17 3rd of February in the afternoon Commissioner Lucki raised this
18 concern that there may not be a solution through -- only through
19 enforcement and there may be other solutions including an
20 interlocutor?

21 **DM ROBERT STEWART:** Yes, it refreshes my memory.

22 **MR. TOM CURRY:** And that she said that?

23 **DM ROBERT STEWART:** I can check against delivery
24 but I believe she did.

25 **MR. TOM CURRY:** All right.

26 I'm out of time. Thank you very much.

27 Thank you, Commissioner.

28 **COMMISSIONER ROULEAU:** Thank you. Next, the

1 Ottawa Coalition.

2 **MS. EMILIE TAMAN:** Good afternoon, Commissioner.

3 **--- CROSS-EXAMINATION BY MS. EMILIE TAMAN:**

4 **MS. EMILIE TAMAN:** Mr. Stewart, M. Rochon, my
5 name is Emilie Taman. I represent the Ottawa Coalition of
6 Residents and Businesses. And I just have a couple of questions
7 for you arising out of your testimony today.

8 M. Rochon, if I could start with you, please,
9 sir.

10 You explained that within the broader
11 Intelligence matrix in Canada that public safety is a consumer
12 of Intelligence, right?

13 **ADM DOMINIC ROCHON:** Correct.

14 **MS. EMILIE TAMAN:** And you indicated this morning
15 that the government has determined -- had determined prior even
16 to the Freedom Convoy that there is a need for a refresh of the
17 National Security Strategy. Is that right?

18 **ADM DOMINIC ROCHON:** Not technically speaking.
19 The government is always looking at policy matters and it will
20 be a decision for the sitting government of the day, whether or
21 not to publish an update to that strategy. But subset to the
22 National Security Strategy, there are a series of other
23 strategies like a cyber security strategy, a critical
24 infrastructure strategy. So we're always working on those, yes.

25 **MS. EMILIE TAMAN:** Okay. And the current
26 strategy, I believe you said, dates back to 2004?

27 **ADM DOMINIC ROCHON:** The national security one?
28 Yes.

1 **MS. EMILIE TAMAN:** And at that time I think you
2 explained that threats to Canada's national security were
3 understood to be different than they are today; is that fair?

4 **ADM DOMINIC ROCHON:** Indeed, I would say post 9-
5 1-1 the very creation of our department at public safety,
6 followed and indeed I think that was the impetus for Canadian's
7 National Security Strategy at the time, in 2004.

8 **MS. EMILIE TAMAN:** Okay. And so in pursuing a
9 refresh or in continually considering and reconsidering the
10 government's approach, it's a recognition that the current
11 strategy may not be optimal because it could miss certain kinds
12 of threats from groups oriented around certain radical
13 ideologies, or even, as you said I think this morning,
14 individuals acting alone on the basis of a broader range of
15 grievances than the current strategy might have otherwise been
16 built for; is that fair?

17 **ADM DOMINIC ROCHON:** I would even go so far as to
18 highlight the counterterrorism strategy which I think dates back
19 to 2012, if I'm not mistaken, and we're in the process of
20 refreshing that. Parliamentary Committee and the House of
21 Commons for National Security, SECU, has recently done a study
22 on ideologically motivated violent extremism, which came out
23 with 33 recommendations. We recently tabled, I believe, the
24 government response to that study and we're in the process of
25 updating our counterterrorism strategy that will deal with what
26 you referred to, yes.

27 **MS. EMILIE TAMAN:** Okay. And you testified this
28 morning that in the leadup to the Freedom Convoy's occupation of

1 Ottawa, there was no reason to see the convoy as a national
2 security threat; right? Based on the intelligence that had been
3 produced for you?

4 **ADM DOMINIC ROCHON:** That would be correct.

5 **MS. EMILIE TAMAN:** But ultimately, a national
6 security threat was, as Mr. Stewart articulated, I think
7 adjudicated to exist, at least from the perspective of the
8 federal government, which ultimately led to the invocation of
9 the *Emergencies Act*; right?

10 **ADM DOMINIC ROCHON:** Correct.

11 **MS. EMILIE TAMAN:** So as a consumer of
12 intelligence products then, would you agree that the
13 intelligence product you were provided with was flawed in the
14 sense that the threat posed by the convoy was grossly
15 underestimated at every level, OPS, OPP, RCMP, CSIS?

16 **ADM DOMINIC ROCHON:** I wouldn't say flawed
17 because intelligence is only as good as a moment in time when
18 it's collected, and you have to know where to go looking for it.
19 And at the time, all of the various indications were pointing to
20 a peaceful protest. And so police of jurisdiction, who handle
21 these types of protests on a regular basis, there was no reason
22 to question their integrity in terms of their assessment. But
23 as the protests grew in number across the country and, indeed,
24 witnessing the various behaviours and the entrenchment of the
25 occupation in Ottawa, and the impacts on Canadians, Canadian
26 lives, the economy, the reputation of the country, trading
27 issues, supply chain issues, yes, it definitely rose to the
28 national security concern.

1 **MS. EMILIE TAMAN:** But we can't necessarily know
2 if the issue was how the available intelligence was interpreted,
3 or if it was actually a failure of intelligence to actually see
4 what might have been in front of law enforcement authorities; is
5 that fair?

6 **ADM DOMINIC ROCHON:** The difficulty is that you
7 don't know what you don't know.

8 **MS. EMILIE TAMAN:** Right.

9 **ADM DOMINIC ROCHON:** And therefore, there are
10 always unknowns.

11 **MS. EMILIE TAMAN:** Right. So we heard from
12 former Chief Peter Sloly that he believes that there is a double
13 standard that exists in how national security threats are
14 identified and communicated, and that right-wing extremism and
15 white supremacy are often not flagged in threat assessments
16 while radical Islam and Islamic-based terrorism threats are. Do
17 you agree with that assessment?

18 **ADM DOMINIC ROCHON:** I would only agree with it
19 insomuch as perhaps historically, there might have been a bias,
20 but I believe more recently, as I've indicated, ideologically
21 motivated violent extremism is -- has risen to the level where
22 our security and intelligence agencies have it as the top
23 priority at the moment. I would argue that if you look at just
24 at the terrorist listings that we're responsible for with Public
25 Safety, we've I think listed up to nine now INVE groups in the
26 last three years. So I would not agree with that
27 characterization in the present day. But historically speaking,
28 we certainly were more focussed on other types of terrorism.

1 **MS. EMILIE TAMAN:** So you wouldn't agree then I
2 take it that the potential threat posed by the Freedom Convoy
3 wasn't recognized or articulated as a national security threat
4 because of biases and intelligence gathering and in a reluctance
5 to identify certain types of threats as being national security
6 threats?

7 **ADM DOMINIC ROCHON:** No, I would disagree.

8 **MS. EMILIE TAMAN:** Okay. Mr. Stewart, in your
9 statement, you're said to have expressed the view that the
10 government and law enforcement lack certain tools to monitor
11 social media and properly distill its content to identify
12 threats; is that accurate?

13 **DM ROBERT STEWART:** Yes.

14 **MS. EMILIE TAMAN:** But I wonder if you would
15 agree then that it's likely surprising to Canadians that law
16 enforcement continue to have a deficit in that regard, given the
17 central role that social media plays in modern-day
18 communications, and particularly given that it can be monitored
19 on an open source basis. Is that something, to your knowledge,
20 that will be addressed in the refresh or reconsideration of the
21 National Security Strategy?

22 **DM ROBERT STEWART:** I'd like to clarify that
23 point. There is a very high noise to signal ratio in social
24 media. So there's a challenge inherently in monitoring all the
25 channels that people use to communicate, to the extent that
26 they're accessible. And there are many that are not, they're
27 encrypted. So it would be, I think, a mistake to say that the
28 police or any institution have necessarily all the capabilities

1 they need to monitor what is going on in the electronic world.

2 And then beyond that, it's about assessing it and
3 trying to make sure that, you know, what we understand to be the
4 case is either likely to be or is the case, and that assessment
5 process is also very challenging. So I think there's a lot of
6 inherent challenges here.

7 **MS. EMILIE TAMAN:** Okay. Thanks.

8 Okay. So just switching gears a little bit,
9 we've heard evidence, and I'm completely moving to a different
10 area now, that by February 3rd, Mayor Watson had spoken with the
11 Prime Minister and with Minister Mendicino about the situation
12 in Ottawa and the need for federal resources. From the
13 perspective of Public Safety then, the convoy occupation by that
14 time was recognized to be a significant event; right?

15 **DM ROBERT STEWART:** Yes.

16 **MS. EMILIE TAMAN:** But no one within Public
17 Safety at that time, on February 3rd, was considering invoking
18 the *Emergencies Act* at that point; were they?

19 **DM ROBERT STEWART:** There was no active
20 consideration at that time.

21 **MS. EMILIE TAMAN:** And the Commission's heard
22 evidence that on February 4th, a private citizen launched a class
23 action against the convoy because residents felt completely
24 abandoned by all levels of government and policing institutions;
25 you're aware of that?

26 **DM ROBERT STEWART:** I am.

27 **MS. EMILIE TAMAN:** But no one within Public
28 Safety at that time was considering invoking the *Emergencies*

1 Act; right?

2 **DM ROBERT STEWART:** It was not under active
3 consideration at that point in time.

4 **MS. EMILIE TAMAN:** And you've indicated that it
5 did become an active consideration around February 11th; is that
6 fair?

7 **DM ROBERT STEWART:** Yes, I did.

8 **MS. EMILIE TAMAN:** So would it be fair then to
9 say that the federal government never really saw a role for the
10 *Emergencies Act* as a tool for dealing with the Freedom Convoy
11 until the international borders were blockaded?

12 **DM ROBERT STEWART:** No, I think that's putting it
13 too linearly. I think the -- a combination of factors led it to
14 become more actively considered, including the borders being
15 blockaded, the protracted protest in Ottawa and the, you know,
16 the threats of personal and economic harm.

17 **MS. EMILIE TAMAN:** Okay. But a significant part
18 of the consideration with respect to economic harm had to do
19 with international trade; didn't it?

20 **DM ROBERT STEWART:** It had to do with blocking
21 ports and gateways, yes.

22 **MS. EMILIE TAMAN:** Yeah. So had it not been for
23 the border blockades, would, in your assessment, residents of
24 Ottawa have been -- continued to have been left to deal with the
25 effects of the convoy despite the tremendous social and economic
26 harm they were experiencing?

27 **DM ROBERT STEWART:** There was always going to be
28 a police action in Ottawa. So ---

1 MS. EMILIE TAMAN: Right.

2 DM ROBERT STEWART: --- I think you are
3 neglecting the fact that that was mobilizing, albeit in a very
4 incremental way.

5 MS. EMILIE TAMAN: But specifically with respect
6 to the *Emergencies Act*, would you, you know, based on your
7 understanding of the discussions that took place around that, in
8 your view, would the *Emergencies Act* have been an appropriate
9 tool to deal with the situation in Ottawa had it not been for
10 those other events?

11 DM ROBERT STEWART: The *Emergencies Act* is
12 generally considered to be a tool of last resort, under very
13 exigent circumstances, urgent time limited. So there were many
14 other tools in the toolkit. Indeed, Ontario used one. And, you
15 know, it was not used until quite a bit later in time. So I
16 would say, you know, we were all conscious of it as being a
17 tool, but in the minds of those who were, you know, sort of
18 discussing it with counterparts, there were other tools as well.

19 MS. EMILIE TAMAN: Okay. Thank you. Those are
20 my questions.

21 COMMISSIONER ROULEAU: Okay. Next I'd like to
22 call on the Ontario Provincial Police.

23 --- CROSS-EXAMINATION BY MR. CHRISTOPHER DIANA:

24 MR. CHRISTOPHER DIANA: Good afternoon. My name
25 is Chris Diana, counsel to the OPP.

26 I wonder if we can start by bringing up your
27 witness summary, which is WTS66? And while that's coming up, I
28 expect that most of my questions will be directed to Mr. Stewart

1 through Mr. Rochon. If you have some insight or some
2 information, then please chime in.

3 All right. So this is your witness summary.

4 Can we go to page 21, and the last paragraph?

5 And I want to ask some questions about the consultation that
6 took place before the invocation of the Act. It reads:

7 "DM Stewart added that the Act was welcomed by
8 law enforcement (especially police of
9 jurisdiction). Though they were never explicitly
10 asked to invoke the Act, they were asked whether
11 they had the tools they needed and the answer was
12 consistently that they could use more tools."

13 I want to ask about that paragraph in particular; you used the
14 word "they" which suggests that multiple law enforcement
15 agencies were canvassed about tools that could be used under the
16 Act. Is that a fair characterization of the summary?

17 **DM ROBERT STEWART:** There's a spelling mistake in
18 there just for the record, the "were" in the second sentence.
19 No, this is a composite statement based on all the consultations
20 we undertook with officials as well as with police.

21 **MR. CHRISTOPHER DIANA:** Right. And so my
22 question arising from that is, which law enforcement agencies
23 were consulted about the use of the Act.

24 **DM ROBERT STEWART:** What I was saying in this
25 witness summary, and what I would say to you, is they were - no
26 police agency was asked about the Act itself. They were always
27 asked "Do you need more tools"?

28 **MR. CHRISTOPHER DIANA:** All right. And so my

1 question is, which agencies were asked whether they needed more
2 tools?

3 **DM ROBERT STEWART:** RCMP, OPP, OPS.

4 **MR. CHRISTOPHER DIANA:** All right. Do you have
5 any knowledge on how that consultation took place?

6 **DM ROBERT STEWART:** No, it would have been
7 guided by the RCMP.

8 **MR. CHRISTOPHER DIANA:** All right. Because
9 Commissioner Carrique, and I don't know if you heard his
10 evidence, he testified that the OPP was not consulted about the
11 use of the *Emergencies Act* or any tools by anyone with the
12 Federal Government; do you have any reason to dispute his
13 testimony in that regard?

14 **DM ROBERT STEWART:** I would not have first hand
15 knowledge of this. The RCMP was our primary interface as a
16 department and in the discussions that we were having.

17 **MR. CHRISTOPHER DIANA:** All right. So is it fair
18 to say that that paragraph is based on information that you
19 would have received from the RCMP rather than your own personal
20 direct knowledge?

21 **DM ROBERT STEWART:** Insofar as it pertains to
22 the OPP.

23 **MR. CHRISTOPHER DIANA:** Or other law enforcement
24 agencies?

25 **DM ROBERT STEWART:** Law enforcement here could
26 also represent officials in provincial government.

27 **MR. CHRISTOPHER DIANA:** All right. Because we
28 were talking about tools which in terms of law enforcement

1 agencies, is what I am referring to. And so do you have any
2 direct knowledge of other law enforcement agencies that were
3 consulted about those tools?

4 **DM ROBERT STEWART:** No direct knowledge.

5 **MR. CHRISTOPHER DIANA:** All right. Now at the
6 time of course you would agree that the OPP had a very prominent
7 role within the province, both in Windsor, Ottawa and elsewhere
8 in Ontario?

9 **DM ROBERT STEWART:** I would.

10 **MR. CHRISTOPHER DIANA:** And you would agree that
11 the OPP, considering its role and multiple scenarios would be in
12 a good position to provide a meaningful response to a
13 consultation request?

14 **DM ROBERT STEWART:** I would agree. Indeed as
15 heard, I assumed they were.

16 **MR. CHRISTOPHER DIANA:** And indeed the OPP would
17 have a different perspective in the RCMP because they have
18 different jurisdiction; correct?

19 **DM ROBERT STEWART:** That is true, they have
20 different jurisdictions but they work very closely together.

21 **MR. CHRISTOPHER DIANA:** All right. And do you
22 know if there is a written record of consultation with law
23 enforcement agencies on the *Emergencies Act*?

24 **DM ROBERT STEWART:** I do not.

25 **MR. CHRISTOPHER DIANA:** Considering the
26 extraordinary nature of the *Emergencies Act* do you agree that
27 perhaps there should be a written consultation record for
28 accountability purposes?

1 **DM ROBERT STEWART:** The consultations were -- in
2 the broader form, were often required and there have been notes
3 to that effect; and, again, they weren't about the Act, they
4 were about the tools. And then the formal consultations were
5 also recorded and reported to Parliament.

6 **MR. CHRISTOPHER DIANA:** And the reason I ask, is
7 because there is a consultation record which I won't take you to
8 unless you want to see it, but that consultation record refers
9 to consultation with different provinces and officials, but
10 there is no specifics about consultation with law enforcement;
11 and my question is, whether -- are you aware of any document
12 that deals directly with the law enforcement side of the
13 consultation?

14 **DM ROBERT STEWART:** No, I'm not aware.

15 **MR. CHRISTOPHER DIANA:** But you would agree that
16 perhaps considering the fact that law enforcement has to use
17 those tools, it would be a good idea to have written records of
18 that consultation?

19 **DM ROBERT STEWART:** I would agree.

20 **MR. CHRISTOPHER DIANA:** Did you have any direct
21 involvement with consulting law enforcement? I think you said
22 you did not; is that fair?

23 **DM ROBERT STEWART:** Not police, other than the
24 RCMP.

25 **MR. CHRISTOPHER DIANA:** Right. If we can turn up
26 document PB.NSC.CAN.000003256.

27 **DM ROBERT STEWART:** Actually, if I may, I'll
28 correct that answer. Because I did have calls with Chief Sloly

1 on which Commissioner Carrique was also participating. So I
2 would say I had first hand evidence from Chief Sloly that he
3 needed more tools as well.

4 **MR. CHRISTOPHER DIANA:** All right. Now, I don't
5 think -- I don't know if you were -- you don't appear to have
6 been copied on this document. This appears to be an exchange of
7 emails between Commissioner Lucki and Mike Jones. Do you
8 recognize this email?

9 **DM ROBERT STEWART:** I do.

10 **MR. CHRISTOPHER DIANA:** Now Patrick Vezina is
11 counsel, I believe; who are Alison Whelan and Dennis Daly?

12 **DM ROBERT STEWART:** They are RCMP; one's a
13 civilian member, the other is a regular member.

14 **MR. CHRISTOPHER DIANA:** Okay. Did you see this
15 document at the time that it was generated or around the time it
16 was generated?

17 **DM ROBERT STEWART:** I do not recall seeing this
18 document.

19 **MR. CHRISTOPHER DIANA:** Now Mike Jones as I
20 understand it, was Chief of Staff for Minister Mendicino; is
21 that correct?

22 **DM ROBERT STEWART:** That is correct.

23 **MR. CHRISTOPHER DIANA:** And if you scroll down to
24 the bottom, it starts with an email request made on February 13th
25 from Mike Jones to Brenda Lucki. Part of it is redacted; if you
26 scroll up I think it's clear kind of what the purpose of the
27 email is if you scroll up a little higher, higher, higher.
28 Commissioner Lucki -- stop there.

1 Commissioner Lucki kind of gives a list of some
2 tools that she might find useful; is that your understanding of
3 this email?

4 **DM ROBERT STEWART:** That is my understanding.

5 **MR. CHRISTOPHER DIANA:** Now, I note that this
6 exchange ---

7 **DM ROBERT STEWART:** And for the record, that is
8 what I assumed the RCMP would have consulted with colleagues
9 about.

10 **MR. CHRISTOPHER DIANA:** Okay. So this is
11 evidence of consultation with the RCMP from the Federal
12 Government side; my question is whether or not it's unusual that
13 this request comes from the political side, comes from the Chief
14 of Staff rather than from your office, from the Deputy
15 Minister's Office?

16 **DM ROBERT STEWART:** Under the circumstances I
17 wouldn't say it was unusual.

18 **MR. CHRISTOPHER DIANA:** Because typically, and I
19 know the way it works provincially of course, because that's my
20 area, but Commissioner Carrique testified that almost all his
21 dealings were directly with Deputy Di Tommaso and the
22 communication went through the level of the Deputy Minister, but
23 the Commissioner of the RCMP is a direct report to the Minister
24 of Public safety.

25 **DM ROBERT STEWART:** Right.

26 **MR. CHRISTOPHER DIANA:** And so it's more common
27 then for the political side to engage directly with the
28 Commissioner of the RCMP?

1 **DM ROBERT STEWART:** It is.

2 **MR. CHRISTOPHER DIANA:** And I wanted to follow up
3 on a comment, because this is an opportunity for us to look at
4 all these issues, all of these kind of broader systemic issues
5 because you raised it yourself earlier in your evidence about
6 Nova Scotia. And maybe taking another look at what is the
7 appropriate role of the political side as opposed to your side
8 of the house; do you have any thoughts on how, from the federal
9 side that could be improved from where it's at now?

10 **DM ROBERT STEWART:** That's a very open-ended
11 question. I don't think my opinion is here or there. I would
12 observe however, and this is why I raised it this morning, that
13 that has become an issue in a number of domains where people
14 have asked what's the division between requests for information
15 and advice which this I think constitutes versus what are, you
16 know, versus what are, you know, sort of interference or, you
17 know, engagement in police operations. And so I'm - I would
18 certainly agree with the proposal that that could be clarified.

19 **MR. CHRISTOPHER DIANA:** And I guess one of the
20 reasons I ask, you're not copied on this and as Deputy Minister,
21 if there is going to be direct engagement with the political
22 side, don't you expect you would at least be copied on it for
23 your information or awareness?

24 **DM ROBERT STEWART:** At one in the morning? It
25 probably wouldn't matter.

26 **MR. CHRISTOPHER DIANA:** Right.

27 **DM ROBERT STEWART:** No, I think it would have
28 made sense for her to copy me; she copied her subordinates.

1 **MR. CHRISTOPHER DIANA:** Right. And I guess again
2 we're here, we're in this context where we can look at these
3 issues; these opportunities don't come across very well. And
4 you've got a lot of experience in your role, as do you, Mr.
5 Rochon, so you can weigh into this question as well, but is
6 there any merit in having clearer lines or more clearly defined
7 lines about how the interaction between the political side and
8 the RCMP Commissioner to avoid any kind of misunderstandings.
9 There is merit. Do you have any recommendations on how those
10 lines should be drawn?

11 **DM ROBERT STEWART:** No.

12 **MR. CHRISTOPHER DIANA:** Do you have any thoughts,
13 Mr. Rochon?

14 **MR. DOMINIC ROCHON:** No, I'm afraid not.

15 **MR. CHRISTOPHER DIANA:** And just finishing up on
16 the question about intelligence; you were asked a question by my
17 friend who was up before me about whether or not there was
18 essentially a failure of intelligence. Now your evidence
19 earlier was that you're in a position where you're only
20 receiving, or you're consuming the intelligence; correct?

21 **DM ROBERT STEWART:** That is correct.

22 **MR. CHRISTOPHER DIANA:** But you only know what's
23 provided to you; correct?

24 **DM ROBERT STEWART:** Correct.

25 **MR. CHRISTOPHER DIANA:** So for example, you
26 didn't even know about Hendon, what you're looking at is what
27 other people are synthesizing, putting together, and letting you
28 know; correct?

1 **DM ROBERT STEWART:** Correct.

2 **MR. CHRISTOPHER DIANA:** So really, you wouldn't
3 be in a position, especially at the time, to know whether you
4 would have reviewed all the intelligence, or whether what had
5 been provided to you was an accurate reflection of what was out
6 there; correct?

7 **ADM DOMINIC ROCHON:** I would argue that the
8 reason why we have an ADM National Security Operations Committee
9 Table every week is to have subject matter experts across 16
10 departments and agencies bring forward information that would be
11 relevant for that table, and then we ask questions and try to
12 anticipate threats to national security.

13 And in this particular instance, we would have
14 all been aware of convoys and we would have been deferring to
15 the RCMP or Transport, or indeed, CSIS, ITAC and others to flag
16 for us if there was something more to bring to our attention.
17 And at the early stages, that wasn't the case.

18 **MR. CHRISTOPHER DIANA:** Right. And so if the
19 RCMP or whoever is reviewing this information decides that
20 information such as there's no exit strategy, an intention to
21 make the workings of government more difficult, if that doesn't
22 get included, then obviously you would never know. So there's a
23 lot that's put on the shoulders of those who are providing the
24 information to you. would you agree?

25 **ADM DOMINIC ROCHON:** Yes and no. I mean, there's
26 enough experience around that ADM National Security Operations
27 table to ask those types of questions. You know, intelligence
28 fusion is always a challenge. And so bringing together all of

1 the various pieces of intelligence to get an accurate picture at
2 a moment in time is something that we have experience with, and
3 at that point in time, we had no reason to believe this was
4 going to be anything more than a peaceful protest.

5 **MR. CHRISTOPHER DIANA:** Thank you, gentlemen.
6 Much appreciated.

7 **COMMISSIONER ROULEAU:** Thank you. Next up is the
8 Windsor Police Service.

9 **MR. TOM McRAE:** Thank you, Mr. Commissioner.
10 This is Tom McRae for Windsor Police Service. I have no
11 questions.

12 **COMMISSIONER ROULEAU:** Thank you.
13 Next is the Government of Alberta.

14 **--- CROSS-EXAMINATION BY MS. STEPHANIE BOWES:**

15 **MS. STEPHANIE BOWES:** Good afternoon. My name is
16 Stephanie Bowes for the Province of Alberta. I just have a few
17 questions around the RFA that came from Alberta. I think, Mr.
18 Stewart, you're probably the one who will be answering these
19 questions today. But certainly if this is something that both
20 members of the panel can respond to, please feel free to do so.

21 For now, can I ask that the Clerk please bring up
22 the Public Safety Institution Report? That's document
23 DOJ.IR.00000008.

24 And while that's happening, Mr. Stewart, I
25 believe you mentioned in your evidence that the RFA that came
26 from Alberta didn't follow the usual course. Namely, that there
27 wasn't discussion before it was submitted. Is that correct?

28 **DM ROBERT STEWART:** That is correct.

1 **MS. STEPHANIE BOWES:** Do you know if there had
2 been discussion ahead of the RFA, would that have changed the
3 response by the Federal Government in this case?

4 **DM ROBERT STEWART:** In all likelihood, it would
5 not.

6 **MS. STEPHANIE BOWES:** Okay. And then on that
7 Institutional Report, Mr. Clerk, can you please scroll down to
8 page 22 and look at paragraph 75, please?

9 And this is referring to the February 5th RFA from
10 the Minister of Municipal Affairs for Alberta, and it says:

11 "Upon reviewing the request, it was
12 determined that the RFA process was not
13 the correct mechanism for addressing the
14 issue of additional law enforcement
15 personnel. Requests for additional RCMP
16 officers must be made under sub-article 9
17 of the Provincial Police Services
18 Agreement and not through an RFA."

19 So is it true that the RFA from Alberta was
20 interpreted to be a request for RCMP officer deployment?

21 **DM ROBERT STEWART:** No.

22 **MS. STEPHANIE BOWES:** Is this ---

23 **DM ROBERT STEWART:** It was perceived to largely
24 be a request for tow trucks.

25 **MS. STEPHANIE BOWES:** Okay. There is a mention
26 of personnel in the RFA. I'll just take you to that as well.
27 That's Document PB.CAN.00000718.

28 And I'll take it you've seen the RFA from

1 Minister McIver before? Is that correct?

2 **DM ROBERT STEWART:** I have.

3 **MS. STEPHANIE BOWES:** Okay. And then if we look
4 at paragraph 5 -- or sorry, paragraph 4, within that paragraph,
5 we see:

6 "To support this approach, I am requesting
7 federal assistance that includes the
8 provision of equipment and personnel to
9 move approximately 70 semi-tractor
10 trailers and approximately 75 personal and
11 recreational vehicles from the area."

12 Do you know at the time this was received what
13 the interpretation of personnel was meant to be?

14 And I'm not talking from Minister McIver's point
15 of view. I'm asking what the Federal Government interpreted
16 that request to be.

17 **DM ROBERT STEWART:** I can say quite
18 authoritatively, I believe it was not assumed to be law
19 enforcement, because everybody understood the Article 9 process
20 very well. It's been used many times over the years. So this
21 was inferred to be Armed Forces personnel.

22 **MS. STEPHANIE BOWES:** Okay. Thank you. And we
23 do know, of course, that there was a request for deployment of
24 RCMP officers that was appropriately made under the Police
25 Services Agreement that came just a few days later; correct?

26 **DM ROBERT STEWART:** Correct.

27 **MS. STEPHANIE BOWES:** All right. Now can we
28 please take a look at Document PB.CAN.00001514?

1 And this is an email from Mr. Dakalbab to
2 yourself on February 13 and it outlines a meeting that
3 Transportation Canada individuals had with colleagues from
4 Alberta, Manitoba, and Ontario.

5 And if we scroll down to the bullet points that
6 begin with "Alberta", we can see those there.

7 "Alberta requests for CAF support have
8 been denied, but they are surprised that
9 their request to access Reservists with
10 operational skills needed to drive towing
11 trucks was not accepted (this part of the
12 request is news to us and we committed to
13 follow up on this specific point)."

14 Do you know if there was any follow up on that
15 point?

16 **DM ROBERT STEWART:** I do not.

17 **MS. STEPHANIE BOWES:** All right. Now ultimately,
18 the Government of Canada was going to deny Alberta's request for
19 assistance; correct?

20 **DM ROBERT STEWART:** Actually, what happened was
21 that we evaluated the initial request and determined that the
22 CAF equipment would not be appropriate. And as this indicates,
23 it was not my understanding that there was another dimension to
24 the personnel request.

25 However, we did not formally notify Alberta that
26 the RFA would be turned down on the basis of the fact that we
27 were still having discussions about the federal toolkit and
28 ultimately addressed the tow truck issue via the *Emergencies*

1 Act.

2 **MS. STEPHANIE BOWES:** Okay. Now I'd like to take
3 you to some draft letters that were in Canada's production for
4 this. Beginning with PB.NSC.CAN00009547.

5 We can see that this is dated February 7th, it's
6 addressed to the Honourable Minister McIver, which is the
7 Minister of Municipal Affairs for Alberta. And if we scroll
8 down to the last paragraph on the first page, it says:

9 "Further, I understand that Alberta has
10 the required [...] authorities necessary to
11 enforce compliance, as a highway is
12 considered essential infrastructure, and
13 it is unlawful to wilfully obstruct,
14 interrupt, or interfere with the
15 construction, maintenance, use or
16 operation of any essential infrastructure
17 in a manner that renders the essential
18 infrastructure dangerous, useless,
19 inoperative or ineffective as per the
20 *Critical Infrastructure Defence Act* of
21 Alberta."

22 And this letter is unsigned. Do you know why it
23 was unsigned and unsent at this time?

24 **DM ROBERT STEWART:** For the reasons I just
25 explained.

26 **MS. STEPHANIE BOWES:** Okay. But you would agree
27 that on February 7th, the Government of Canada's position was
28 that Alberta had the required authorities to deal with the

1 illegal protests around Coutts, Alberta?

2 **DM ROBERT STEWART:** We determined that the full
3 suite of provincial tools had not been exhausted, which is sort
4 of a first principle of the RFA.

5 **MS. STEPHANIE BOWES:** All right. And then there
6 are a number of other follow up draft letters that contain
7 essentially the same language in it.

8 Just for the record, I will take you to
9 SSM.CAN.NSC00002745. And this is a memorandum for the Minister
10 of Emergency Preparedness. I understand, if you scroll down to
11 page 2, that you digitally signed this memorandum on February
12 9th? Do you see that?

13 **DM ROBERT STEWART:** I see that.

14 **MS. STEPHANIE BOWES:** And in this memorandum, you
15 recommended that the Minister of Emergency Preparedness sign an
16 enclosed reply indicating that the Government of Canada was
17 refusing the RFA; is that correct?

18 **DM ROBERT STEWART:** I believe so. I haven't seen
19 the attachment, but I believe so.

20 **MS. STEPHANIE BOWES:** Well, in the enclosed
21 correspondence on this one is actually redacted, but if we look
22 at the body of the memorandum and we see the reasons for
23 refusing, on page 2, the paragraph above the heading
24 "Recommendation" says:

25 "This remains an issue within
26 provincial jurisdiction. Alberta has
27 the required legal authorities
28 necessary to enforce compliance."

1 So very similar reasons for the refusal that was
2 being outlined in the February 7th draft, correct?

3 **DM ROBERT STEWART:** Correct.

4 **MS. STEPHANIE BOWES:** And then if we turn now to
5 SSM.NSC.CAN00003115, this is a series of emails from February
6 11th. And in the email from Radey Barrack to Minister Bill
7 Blair, it says, "Here is the latest draft in reply to Alberta's
8 RFA."

9 And again, going to page 2, we see a paragraph
10 starting with "Further, I understand," and it says, "Alberta has
11 the required legal authorities necessary to enforce compliance,"
12 and then refers to the *Critical Infrastructure Defence Act*.

13 So again, here we are, February 11th, very
14 similar reasons to those expressed on February 9th and February
15 7th, correct?

16 **DM ROBERT STEWART:** Correct.

17 **MS. STEPHANIE BOWES:** And if we scroll to the
18 very top of this, we see that Minister Blair approved the
19 response. Were you aware that he had approved such a response?

20 **DM ROBERT STEWART:** I was.

21 **MS. STEPHANIE BOWES:** Okay.

22 **DM ROBERT STEWART:** And I told a provincial
23 official, though I cannot remember who that was.

24 **MS. STEPHANIE BOWES:** Do you know the level of
25 provincial official you told or the meeting in which you told
26 them that?

27 **DM ROBERT STEWART:** A deputy minister called me
28 and asked if we were going to approve it sometime within 24 to

1 48 hours of the original request, and I said my expectation is
2 we were not.

3 **MS. STEPHANIE BOWES:** Okay. So very early on,
4 the decision was made it would be refused. The reasons for
5 refusing it seem to not really have changed throughout the
6 course of the time when the draft response was being considered;
7 is that fair to say?

8 **DM ROBERT STEWART:** Yes.

9 **MS. STEPHANIE BOWES:** And then I'm going to take
10 you to one last draft, and that is on PB.CAN.NSC00000690. And
11 this is an email -- my understanding is with the timestamp, this
12 time is actually the true time that this was sent should be five
13 hours ahead of this, so sometime in the evening on February
14 12th.

15 If we scroll down to the second email there, and
16 on the second page, we again see we've got a draft response, and
17 again the wording is very similar, "Further, I understand
18 Alberta has the required legal authorities," and reference to
19 the *Critical Infrastructure Defence Act*.

20 So by as late as February 12th, the Government of
21 Canada's position on Alberta's RFA was that it had the required
22 legal authorities necessary to enforce compliance of any illegal
23 protest activity occurring in Alberta. Do you agree?

24 **DM ROBERT STEWART:** It had powers to address the
25 circumstance, including compelling tow truck drivers.

26 **MS. STEPHANIE BOWES:** Now ---

27 **COMMISSIONER ROULEAU:** You are now well out of
28 time.

1 **MS. STEPHANIE BOWES:** Can I just have one minute
2 to clarify which Act that power comes under, Mr. Commissioner?

3 **COMMISSIONER ROULEAU:** Okay.

4 **MS. STEPHANIE BOWES:** So -- I'm sorry -- you
5 referred to Alberta having the power to compel tow truck
6 operators under the *Critical Infrastructure Defence Act*. I'm
7 going to put to you that that Act is not actually the correct
8 Act. It is only five sections long and the Commission has heard
9 evidence from the Assistant Deputy Minister Degrand that that
10 legislation makes interfering with critical infrastructure an
11 offence but it's not something that Alberta needs to invoke.

12 Alberta does have the *Emergency Management Act* which does grant
13 in it the power to compel service providers to provide services.

14 So despite maybe having confusion about which Act
15 that power falls under, it doesn't change the position that
16 Canada -- of Canada's response to Alberta's RFA; would you
17 agree?

18 **DM ROBERT STEWART:** I would agree.

19 **MS. STEPHANIE BOWES:** Okay. Thank you, that's my
20 only question -- those are my only questions today.

21 **COMMISSIONER ROULEAU:** Okay, thank you.

22 Next, if I could call on the CCLA, please?

23 **--- CROSS-EXAMINATION BY MS. CARA ZWIBEL:**

24 **MS. CARA ZWIBEL:** Good afternoon. Can you see
25 and hear me okay?

26 **DM ROBERT STEWART:** Yes.

27 **MS. CARA ZWIBEL:** My name is Cara Zwibel. I am
28 counsel for the Canadian Civil Liberties Association.

1 I wonder if we could pull up Document
2 PB.CAN.00001584, and this -- just while it's getting pulled up,
3 I believe is an email chain related to the technical briefing
4 that you mentioned earlier that -- I guess there several
5 technical briefings that happened.

6 And if we scroll all the way down to the bottom,
7 just so we can see where this starts, so this is someone in the
8 Communications Branch of Public Safety and writing to say that
9 there needed to be a follow up, a second -- I think here, we're
10 talking about a media briefing; is that right?

11 **ADM DOMINIC ROCHON:** I believe so, yes.

12 **MS. CARA ZWIBEL:** Okay. Because there wasn't
13 enough time for all the questions, given some other briefings
14 that were going on.

15 And if we scroll up a bit more, there's some
16 discussion here about the possibility of doing this another way,
17 could we do this in writing? I gather at this point everyone in
18 your department is running on fumes and there's quite a lot
19 going on, and the idea of doing yet another briefing is not
20 necessarily something you feel is the best use of time; is that
21 an accurate characterization?

22 **ADM DOMINIC ROCHON:** I would simply say from my
23 recollection that we pretty much ran full on doing technical
24 brief after technical brief after technical brief with different
25 stakeholders, be they the both Houses of Parliament, media, as
26 well as stakeholders, and each one typically would run for half
27 an hour to an hour, but in this particular case, we were
28 affording stakeholders sometimes up to two hours, sometimes even

1 longer.

2 And we were trying to address as many questions,
3 but as you can appreciate, we had a panel of experts from a
4 great number of departments and agencies, and therefore,
5 questions stemmed from law enforcement activity to border
6 service activity to finance, and therefore, we were, I think, if
7 I look back at this exchange, probably wondering whether there
8 wouldn't be a way of having people submit questions in writing
9 and maybe there would be a better way of posting our answers
10 online as opposed to continuing with the number of technical
11 briefs that we were providing.

12 **MS. CARA ZWIBEL:** Okay, thank you. And can we
13 now go to Document SSM.CAN.00002668?

14 So I think this is going to be, I believe, your
15 speaking notes for -- maybe it's one, maybe it's all of these
16 technical briefings.

17 And if we can just go down to the first full
18 paragraph on page 3. And I think this is the document that we
19 were talking about earlier about the need to focus on the public
20 safety portfolio elements a bit more and not duplicate what
21 Justice or other departments might say.

22 And so -- yes, okay. So on this page -- I gather
23 this is roughly what you communicated during these briefings.
24 So first, noting that the *Emergencies Act* is a significant step,
25 one that will help ensure law enforcement across Canada, at
26 broad and clear authority to protect public safety, ensure our
27 borders remain open, and safeguard our national security.

28 And then scrolling down a bit, it's also noted

1 that this is a message to people who are participating in these
2 protests and interfering in critical infrastructure, that there
3 will be consequences.

4 And then at a little bit more, the next paragraph
5 notes that these measures will supplement existing provincial
6 and territorial measures and assist the RCMP in becoming
7 integrated. I think this -- it probably speaks a little bit to
8 that question of avoiding the swearing in and some of that red
9 tape.

10 And then it's this last next paragraph that I
11 want to ask about. So it says:

12 "It's important to underscore that
13 invoking the *Emergencies Act* does not
14 give the federal government the
15 authority to direct the Police Services
16 in any other jurisdiction."

17 So two questions, I guess, but the first is -- is
18 that statement, that the use of any other jurisdiction -- are
19 you saying here that using the *Emergencies Act* allows the
20 federal government to direct the federal police, the RCMP? Or
21 are you just clarifying that nothing in the *Emergencies Act*
22 changes the normal situation where the government does not
23 direct police in their operations?

24 **ADM DOMINIC ROCHON:** I would say it's the latter
25 interpretation.

26 **MS. CARA ZWIBEL:** Okay, thank you. But would you
27 agree with me that while invoking the *Emergencies Act* doesn't
28 give the federal government the authority to direct police

1 services of any jurisdiction, the orders, the Emergency Orders
2 that were made under the rubric of the Act grant police new
3 authority to enforce those measures granted -- sorry, can you
4 just answer that.

5 **ADM DOMINIC ROCHON:** Sorry, I wasn't sure if you
6 were finished.

7 **MS. CARA ZWIBEL:** That's okay.

8 **ADM DOMINIC ROCHON:** That's why I was waiting.
9 So my apologies.

10 Yes, I think it certainly gives them additional
11 tools by other means of additional authorities that they can
12 avail themselves of.

13 **MS. CARA ZWIBEL:** Okay. And just like the
14 Criminal Code gives the police certain tools, it's ultimately
15 going to be police officers that will make determinations about
16 the manner of enforcement?

17 **ADM DOMINIC ROCHON:** Yes.

18 **MS. CARA ZWIBEL:** Okay. And ultimately police
19 authorities that will decide how they will exercise their
20 discretion, this notion of police discretion as an important
21 piece of this; would you agree?

22 **ADM DOMINIC ROCHON:** I would agree.

23 **MS. CARA ZWIBEL:** Okay. And you would agree that
24 these orders under the *Emergencies Act* provided all police
25 across the country with the authority to enforce these new
26 measures?

27 **ADM DOMINIC ROCHON:** Yes.

28 **MS. CARA ZWIBEL:** Okay. And although the federal

1 government was no directing the police service of any
2 jurisdiction, would you agree that by invoking a federal
3 emergency, and making the Emergency Orders the federal
4 government was clearly intending to communicate a message not
5 just to people participating in protests but also to law
6 enforcement of all jurisdictions that this is something the
7 government takes very seriously and were looking to you to
8 enforce?

9 **ADM DOMINIC ROCHON:** Yes.

10 **MS. CARA ZWIBEL:** I think at some point also
11 Minister Blair made a comment. This was a bit before the Act
12 was invoked but I think he was sharing with the media that this
13 was something the federal government was considering. And he
14 said it was important that police do their jobs. Do you recall
15 that comment?

16 **ADM DOMINIC ROCHON:** Not specifically, no.

17 **MS. CARA ZWIBEL:** Okay.

18 **ADM DOMINIC ROCHON:** But I don't disagree with
19 the thought, I guess.

20 **MS. CARA ZWIBEL:** Okay. And Mr. Stewart, in your
21 testimony earlier you said that enforcement -- and I think this
22 is when you were talking about the engagement proposal. That
23 the engagement proposal was not really an alternative to
24 enforcement; it was something that would be used to try to
25 shrink the footprint, as we've heard. And sort of lay a path to
26 eventual enforcement. And I think you said that enforcement was
27 only a matter of time.

28 **DM ROBERT STEWART:** That's correct.

1 **MS. CARA ZWIBEL:** And I think you also told my
2 friend, Ms. Taman, there was always going to be a police action
3 to dismantle what was going on in Ottawa. It was a question of
4 timing.

5 **DM ROBERT STEWART:** That's correct.

6 **MS. CARA ZWIBEL:** Okay. And one more question
7 related to -- there was a document that you were taken to before
8 and this is around the relationship with the Government of
9 Ontario and the powers that they have under their Emergency Act
10 or their Emergency Management and Civil Protection Act. And I
11 think you noted that the Ontario legislation had more teeth than
12 the federal legislation in terms of the penalties. Do you
13 recall saying that?

14 **DM ROBERT STEWART:** That's correct.

15 **MS. CARA ZWIBEL:** Okay. But you would agree with
16 me that the provincial legislation didn't allow for the kind of
17 broad financial powers that were included in the emergency
18 regulations invoked -- enacted by the federal government.

19 **DM ROBERT STEWART:** That's correct.

20 **MS. CARA ZWIBEL:** So that the freezing of assets
21 immediately without notice or due process is likely something
22 that the province would not have been able to do or is not
23 contemplated under their legislation.

24 **DM ROBERT STEWART:** It was not contemplated and
25 indeed it was done under the *Bank Act*. So that's a federal
26 statute.

27 **MS. CARA ZWIBEL:** Okay. And can we just go back
28 to that PB.CAN00001584. This is the email chain again related

1 to the technical briefing. And sorry to jump around a little.
2 I'm just trying to use my time as effectively as I can.

3 So if we just scroll down a little bit -- keep
4 going. Thank you, right there.

5 So Mr. Rochon, this was again I think you were
6 discussing sort of how to make the best use of everyone's time.
7 And it's a very busy time. And you note there was better
8 control in the first meeting because it was one that you were
9 chairing.

10 "Second (2nd) brief was bananas --
11 Justice is at fault."

12 Can you tell is a bit about that second briefing
13 and what happened there in terms of the communications?

14 **ADM DOMINIC ROCHON:** Certainly. The way these
15 briefs are typically handled, in my experience having gone
16 through many of these over the course of my career, is that you
17 normally have a moderator. So a moderator from a particular
18 department will invite -- will essentially moderate a call.
19 This typically will happen on a teleconference line. The
20 teleconference line will be open to a series of stakeholders.

21 If it's a media event, for example, you'll have a
22 number of media spokespeople who will be in a queue and they --
23 having never been on the other side, I'm not sure what
24 technology they use. But they get into a queue in order to be
25 able to ask questions.

26 Normally, a moderator will open up, will explain
27 who is representing the government, will walk through the time
28 that will be allotted to an opening statement by the government

1 officials, and how much time will be allotted for questions, and
2 whether or not questions -- whether or not stakeholders are
3 afforded a follow-up to that question.

4 Having been a former Assistant Deputy Minister of
5 Communications in a previous department, this is protocol that
6 we normally follow. Unfortunately, in light of the way that
7 these were being set up, this particular brief, from my
8 recollection, Justice was supposed to be lead. So the first
9 meeting was chaired by Public Safety. We would have followed
10 that protocol.

11 And therefore, we only would have gotten to six
12 questions because the six questions were likely rather broad and
13 they were followed by each a follow-up. And we didn't -- the
14 cut-off time of an hour, if I remember correctly, that first
15 brief, ended up limiting itself to six questions. And there
16 were a number of people in the queue that complained about that
17 which is my first point.

18 The second brief was one that was led by Justice
19 officials. They didn't have a moderator. And so if I remember
20 correctly, I came on and had to play the role of moderator and
21 try to police how the call was being managed because there was
22 no moderator. Hence, my comment that it was rather bananas.

23 **MS. CARA ZWIBEL:** Okay. So it's more -- it's a
24 question of the procedure. Is that right?

25 **ADM DOMINIC ROCHON:** Yes.

26 **MS. CARA ZWIBEL:** Okay. Thank you very much.
27 Those are all my questions. Thank you.

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

1 Next is the Canadian Constitution Foundation.

2 --- CROSS-EXAMINATION BY MS. JANANI SHANMUGANATHAN:

3 MS. JANANI SHANMUGANATHAN: Yes, good afternoon.

4 Can you hear me okay?

5 ADM DOMINIC ROCHON: Yes, ma'am.

6 MS. JANANI SHANMUGANATHAN: Okay, great. So my
7 name is Janani Shanmuganathan and I'm here for the Canadian
8 Constitution Foundation. And my questions are for Deputy
9 Minister Stewart.

10 So sir, in your interview summary, you explained
11 that an Ottawa municipal and provincial authorities were not
12 used more extensively because the OPS was overwhelmed by
13 protesters. Do you recall saying that?

14 DM ROBERT STEWART: I do.

15 MS. JANANI SHANMUGANATHAN: And I take it what
16 you mean by that is that authorities like the *Highway Traffic*
17 *Act*, noise bylaws, were not being enforced by the OPS because
18 they were overwhelmed by protesters.

19 DM ROBERT STEWART: That's correct.

20 MS. JANANI SHANMUGANATHAN: So there was this
21 resource issue in Ottawa, you know, not enough police officers
22 on the ground to enforce the law.

23 DM ROBERT STEWART: That's correct.

24 MS. JANANI SHANMUGANATHAN: So I'd like to take
25 you to your interview summary, and Mr. Clerk this is
26 WTS00000066. And it's page 12, please.

27 So if we look at the third paragraph under the
28 Ottawa Police Service heading, what it says here, it says:

1 "The DM..."

2 That's you, sir.

3 "...also described how there was some
4 tension between the City of Ottawa and
5 the federal government because Chief
6 Sloyly wanted more assistance, and
7 questions were raised about how many
8 RCMP officers and resources had been
9 deployed to assist the OPS rather than
10 to protect federal assets."

11 So what you're describing here is that there's
12 this tension because Chief Sloyly wants more help to address the
13 resource issue and is asking, well, how many of these RCMP
14 officers are really just being used to protect federal assets
15 rather than helping us, the OPS, enforce things like the
16 *Criminal Code* and the *Highway Traffic Act* to deal with the
17 protest; is that fair?

18 **DM ROBERT STEWART:** That is fair.

19 **MS. JANANI SHANMUGANATHAN:** And the tension is
20 that OPS wants more help and is questioning, well, how much help
21 are we actually getting right?

22 **DM ROBERT STEWART:** Right.

23 **MS. JANANI SHANMUGANATHAN:** And you go on to say
24 in that paragraph,

25 "The RCMP's position was that the OPS
26 should have asked the OPP for more
27 resources and that it was the OPP's
28 responsibility to come and serve. He

1 [-- that's you, sir --] explained that
2 the RCMP felt pressed by the OPS, but
3 that the OPP was the force that the OPS
4 should look to pursuant to
5 legislation...'

6 And then there's a reference to the Ontario
7 *Police Services Act*. So there's this tension and the RCMP is
8 feeling pressed and the response you're hearing coming from the
9 RCMP is that the OPS should really go to the OPP; right?

10 **DM ROBERT STEWART:** Correct.

11 **MS. JANANI SHANMUGANATHAN:** The response isn't --
12 -

13 **DM ROBERT STEWART:** Not exclusively.

14 **MS. JANANI SHANMUGANATHAN:** --- hey, you know ---

15 **DM ROBERT STEWART:** Not exclusively though. To
16 be clear, not exclusively. The RCMP had agreed to come with
17 resources that they had to hand to help, and there was some
18 confusion around how they were counting heads, and whether those
19 people were at the disposition of the OPS or whether they were
20 RCMP -- under RCMP control and potentially deployable.

21 **MS. JANANI SHANMUGANATHAN:** Sure.

22 **DM ROBERT STEWART:** So there's some confusion
23 about that. But at all times, there was an expectation that the
24 OPP would come as well.

25 **MS. JANANI SHANMUGANATHAN:** Yes, right, the RCMP
26 position was, well, OPS should go to the OPP first and then come
27 to us; is that fair?

28 **DM ROBERT STEWART:** That is the RCMP's position,

1 as I understand it.

2 **MS. JANANI SHANMUGANATHAN:** And so the position -
3 - you know, the response that you were getting from the RCMP
4 wasn't, well, the OPS is asking us for help. We should do
5 everything we can do to give them whatever they need as soon as
6 possible. That wasn't the position you were hearing?

7 **DM ROBERT STEWART:** Not to that extent. No, the
8 RCMP's position was that they could provide some help, but to
9 the extent that more help was required, the Ottawa Police should
10 be asking the OPP.

11 **MS. JANANI SHANMUGANATHAN:** Right. And so, you
12 know, maybe it's just me, but it kind of sounds to me like
13 there's one level of government saying, you know, passing the
14 buck and saying you should look to another level of government.
15 But I take it you don't agree with that?

16 **DM ROBERT STEWART:** I don't agree with that.

17 **MS. JANANI SHANMUGANATHAN:** Now this idea that
18 the OPP was a force that the OPS should be looking to pursuant
19 to legislation, Commission Counsel asked you about that in her
20 examination, and she suggested that it was the *Police Services*
21 *Act* and you said, "I believe so." Right?

22 **DM ROBERT STEWART:** I did.

23 **MS. JANANI SHANMUGANATHAN:** So there's this idea
24 that's going around that there is something in the *Police*
25 *Services Act* that means the OPS should be going to the OPP
26 primarily or first before it goes to the RCMP.

27 **DM ROBERT STEWART:** That is my understanding.

28 **MS. JANANI SHANMUGANATHAN:** All right. So I've

1 taken a look at the *Police Services Act*, and I think we should
2 bring it up. Mr. Clerk, that's CCF00000011. And to page 15,
3 please.

4 And so if we could just pause here for a moment.
5 So Section 9 of the *Police Services Act*, Section 9(1) talks
6 about, you know, when a police service is absent during adequate
7 OPP assistance may be sought. So what 9(1) says is,

8 "If the Commission finds that a
9 municipality to which 4(1) applies is
10 not providing police services, it may
11 request that the Commissioner have the
12 Ontario Provincial Police give
13 assistance."

14 So what it says is that it may request that the
15 Commissioner have the Ontario Provincial Police give assistance.
16 And now if we scroll down to subsection (6), what it says here
17 is,

18 "A municipal chief of police who is of
19 the opinion that an emergency exists in
20 a municipality may request that the
21 Commissioner have the Ontario
22 Provincial Police give assistance."

23 So what I say is, you know, these sections enable
24 the OPS to go to the OPP, but I don't see anything in the Act
25 that says the OPS cannot go to the RCMP first or that the OPS
26 can only go to the RCMP after they've gone to the OPP. Do you
27 have a different understanding of this legislation?

28 **DM ROBERT STEWART:** This is the first time I've

1 seen the legislation. So I was operating on the basis of what I
2 understood the case to be. But I think I would not agree with
3 the way you put it. As I understood it, in the circumstances we
4 faced, the RCMP was willing to help and did not stand on
5 principle as to whether they were the first or the second asked.
6 They felt the OPP was what the Ottawa Police Service should be
7 asking. So ---

8 **MS. JANANI SHANMUGANATHAN:** Okay. Sure.

9 **DM ROBERT STEWART:** --- but they were not holding
10 off in responding because the OPS hadn't asked the OPP.

11 **MS. JANANI SHANMUGANATHAN:** Fair enough. But you
12 do agree that it was your understanding that it was the RCMP's
13 position that the appropriate force to be seeking assistance
14 from was the OPP; is that fair?

15 **DM ROBERT STEWART:** Technically, yes.

16 **MS. JANANI SHANMUGANATHAN:** Okay. Technically,
17 that was what the RCMP's position was. Well, not technically.
18 That was the RCMP's position.

19 **DM ROBERT STEWART:** Well, I understood it to be,
20 and you've just obviously improved my understanding, that that
21 was what the law required. The circumstances drove a different
22 set of considerations.

23 **MS. JANANI SHANMUGANATHAN:** Okay. Fair enough.
24 And now you're not aware of any other law or legislation that
25 requires the OPS to go to the OPP for help first before seeking
26 help from the RCMP?

27 **DM ROBERT STEWART:** I am not.

28 **MS. JANANI SHANMUGANATHAN:** Okay. Those are all

1 my questions. Thank you very much.

2 COMMISSIONER ROULEAU: Okay. Thank you.

3 Next the City of Windsor.

4 --- CROSS-EXAMINATION BY MS. JENNIFER KING:

5 MS. JENNIFER KING: Good afternoon. Can everyone
6 see me?

7 DM ROBERT STEWART: Yes.

8 MS. JENNIFER KING: Hi. Good afternoon, Mr.
9 Stewart and Mr. Rochon. My name is Jennifer King. I am Counsel
10 to the City of Windsor.

11 I have some questions for you about emergency
12 management of critical infrastructure in Canada. Will you agree
13 with me that local authorities play a central role in emergency
14 management in Canada?

15 DM ROBERT STEWART: I would agree.

16 MS. JENNIFER KING: You are familiar with the
17 current emergency framework for Canada third edition?

18 DM ROBERT STEWART: I am.

19 MS. JENNIFER KING: And that can be found at
20 WIN00002230. So, Mr. Stewart, I can't see who's responding, but
21 this is Public Safety's Key Policy Framework for Federal
22 Provincial Territorial Coordination with respect to emergency
23 management in Canada; correct?

24 DM ROBERT STEWART: Correct.

25 MS. JENNIFER KING: And you'll agree with me that
26 the framework does not directly engage with municipalities?

27 DM ROBERT STEWART: The framework tends to
28 operate through the basis of provinces and territories as being

1 the primary authority.

2 **MS. JENNIFER KING:** Okay. And the framework
3 relies on provinces and territories to engage with local
4 authorities?

5 **DM ROBERT STEWART:** That's correct.

6 **MS. JENNIFER KING:** The approach outlined in the
7 framework provides for a scaling up where the provincial and
8 federal governments step in only when local capacity is
9 exceeded; correct?

10 **DM ROBERT STEWART:** I believe so.

11 **MS. JENNIFER KING:** And you'll agree with me that
12 this approach requires excellent multi-level coordination?

13 **DM ROBERT STEWART:** I would agree.

14 **MS. JENNIFER KING:** Would you agree then to
15 ensure effective coordination on the ground, municipalities and
16 other local first responders should be directly engaged in
17 Canada's framework?

18 **DM ROBERT STEWART:** I think there is a high
19 degree of virtue in interoperability and interconnectedness
20 across the -- all of the first responders. Insofar as we are
21 talking about -- and ultimately, requests for assistance, I
22 believe there is a chain of authority that has to be worked
23 through and shouldn't be worked around.

24 **MS. JENNIFER KING:** Okay. Well, there are
25 coordination instruments that are referenced in the framework,
26 and, Mr. Rochon, I think you referred to a National Strategy for
27 Critical Infrastructure this morning?

28 **ADM DOMINIC ROCHON:** I did indeed.

1 **MS. JENNIFER KING:** And the intention for this is
2 to provide for, intended to kind of create an approach between
3 the federal, provincial and territorial governments to emergency
4 management with respect to critical infrastructure; correct?

5 **ADM DOMINIC ROCHON:** Yes, not just that, but
6 also, better coordination with the private sector and all levels
7 of government.

8 **MS. JENNIFER KING:** Okay. And all levels of
9 government including municipal?

10 **ADM DOMINIC ROCHON:** Yes.

11 **MS. JENNIFER KING:** You would agree that the
12 Ambassador Bridge in Windsor is critical infrastructure within
13 the meaning of this National Strategy?

14 **DM ROBERT STEWART:** I would be inclined to agree
15 that it is as critical infrastructure; however, I do want to
16 clarify the point that we weren't operating in large measure in
17 invoking the *Emergencies Act* under the context that that
18 strategic -- that framework speaks to. That framework speaks to
19 emergencies other than law enforcement emergencies.

20 **MS. JENNIFER KING:** And it doesn't address the
21 role of the different ministries and levels of government to
22 support a police-led response?

23 **DM ROBERT STEWART:** Well, I'm -- it's obviously
24 been some time since I've looked at it, but I'm conveying to you
25 my understanding here that we did not treat -- in general, we
26 did not treat the protests as an emergency management issue, and
27 that the framework that we have designed and agreed with the
28 provinces and territories to deploy does not typically apply to

1 issues of public security ---

2 **MS. JENNIFER KING:** Okay. Well ---

3 **DM ROBERT STEWART:** --- in defence of law
4 enforcement. It deals with natural disasters and the like.

5 **MS. JENNIFER KING:** So you're saying that the
6 National Strategy for Critical Infrastructure is not intended to
7 address the type of protest that we saw in February?

8 **ADM DOMINIC ROCHON:** So those are two separate
9 things. Emergency management is one framework. Critical
10 infrastructure is a separate one, and the original Critical
11 Infrastructure Strategy written back in 2010. Unfortunately,
12 there are different strata within the management of emergencies,
13 so cyber -- in a cyber event, cyber security, or a national
14 security event, a terrorist event does not fall under the rubric
15 of emergency management and it would follow a different set of
16 circumstances. As it is written now, the new Critical
17 Infrastructure Strategy that we're pulling together, we're
18 currently consulting and we're leveraging various different
19 tables in order to better understand how we can manage critical
20 infrastructure going forward and that is still a work in
21 progress.

22 **MS. JENNIFER KING:** Okay. Well, I think I'm
23 running up on my time, and if I could just have one or two more
24 minutes, I have a few questions to wrap up. I just wanted to --
25 and perhaps I won't take you to the document but are you aware --
26 --

27 **COMMISSIONER ROULEAU:** You can have one or two
28 minutes. Go ahead.

1 **MS. JENNIFER KING:** Thank you, Commissioner.

2 Are you aware that Mayor Dilkens of Windsor wrote
3 to Minister Mendocino, Minister Blair and the Ontario Solicitor
4 General in March indicating the need for broader collaboration
5 in support from provincial and federal governments to bolster
6 the safety and security of our borders?

7 **DM ROBERT STEWART:** No, I -- if I was aware, I'd
8 forgotten.

9 **MS. JENNIFER KING:** Okay. Well, I won't -- I
10 don't have the time to show it to you, but I will say that Mayor
11 Dilkens in his testimony did indicate that he went on to request
12 a meeting to debrief emergency regulatory obligations regarding
13 the Ambassador Bridge. Did you discuss this request to meet
14 with Minister Mendocino or Minister Blair?

15 **DM ROBERT STEWART:** No.

16 **MS. JENNIFER KING:** Okay. Would you recommend
17 that the Ministers meet with Windsor provincial and federal
18 representatives to discuss long-term needs and planning to
19 protect Windsor's international crossings?

20 **DM ROBERT STEWART:** I would agree to the more
21 general statement that it's important that federal and
22 provincial Ministers take lessons learned from -- as it pertains
23 to protecting critical infrastructure.

24 **MS. JENNIFER KING:** Okay. I think that's all my
25 time. Thank you very much, Commissioner.

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

27 Next call on Province of Saskatchewan, please.

28 **--- CROSS-EXAMINATION BY MR. MITCH McADAM:**

1 **MR. MITCH McADAM:** Good afternoon, sirs. My name
2 is Mitch McAdam and I'm one of the lawyers for the Government of
3 Saskatchewan. I just have a few questions for you today.

4 First, Mr. Stewart, in your interview summary at
5 page 20, you indicated that you are aware of the Federal
6 *Emergencies Act* back in 2020 at the outset of the COVID-19
7 pandemic, and you mentioned that again this morning. So I take
8 it that you were involved in the discussions back in 2020 about
9 potentially invoking the *Emergencies Act* to deal with the COVID-
10 19 pandemic. Isn't that true?

11 **DM ROBERT STEWART:** That is true.

12 **MR. MITCH McADAM:** And, sir, I'm going to ask you
13 a few very general questions about that time. I have some
14 documents that I can pull up if you need to see them, but in the
15 interests of time, I'm not going to pull them up unless it's
16 necessary. But if you do need to refresh your memory, by all
17 means, ask me to pull them up. My questions are going to be
18 quite general.

19 **DM ROBERT STEWART:** All right.

20 **MR. MITCH McADAM:** To begin with, sir, you'd
21 agree with me that in that case, there was a process of
22 engagement with the provinces that spanned at least a couple of
23 weeks?

24 **DM ROBERT STEWART:** That is my recollection.

25 **MR. MITCH McADAM:** And you'll agree with me that
26 there was a letter that was sent by the Prime Minister to the
27 Premiers formally initiating consultations under the *Emergencies*
28 *Act*?

1 **DM ROBERT STEWART:** That is my recollection.

2 **MR. MITCH McADAM:** And you'll agree with me that
3 that letter was followed up with a meeting between the Prime
4 Minister and the Premiers to discuss the matter?

5 **DM ROBERT STEWART:** I don't have any direct
6 knowledge of that.

7 **MR. MITCH McADAM:** Okay.

8 **DM ROBERT STEWART:** I know there was a call that
9 was organized for Minister Blair, who was Public Safety Minister
10 at the time, with his counterparts to have a discussion about
11 the potential utility of the *Emergencies Act*.

12 **MR. MITCH McADAM:** Okay. But you're not aware of
13 any telephone conference call involving the Prime Minister and
14 the Premiers?

15 **DM ROBERT STEWART:** Not aware.

16 **MR. MITCH McADAM:** Okay. And are you aware that
17 the Premiers were given about a week to provide a formal written
18 response to the idea of invoking the *Emergencies Act* to deal
19 with the pandemic?

20 **DM ROBERT STEWART:** Not in that specific sense.

21 **MR. MITCH McADAM:** Okay.

22 **DM ROBERT STEWART:** But I was aware that they
23 were given an opportunity to respond.

24 **MR. MITCH McADAM:** And they were given some time
25 to do so?

26 **DM ROBERT STEWART:** That I don't -- that's the
27 specifics of it. I don't know that.

28 **MR. MITCH McADAM:** Okay. So if I say they were

1 given a week, you can't agree or disagree with that?

2 **DM ROBERT STEWART:** That is correct.

3 **MR. MITCH McADAM:** Okay. But will you agree with
4 me, sir, that the process that was used back in 2020, when there
5 was discussion about invoking the *Emergencies Act* to deal with
6 COVID-19 pandemic was quite different than the process that was
7 followed in February of this year before invoking the Act to
8 deal with the blockades and protests?

9 **DM ROBERT STEWART:** I would agree.

10 **MR. MITCH McADAM:** Okay. Thank you, sir.

11 Next, sir, I'd like to ask you a few questions
12 about the FPT meetings that were discussed this morning. And,
13 Mr. Stewart, you talked about a meeting of Deputy Ministers that
14 you attended on February 7th. Do you recall that meeting?

15 **DM ROBERT STEWART:** Yes, it was a call.

16 **MR. MITCH McADAM:** Okay. And, Mr. Rochon, my
17 understanding is that you attended a meeting of the FPT Crime
18 Prevention and Policing Committee on February the 11th. Do you
19 recall that?

20 **ADM DOMINIC ROCHON:** Yes, I believe that's
21 correct.

22 **MR. MITCH McADAM:** Yes. And, Mr. Stewart, would
23 you agree with me that at the meeting on February 7th, at no time
24 did you advise the provincial officials that were on that call
25 that the federal government was contemplating invoking the
26 *Emergencies Act*?

27 **DM ROBERT STEWART:** That is correct.

28 **MR. MITCH McADAM:** And, Mr. Rochon, would you

1 agree with me at the meeting on February 11th, at no time did you
2 or anyone else from Public Safety Canada advise the provincial
3 and territorial officials on the call that the federal
4 government was considering invoking the Federal *Emergencies Act*?

5 **ADM DOMINIC ROCHON:** That's my recollection, yes.

6 **MR. MITCH McADAM:** Okay. And, Mr. Stewart, would
7 you agree with me that these opportunities, the Deputy
8 Minister's meeting that you had and the meetings of the CPP
9 Committee would have been a good opportunity to discuss the
10 potential invocation of the *Emergencies Act* with provincial
11 officials?

12 **DM ROBERT STEWART:** Had the invocation of the Act
13 been a subject of active discussion, yes, but it wasn't.

14 **MR. MITCH McADAM:** Okay. So at the time of these
15 two meetings, it wasn't under active discussion?

16 **DM ROBERT STEWART:** In the time I did the
17 meeting, it was not.

18 **MR. MITCH McADAM:** So on February 7th it was not?

19 **DM ROBERT STEWART:** That's correct.

20 **MR. MITCH McADAM:** Okay. And, Mr. Rochon, when
21 you had the meeting on February 11th, was the *Emergencies Act*
22 under active discussion at that time?

23 **ADM DOMINIC ROCHON:** I'm trying to think. At
24 that time, I believe situation of the national security threat
25 was certainly top of mind, and we were -- my recollection and
26 not having the document in front of me, I -- my recollection is
27 that we were looking at every available tool available to us and
28 to provinces and territories and municipalities in order to be

1 able to deal with the situation, the threat that seemed to be
2 growing.

3 **MR. MITCH McADAM:** So ---

4 **ADM DOMINIC ROCHON:** Sorry. Go ahead.

5 **MR. MITCH McADAM:** Mr. Stewart, you're aware of a
6 meeting that Mr. Dakalbab from your department attended with
7 officials from Alberta, Manitoba, Ontario and the RCMP on
8 February 13th? That's a meeting that he reported to you by email
9 on Sunday night; do you recall that?

10 **DM ROBERT STEWART:** Yes, I do.

11 **MR. MITCH McADAM:** Okay. And at that time, the
12 invocation of the *Emergencies Act* was under active consideration
13 by the federal government; wasn't it?

14 **DM ROBERT STEWART:** Yes, it was.

15 **MR. MITCH McADAM:** And your information is that
16 Mr. Dakalbab or the other officials, federal officials on that
17 call did not advise their provincial counterparts that the Act
18 was under active consideration; did they?

19 **DM ROBERT STEWART:** I can not say for certainty
20 that any of them knew.

21 **MR. MITCH McADAM:** Okay. So you're saying the
22 federal officials that were on the call would not have known
23 that the Federal *Emergencies Act* was under active consideration
24 at that time?

25 **DM ROBERT STEWART:** I'm not sure that they did.

26 **MR. MITCH McADAM:** Okay.

27 **DM ROBERT STEWART:** I can't say for sure.

28 **MR. MITCH McADAM:** So they couldn't have advised

1 their provincial officials of that?

2 **DM ROBERT STEWART:** Indeed. Had they not known.

3 **MR. MITCH McADAM:** Okay. And as far as you know,
4 they didn't advise provincial officials of that, ---

5 **DM ROBERT STEWART:** I would agree.

6 **MR. MITCH McADAM:** --- as far as -- thank you.

7 **COMMISSIONER ROULEAU:** So you're now out of time.

8 **MR. MITCH McADAM:** Okay. Thank you,
9 Commissioner. Those are all my questions.

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

11 Next is the National Police Federation.

12 **MS. NINI JONES:** Yes, Hello. This is Nini Jones
13 for the NPF. We have no further questions. Thank you.

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

15 Next is the Democracy Fund.

16 **--- CROSS-EXAMINATION BY MR. ROB KITTREDGE:**

17 **MR. ROB KITTREDGE:** Good afternoon, Mr. Stewart,
18 and Mr. Rochon. I'm Rob Kittredge, representing the Justice
19 Centre for Constitutional Freedoms. And I only have five
20 minutes today, so just to make efficient use of my time, I'm
21 going to direct my questions to Mr. Stewart. So I apologize for
22 leaving you out.

23 Can we bring up Document SSM.CAN.1096_REL.0001,
24 please? And this is the document that my friend representing
25 the convoy organizers was trying to show you earlier on when he
26 ran out of time.

27 Mr. Stewart, the Liberal Research Bureau, an
28 entity within the Liberal Party that receives government funds,

1 conducts research, and provides briefs to support the liberal
2 party politicians, Ministers, and MPs; right?

3 **DM ROBERT STEWART:** I'll take your word for it.

4 **MR. ROB KITTREDGE:** Yeah?

5 **DM ROBERT STEWART:** I'm not familiar with it.

6 **MR. ROB KITTREDGE:** Okay. You're not familiar
7 with the Liberal Research Bureau at all?

8 **DM ROBERT STEWART:** No, I have nothing to do with
9 it.

10 **MR. ROB KITTREDGE:** And you've never heard of it?

11 **DM ROBERT STEWART:** Oh, I've heard of it, but I
12 didn't know what it does.

13 **MR. ROB KITTREDGE:** You have no idea at all what
14 it does?

15 **DM ROBERT STEWART:** No.

16 **MR. ROB KITTREDGE:** Okay. So this document on
17 the screen, would you agree that it appears to be a brief
18 preparing MPs as to what they should say in response to the
19 motion and in debate in response to the motion to support the
20 invocation of the *Emergencies Act*?

21 **DM ROBERT STEWART:** Certainly how it appears.

22 **MR. ROB KITTREDGE:** All right. Can we scroll to
23 page 4, please? Towards the bottom of page 4.

24 And you can see here at the bottom of page 4, it
25 outlines the CPC's position, the BQ's position, and the NPD's
26 position, which it indicates that the NDP will support the
27 motion? Would you agree with that?

28 **DM ROBERT STEWART:** It's what I observe.

1 **MR. ROB KITTREDGE:** Right. And in your dealings
2 with the Ministers and elected executives, they told you that
3 before the *Emergencies Act* was invoked, they already had the
4 support of the NDP to uphold the invocation; didn't they?

5 **DM ROBERT STEWART:** No, they did not.

6 **MR. ROB KITTREDGE:** When did you first learn that
7 the NDP were going to support the invocation of the Act?

8 **DM ROBERT STEWART:** Upon the vote.

9 **MR. ROB KITTREDGE:** Okay. Are you aware of any
10 polling that was done to assess public support for the
11 invocation of the *Emergencies Act*?

12 **DM ROBERT STEWART:** Not aware.

13 **MR. ROB KITTREDGE:** All right. And moving on a
14 little bit, numerous witnesses from the OPP and the OPS have
15 testified that the invocation of the Act may have been helpful,
16 but it was not necessary to clear the protests. Would you agree
17 with them on that point?

18 **DM ROBERT STEWART:** I believe that the invocation
19 of the Act provided very useful tools to law enforcement.

20 **MR. ROB KITTREDGE:** Useful tools, but not
21 necessary tools?

22 **DM ROBERT STEWART:** Well I'm not in a position to
23 render an opinion on that, I don't think. I would only observe,
24 as I've observed already, that upon the invocation of the Act
25 and the use of those tools, the protests diminished and stopped,
26 and that goes beyond useful.

27 **MR. ROB KITTREDGE:** When discussing the
28 invocation of the Act in an email on the night of February 14th,

1 you indicated that the emergency powers didn't bring a lot of
2 significant benefits; didn't you?

3 **DM ROBERT STEWART:** I acknowledged that was
4 perhaps an under estimate on my part.

5 **MR. ROB KITTREDGE:** Right. But you were -- at
6 that point, you were having trouble even coming up with examples
7 of how the emergency powers might be useful in clearing the
8 protests; weren't you?

9 **DM ROBERT STEWART:** I was encouraging my
10 colleague, for the purposes of doing technical briefings, to try
11 to be more specific and clear.

12 **MR. ROB KITTREDGE:** Right. But you were running
13 out of ideas on how it might be useful?

14 **DM ROBERT STEWART:** The ideas were already on the
15 table, in the sense of the drafting of the various orders and
16 measures. The issue here was how they were explained.

17 **MR. ROB KITTREDGE:** Right. Provincial powers at
18 that point hadn't been exhausted, had they?

19 **DM ROBERT STEWART:** In Ontario, I would say they
20 had.

21 **MR. ROB KITTREDGE:** You would? Your interview
22 summary indicates that you thought that the power to compel tow
23 trucks was important. Do you remember that?

24 **DM ROBERT STEWART:** I do.

25 **MR. ROB KITTREDGE:** But really, you have no
26 personal knowledge of whether that power was actually necessary
27 to clear the protests; do you?

28 **DM ROBERT STEWART:** It has -- it was reported to

1 Ministers, and I was present at this time, that that was an
2 important element and was used.

3 **MR. ROB KITTREDGE:** You have no knowledge at all
4 of whether tow trucks had already been retained by the OPP prior
5 to the invocation of the Act; do you?

6 **DM ROBERT STEWART:** I do not.

7 **MR. ROB KITTREDGE:** Right. And you have no
8 direct knowledge of whether the power to compel tow trucks was
9 useful to police anywhere in Canada; do you, really?

10 **DM ROBERT STEWART:** No first-hand knowledge.

11 **MR. ROB KITTREDGE:** Right. Similarly, while you
12 suggest that the Declaration of Emergency, the financial
13 measures, and the other emergency powers may have acted as a
14 deterrent, you don't actually have any direct knowledge of that;
15 do you?

16 **DM ROBERT STEWART:** Well that's a hypothetical.
17 In light of my observation that the protests were significantly
18 de-escalated and stopped, I think deterrence was a major factor.

19 **MR. ROB KITTREDGE:** So you'd speculate that the
20 invocation of the Act had a deterrent effect, but you don't
21 actually know that?

22 **DM ROBERT STEWART:** That was its intent.

23 **MR. ROB KITTREDGE:** Pardon me?

24 **DM ROBERT STEWART:** That was its intent.

25 **MR. ROB KITTREDGE:** But you'd speculate that it
26 was effective?

27 **DM ROBERT STEWART:** It's hard to observe it in
28 the ---

1 **MR. ROB KITTREDGE:** Right. So you have no real
2 direct knowledge that it did have that effect, you just
3 speculate that it had that effect?

4 **DM ROBERT STEWART:** Okay. You could call it
5 speculation. I would call it conclusion.

6 **MR. ROB KITTREDGE:** Okay. Thank you very much.
7 Those are my questions.

8 **COMMISSIONER ROULEAU:** Okay. Thank you.
9 Next, the CLA/CCDL, Criminal Lawyers.

10 **MS. COLLEEN McKEOWN:** Thank you very much,
11 Commissioner. Can you hear me all right?

12 **COMMISSIONER ROULEAU:** Yes.

13 --- CROSS-EXAMINATION BY MS. COLLEEN McKEOWN:

14 **MS. COLLEEN McKEOWN:** Okay. My name is Colleen
15 McKeown and I'm co-counsel for the Criminal Lawyers Association
16 and the Canadian Counsel of Criminal Defence Lawyers, two
17 organizations with joint standing at the Commission.

18 My questions are related to the consultation
19 process, and I'm directing them to Deputy Minister Stewart.

20 If the Clerk could please bring up the witness
21 summary? WTS00000066?

22 And I'm looking specifically at page 21, and a
23 paragraph that you've already been brought to.

24 Just scroll down a bit. It's with respect to the
25 issue of consultation with provinces. Do you see that
26 paragraph?

27 **DM ROBERT STEWART:** I do.

28 **MS. COLLEEN McKEOWN:** First I have a question of

1 clarification. When you say that it is being -- sorry, it's
2 that first sentence:

3 "With respect to the issue of consultation
4 with provinces, DM Stewart stated that
5 there was a lot of consultation done with
6 the provinces that was discounted because
7 it was not premised on whether the federal
8 government was going to decide to invoke
9 the Act."

10 When you say it was discounted, can you just
11 clarify for us who was doing the discounting or what context
12 you're making that comment in?

13 **DM ROBERT STEWART:** What I was trying to convey
14 there is that to the point made by one of your colleagues
15 minutes ago, there was -- there were expressions of points of
16 view that there was insufficient consultation on the invocation
17 of the Act.

18 **MS. COLLEEN MCKEOWN:** Okay. And of course you
19 understand that the *Emergencies Act* requires consultation in
20 section 25? Is that right?

21 **DM ROBERT STEWART:** That's my understanding.

22 **MS. COLLEEN MCKEOWN:** And of course, the Federal
23 Government tabled with Parliament it's explanation of the
24 consultation process it undertook?

25 **DM ROBERT STEWART:** We tabled an extensive
26 report. Right.

27 **MS. COLLEEN MCKEOWN:** Now, back to this paragraph
28 in the witness statement, Commission Counsel's already asked you

1 what you meant by the paragraph more broadly. And what I've
2 written down in my notes, which I welcome any corrections you
3 have, as I was furiously typing. What I've written down is
4 you've explained that you deemed these broader discussions to be
5 consultations on the Act because the conversations were really
6 about the substance and what ended up being the substance of the
7 Act, about tools, what was needed. Do you remember saying ---

8 **DM ROBERT STEWART:** Yes, I do.

9 **MS. COLLEEN McKEOWN:** Okay. And I just want to
10 clarify. To the extent that you're able to answer this
11 question, is it your view that these broader consultations,
12 discussions, they're about tools and about substance, but not
13 about the *Emergencies Act* in particular? Is it your view that
14 those can be considered consultations under section 25 of the
15 Act?

16 **DM ROBERT STEWART:** Yes.

17 **MS. COLLEEN McKEOWN:** Thank you very much. Those
18 are my questions.

19 **COMMISSIONER ROULEAU:** Thank you. Next I'll call
20 on the Union of British Columbia Indian Chiefs.

21 **--- CROSS-EXAMINATION BY MS. CHEYENNE ARNOLD-CUNNINGHAM:**

22 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Good afternoon.

23 My name is Cheyenne Arnold-Cunningham and I'm
24 counsel for the Union of BC Indian Chiefs. I'm going to be
25 directing our questions today to Deputy Stewart.

26 So we've heard a lot in this inquiry and even
27 today on the topic of consultation. The Union of BC Indian
28 Chiefs would like to know what First Nations Governments,

1 representatives, members or indigenous groups did you consult
2 with during the Freedom Convoy situation?

3 **DM ROBERT STEWART:** I am not aware that we
4 consulted with First Nations on matters associated with law
5 enforcement in urban areas or at border points.

6 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Are you aware of
7 any efforts on behalf of the Government of Canada or Police
8 Services to consult with First Nations of the territory?

9 **DM ROBERT STEWART:** Of the territory?

10 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** On which the
11 events took place?

12 **DM ROBERT STEWART:** Oh, sorry, excuse me. I am
13 not aware.

14 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** From a public
15 safety perspective would you agree that it is important for the
16 Government of Canada and Police Services to consult and
17 cooperate with First Nations of the territory in a situation
18 like this, in a public order emergency event?

19 **DM ROBERT STEWART:** I would agree.

20 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Thank you. Are
21 you familiar with federal legislation which came into force on
22 June 21st, 2021 to affirm and implement the United Nations
23 Declaration on the rights of indigenous peoples also known as
24 "UNDRIP"?

25 **DM ROBERT STEWART:** Only superficially familiar.

26 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** If I could
27 please ask the Clerk to bring up document BCC00000049 and I
28 would like to just quickly go to section 5, which is on page 5

1 of that legislation.

2 While the Clerk brings that up, Section 5
3 essentially mandates the Government of Canada to, in
4 consultation and cooperation with indigenous peoples, to take
5 all measures necessary to ensure that the laws of Canada are
6 consistent with the declaration.

7 Can you explain at all prior to your departure in
8 the role, how laws and policies were being aligned with UNDRIP
9 within Public Safety Canada and how that would specifically
10 relate to a public order emergency event?

11 **DM ROBERT STEWART:** I can. At public safety at
12 the current time there is a very significant engagement process
13 going on with First Nations on the issue of -- on two issues.
14 One on enlarging the support for policing that's provided
15 through a Grants & Contributions Program called the "First
16 Nations & Inuit Policing Program". And the other part, more
17 significant I would say, is on making policing -- drafting
18 legislation, co-developing legislation to make policing an
19 essential service. That engagement process has been going on
20 since the spring and has resulted in -- or involved extensive
21 consultation across the country by the Minister and officials
22 and does relate in its ultimate goal in ensuring that First
23 Nations are the beneficiaries of policing services on an equal
24 basis to other areas of the -- or parts of the country.

25 And therefore by extension, would be very much
26 more engaged in the management of public order events.

27 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Thank you. Did
28 you consider UNDRIP or work to implement it at all in carrying

1 out your role and mandate within Public Safety Canada, and
2 specifically in responding to the Freedom Convoy situation?

3 **DM ROBERT STEWART:** Well, what I just described
4 I think would be consistent with UNDRIP. And in the convoy
5 situation, my consultations were with federal, provincial and
6 territorial officials.

7 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Okay. And just
8 - oh, thank you. Just one last question. Is public safety or
9 policing response to a public order emergency event, from either
10 a strategic, operational or tactical point of view, is it
11 different depending on who is involved in the assembly or the
12 event?

13 **DM ROBERT STEWART:** It should not be.

14 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Just to follow-
15 up on that; if I can keep the same document up, but go down to
16 page 14. Appended to the legislation is a copy of UNDRIP. And
17 I would like to draw your attention just very quickly to
18 Articles 26 and 28.

19 Articles 26 and 28 are, I won't read through them
20 for timing purposes, but what they essentially say, is that
21 indigenous peoples have the right to the lands, territories and
22 resources which they've traditionally owned, occupied, or
23 otherwise used and acquired, that states shall give legal
24 recognition and protection to these lands, territories and
25 resources and that indigenous peoples have the right to redress
26 when these lands, resources or territories have been
27 confiscated, taken, occupied, used, or damaged without their
28 free, prior and informed consent.

1 Keeping in mind these articles and UNDRIP as a
2 whole, and the unique, distinct, legal rights that indigenous
3 peoples hold, does the protection and recognition of these
4 rights, should they impact how Government responds to those
5 rights in a public assembly?

6 **DM ROBERT STEWART:** I don't believe I can answer
7 that question.

8 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Would you be
9 able to confirm who you think might be able to answer that
10 question?

11 **DM ROBERT STEWART:** Insofar as it becomes a
12 matter of interpretation of UNDRIP, I believe Justice officials
13 would be the first person -- the first people to ask.

14 **MS. CHEYENNE ARNOLD-CUNNINGHAM:** Okay. Thank you
15 very much for both of your time, and thank you to the Commission
16 for the opportunity to ask our questions.

17 **COMMISSIONER ROULEAU:** Okay, thank you. Next,
18 I'll call on the Government of Canada.

19 **--- CROSS-EXAMINATION BY MR. ROBERT MacKINNON:**

20 **MR. ROBERT MacKINNON:** Good afternoon; I'm Robert
21 MacKinnon, counsel for the Government of Canada. I wonder just
22 on that last question you were asked, whether we could go to
23 SSM.CAN00000121 of the Consultation Report; I understand on page
24 5 is relevant.

25 Around the middle of the page of the
26 consultation; so that's the bottom; go up a little bit - no, go
27 up a little bit; stop, stop.

28 "The Government of Canada also engaged

1 indigenous leaders regarding the blockades.
2 For example, the Minister of Crown
3 Indigenous Relations spoke with the National
4 Chief of the Assembly of First Nations, the
5 President of the Inuit Tapiriit Kanatami,
6 the President of the Metis National Council,
7 the Grand Chief of Akwesasne and the Grand
8 Chief of the Manitoba Southern Chiefs
9 Organization."

10 Do you see that?

11 **DM ROBERT STEWART:** I do. And for the record,
12 when I answered the question by the person prior, it was on my
13 own involvement.

14 **MR. ROBERT MacKINNON:** All right. And so do you
15 see that there's a reference to consultations there?

16 **DM ROBERT STEWART:** I do.

17 **MR. ROBERT MacKINNON:** Okay. One of the last
18 questioners also raised the *Police Services Act* as to why --
19 where the RCMP is mentioned perhaps in that *Act*, because it
20 doesn't say specifically that the process is, you go to the OPP,
21 that's stated, but it doesn't say then you go to the RCMP; do
22 you remember that question?

23 **DM ROBERT STEWART:** I do.

24 **MR. ROBERT MacKINNON:** We don't have to pull up
25 that *Services Act* because this is more of a legal question, but
26 section 2 of the *Police Services Act* defines Police Force as:

27 "OPP or municipal police does not include
28 the RCMP."

1 Does that sound correct to you?

2 **DM ROBERT STEWART:** That sounds correct.

3 **MR. ROBERT MacKINNON:** And would it be to your
4 understanding that the Ontario Government cannot pass
5 legislation to bind the RCMP as a federal body?

6 **DM ROBERT STEWART:** That would be my
7 understanding.

8 **MR. ROBERT MacKINNON:** You were also asked a
9 question about the lack of consultation with law enforcement; do
10 you remember that?

11 **DM ROBERT STEWART:** I do.

12 **MR. ROBERT MacKINNON:** If I could ask you to
13 turn to the Institutional Report for Public Safety, which is
14 DOJ.IR00000008.

15 And if you could go to the appendix, II, that's
16 page 27. And if you scroll down to page 29 -- well, first, this
17 is the list of meetings attended by yourself, Deputy Minister,
18 just so -- that's what the Appendix says.

19 **DM ROBERT STEWART:** Okay.

20 **MR. ROBERT MacKINNON:** And on page 29 at the top
21 can you see February 5, it includes meetings with the Ottawa
22 Police; February 6th, 7th, 8th, 10th, and 11th. It includes
23 meetings with the OPP. Do you see that?

24 **DM ROBERT STEWART:** I do.

25 **MR. ROBERT MacKINNON:** So did you have some
26 meetings and consultations with the OPP and Ottawa Police?

27 **DM ROBERT STEWART:** Yes.

28 **MR. ROBERT MacKINNON:** Mr. Rochon, you mentioned

1 that there were unknowns, and you talked about intelligence, I
2 believe, in some of your answers. And I just wanted to ask you,
3 concerning the convoy protest, were there intelligence gaps?

4 **ADM DOMINIC ROCHON:** I would argue there are
5 always intelligence gaps. That's the nature of the business.

6 Part of the -- part of collecting intelligence
7 and fusing it and assessing it is to come up with questions as
8 to what is in the art of the possible; therefore, what do --
9 what is it that we know and what could also transpire and what
10 do we need to protect Canada and Canadians against in terms of
11 assessing threats?

12 So when it comes to the unknown, you will have
13 seen through a number of assessments, reports, whether it be
14 from the Integrated Terrorism Assessment Centre, ITAC; or
15 PCOIAS, the Intelligence Assessment Secretariat; or indeed, from
16 RCMP or other intelligence organizations, they were always
17 flagging the level of threat. They would articulate it as
18 medium and they would articulate the possibility of
19 Ideologically Motivated Violent Extremism and the fact that a
20 lone wolf could occur.

21 And so when it comes to assessing intelligence,
22 there's always a level of what is the likelihood that something
23 could transpire?

24 So when it comes to unknowns, there were many
25 unknowns throughout the situation, and as the situation
26 continued to be prolonged, and indeed, as we saw it expand
27 across the country, those questions as to whether or not a
28 hostile state actor may be involved in terms of funding, whether

1 there were questions of extremist groups or possible extremist
2 factions involved, would this provide fertile ground for
3 extremists to recruit?

4 There were counter-protests that were emerging as
5 well, so all of that factored into a bunch of questions that I
6 would characterize as unknowns and that needed to be taken into
7 consideration. So it's not just factually, what did we know,
8 because at the end of the day, when it comes to intelligence and
9 when it comes to law enforcement and security, it's not about
10 dealing with something once it happens, but it's about
11 preventing something before it happens, and in order to prevent
12 it, you need to think through what could happen and put in place
13 measures to protect Canada and Canadians.

14 **MR. ROBERT MacKINNON:** Because you're looking
15 ahead at threats and you want to protect them from
16 materializing; is that correct?

17 **ADM DOMINIC ROCHON:** That's a much more eloquent
18 way of putting it, yes.

19 **MR. ROBERT MacKINNON:** Mr. Stewart, do you have
20 anything to add to the unknowns at the point where the Cabinet
21 made a recommendation to invoke the Act, any kind of unknowns
22 that were in mind, to your knowledge?

23 **DM ROBERT STEWART:** Well, I can only be more
24 specific, I believe, which is to say on the eve of enforcement
25 in Ottawa -- we knew that enforcement was challenging and we
26 knew there had been some very significant negative reactions to
27 attempts at enforcement, such that the police were deterred from
28 doing so to any great extent until they mobilized enough of a

1 critical mass of resources.

2 But even on the eve of that enforcement action,
3 after the *Emergencies Act* was invoked, we had no awareness as to
4 what was in the trucks or how people who were in the trucks
5 would react to an enforcement action.

6 So you could call that an intelligence gap or
7 just a lack of information, but we did not have a line of sight
8 as to what would happen.

9 **MR. ROBERT MacKINNON:** You -- for Mr. Stewart --
10 you mentioned the engagement proposal that was considered by
11 Cabinet on February 12th, and you were taken to a comment that
12 was made.

13 Was the fact that the Windsor proposed engagement
14 failed earlier that day and news later that day that the Ottawa
15 proposed agreement appeared to fail form any part of the
16 consideration by Cabinet, in its decision, to not pursue the
17 engagement -- your engagement proposal at that time? And I'm
18 talking February 12th, the day before.

19 **DM ROBERT STEWART:** I don't believe I'm at
20 liberty to discuss what the cabinet ministers said. I think
21 it's plausible to think that was in their minds.

22 **MR. ROBERT MacKINNON:** You also, in response to a
23 question, you mentioned a concern that the invocation of the
24 *Emergencies Act* might incite rather than calm the protest. Do
25 you recall that?

26 **DM ROBERT STEWART:** As I have just tried to
27 express, yes.

28 **MR. ROBERT MacKINNON:** In hindsight now, having

1 seen the evolution of it, would you agree that concern did not
2 materialize?

3 **DM ROBERT STEWART:** I would agree.

4 **MR. ROBERT MacKINNON:** You have been taken to
5 page 21 of your interview summary two or three times now, so I'd
6 like to take you to that same page again for a different
7 paragraph, WTS66, at page 21. It would be that middle
8 paragraph, "DM Stewart also stated". That's right. Yeah, go
9 up, that's right.

10 So where it says:

11 "DM Stewart also stated that they
12 underestimated the deterrent effect of
13 the Act. ADM Dakalbab emphasized this
14 point, adding that prior to its
15 invocation, provinces including New
16 Brunswick and Quebec were calling him
17 to express concerns about border
18 blockades and protests at legislatures.
19 After the Act was invoked, those calls
20 stopped. And within a week of the Act
21 being invoked, the protests and
22 blockades were gone."

23 So in your view of that, you're saying that the
24 Act had a deterrent effect, from your inference; is that
25 correct?

26 **DM ROBERT STEWART:** I am.

27 **MR. ROBERT MacKINNON:** One last document I'd like
28 to take you to is this -- the actual section 58 explanation for

1 the invocation, which that's PB.CAN.00001160.

2 Oh, just to make sure -- PB.CAN yeah, 1160.

3 That's it.

4 So if you go to page -- bottom of page 5? Yeah,
5 that's it.

6 So where it says, "Violent Incidents". So it
7 says:

8 "Violent incidents and threats of
9 violence and protests -- and arrests,
10 sorry -- related to the protest have
11 been reported across Canada. The
12 RCMP's recent seizure of a cache of
13 firearms with a large quantity of
14 ammunition in Coutts, Alberta indicated
15 that there are elements within the
16 protest that have intentions to engage
17 in violence. Ideologically motivated
18 violent extremism adherence may feel
19 empowered by the level of disorder
20 resulting from the protests, violent
21 online rhetoric, increased threats
22 against public officials, and the
23 physical presence of ideological
24 extremists at protests also indicate
25 that there is a risk of serious
26 violence and the potential for lone
27 actor attackers to conduct terrorism
28 attacks."

1 The question for both of you. Can you provide
2 any comments on this as to whether these are accurate facts, to
3 your knowledge?

4 **DM ROBERT STEWART:** I believe them to be true.
5 And in a more general sense, I will underline a point made by my
6 colleague that this is a evolving situation, and a focus on
7 violent extremism has shifted from coming from abroad to
8 domestic. And in the context in which we are -- and I've said
9 this -- underequipped and indeed not empowered to do the work
10 that we need to do to pay attention to what people's intention
11 are.

12 I would note that since 2014 there has been
13 significant domestic violent extremism. I believe the numbers
14 are 26 people killed and 40 injured in over a dozen attacks,
15 often by lone wolf actors with no prior indication that they
16 would do so. So this is a very serious concern.

17 **MR. ROBERT MacKINNON:** And Mr. Rochon?

18 **ADM DOMINIC ROCHON:** The only thing I would add
19 is that the opinion around the security and intelligence
20 community was that this -- the paragraph that you read was
21 factually correct. There were indications of potential violent
22 acts, IMVE adherents that were certainly engaging on line and
23 were making threats on line. And we needed to be mindful that
24 those threats could materialize at any moment, given the growing
25 nature of the situation both in Ottawa and across the country.

26 **MR. ROBERT MacKINNON:** Okay. Could you turn to
27 page -- the middle of page 7? Right, so where it starts, "In
28 addition..." I'm not going to read this paragraph to you. I'll

1 just let you look at that and just go down the page.

2 I'm just going to ask a general question. It
3 talks about essentially 13 protests that are being referred to
4 directly impacting port of operations at major ports of entry
5 operations. And if you go -- yeah.

6 So it mentions -- over the next page as well, it
7 continues. So I just wanted you to confirm your understanding
8 of these facts and any comments you might have that the report
9 mentions 13 protests that directly impacted port of operations
10 and disrupted them in the days leading up to this declaration.
11 So there's 12 in addition to the Ambassador Bridge.

12 More specifically it mentions disruptions at
13 ports of entry at the time of invocation that were still of
14 concern. In addition to Ambassador Bridge at Windsor; Sarnia
15 Bluewater Bridge; the Peace Bridge at Fort Erie; Emerson,
16 Manitoba, Coots, Alberta; Surrey, B.C., on the way, you know,
17 from the Pacific Highway.

18 Do you agree with those facts as they have been
19 laid out?

20 **DM ROBERT STEWART:** Yes. And I would also add
21 while these were clear and obvious manifestations of
22 interference with people's ability to cross the border and
23 commerce, there were many other slow roll convoys in other
24 places in the country and so it was also a consideration that
25 they might manifest at other ports of entry or indeed elsewhere
26 and interfere with, as they say, people's lives.

27 **MR. ROBERT MacKINNON:** But would that be part of
28 the unknowns?

1 **DM ROBERT STEWART:** Yes.

2 **MR. ROBERT MacKINNON:** And at page 9 of the same
3 report, in the lower half of the page where it starts, "The
4 threats..." at page 9. Yes, stop right there, yeah.

5 So that paragraph -- it was not just ports of
6 entry or protests that we've identified so far. It mentions
7 that there were threats also made to block railway lines that
8 would result in significant disruptions to Canada's freight rail
9 industry -- in addition to service, I'm sure -- of substantial
10 monetary loss. Can you see that there?

11 **DM ROBERT STEWART:** I can.

12 **MR. ROBERT MacKINNON:** And what's your comment on
13 that?

14 **DM ROBERT STEWART:** We heard about threats. I
15 don't believe they ever manifested as blockades on a railway
16 line. But two years ago, in 2020 in February we experienced
17 that occurrence and it was a very significant event from an
18 economic point of view.

19 **MR. ROBERT MacKINNON:** And my last question is at
20 page 11, the bottom paragraph. Sorry, the middle paragraph. It
21 starts, "There is significant evidence..." That's right.

22 "There's significant evidence of
23 illegal activity to date and the
24 situation across the country remains
25 concerning, volatile, and
26 unpredictable. The Freedom Convoy
27 could also lead to an increase in the
28 number of individuals who support

1 ideologically motivated violent
2 extremism and the prospect for serious
3 violence. Proponents of IMVE are
4 driven by a range of influences rather
5 than a single belief system. IMVE
6 radicalization is more often caused by
7 a combination of ideas and grievances
8 resulting in a personalized world view.
9 The resulting world view often centres
10 on the willingness to incite, enable,
11 or mobilize violence."

12 Do you have any comment on -- for both of you --
13 that paragraph?

14 **DM ROBERT STEWART:** I think it accurately
15 reflects the views of officials in the government when the
16 *Emergencies Act* was invoked.

17 **ADM DOMINIC ROCHON:** Exactly. I mean, what I was
18 trying to explain earlier on today when I was asked the
19 question, is captured in that paragraph in that there was the
20 threat that the longer this situation was allowed to happen, the
21 more likely it was that IMVE groups would take advantage of it.
22 And that was a significant concern for the Security and
23 Intelligence community.

24 **MR. ROBERT MacKINNON:** Those are my questions.
25 Thank you.

26 **COMMISSIONER ROULEAU:** Thank you. Any re-
27 examination or reply?

28 **MS. SHANTONA CHAUDHURY:** Just one area briefly,

1 Commissioner.

2 **COMMISSIONER ROULEAU:** Okay, go ahead.

3 **--- RE-EXAMINATION BY MS. SHANTONA CHAUDHURY:**

4 **MS. SHANTONA CHAUDHURY:** Mr. Stewart, this is
5 just an area of questioning arising from the questions you were
6 asked around police independence, and also relating to some
7 evidence that we heard from Mr. Di Tomaso last week.

8 So Mr. Clerk, can I just ask you to pull up --
9 now I've lost the document number. It's OPP00004583. While
10 that's coming up, Mr. Stewart, this is a text exchange between
11 Commissioner Lucki and Commissioner Carrique.

12 You can go to page 52 of the document, bottom
13 right hand corner. There we go.

14 So just scroll up a little bit.

15 So starting at the text that says -- so the green
16 here is Commissioner Carrique and the blue is Commissioner
17 Lucki. And the context of the conversation is with respect to
18 the potential new chief coming into OPS.

19 So Mr. Carrique writes:

20 "With respect to your comments
21 yesterday, I agree we need to assure
22 OPS leaves Steve in play until we have
23 done what we need to do. Introducing a
24 new external player in a short terms
25 will set us back."

26 Commissioner Luck then replies:

27 "I will see what I can do to get them
28 to delay bringing in an interim Chief,

1 if you think that will help."

2 Commissioner Carrique responds:

3 "If you have some influence I think it
4 would be helpful. Our Ministry
5 Policing Advisor is going to suggest
6 the same."

7 Going on to the next page, "10-4," says

8 Commissioner Lucki. And then she says,

9 "Had DM Stewart reach into Steve K,
10 Ottawa City Manager. He assures that
11 they are very sensitive to this, keen f
12 for the ICC plan to proceed and don't
13 want Bell to be replaced. Rob...

14 Rob being you.

15 "...got the sense that there's a lot of
16 political infighting going on."

17 And then Commissioner Carrique says:

18 "Thanks, Brenda. We've made the same
19 recommendation via the Province.

20 Hopefully they stay the course."

21 Okay. So first thing, can you tell us first
22 about that conversation that you had with Commissioner Lucki?
23 When did she reach out to you? Do you remember?

24 **DM ROBERT STEWART:** No, in specific terms. I
25 mean, we talked often, several times a day.

26 **MS. SHANTONA CHAUDHURY:** Okay. And do you
27 remember those conversations at all?

28 **DM ROBERT STEWART:** I do.

1 **MS. SHANTONA CHAUDHURY:** Okay. What did she
2 raise? What were her concerns?

3 **DM ROBERT STEWART:** Well, more or less as
4 expressed by the City Manager there that they wanted to keep the
5 ICC which they just agreed to, not that long before, and its
6 ability to execute on a plan going. And they worried that that
7 would be set back. They were ready to go on the 16th of
8 February. So that was the message and I undertook to talk to
9 Steve Kanellakos and his answer was as she represents it, that
10 the City was not going to get an interim chief. They were going
11 to go with Acting Chief Bell.

12 **MS. SHANTONA CHAUDHURY:** Do you remember when you
13 called Mr. Kanellakos?

14 **DR. ROBERT STEWART:** Well, sometime in that
15 timeline, I would say.

16 **MS. SHANTONA CHAUDHURY:** Fair enough. And what
17 did you tell him? How did he respond?

18 **DM ROBERT STEWART:** I would have said to him,
19 "I'm hearing from probably just directly the Commissioner that
20 there are concerns about, you know, changing up the guard here
21 in Ottawa. What's your plan?" I would have asked him the
22 question.

23 **MS. SHANTONA CHAUDHURY:** And do you remember what
24 he replied?

25 **DM ROBERT STEWART:** I kind of paraphrased by this
26 message.

27 **MS. SHANTONA CHAUDHURY:** Okay. And the reference
28 here to a lot of political infighting, can you explain or

1 elaborate on that at all?

2 **DM ROBERT STEWART:** It was -- it is my
3 understanding that what the Ottawa Police Board was doing was
4 working to find an interim chief, and the police boards by their
5 nature are independent from the municipal government, although
6 they're chaired by a councillor. And it had not been known that
7 they were doing that to anybody. And that, you know, when it
8 surfaced as an issue, it caused some consternation at the senior
9 level in the City government. And then as an observational
10 point, I would only say that within a couple of days I believe
11 there was a City Council meeting in which the Chair of the
12 Police Board was forced to resign.

13 **MS. SHANTONA CHAUDHURY:** That's correct. So did
14 that come up on the call that you had with Mr. Kanellakos, the
15 potential removal of the Chair or ---

16 **DM ROBERT STEWART:** Only tangentially.

17 **MS. SHANTONA CHAUDHURY:** Okay. Did he mention
18 that he'd be speaking to the Chair about ---

19 **DM ROBERT STEWART:** No, he didn't.

20 **MS. SHANTONA CHAUDHURY:** Okay.

21 **DM ROBERT STEWART:** No, he just said the Mayor is
22 upset.

23 **MS. SHANTONA CHAUDHURY:** Thank you, Mr. Clerk.
24 Can we just pull up an extract from Mr. Di Tommaso's testimony?
25 It's TRN21 around page 244 please. Sorry, 250 apparently of the
26 PDF.

27 Okay. So I'm just going to take you through Mr.
28 Di Tommaso's comments on that exchange and then ask you for your

1 view. So starting at the very bottom, so we -- Commission
2 Counsel goes through the exchange and then asks Mr. Di Tommaso,
3 "To what extent were you aware of these
4 discussions that were being had with
5 respect to the Chief of Police in
6 Ottawa?" (As read)

7 And on the next page, Mr. Di Tommaso replies,
8 "I'm not aware at all. And what my
9 position was with regards to the
10 selection of the next chief, that was
11 the exclusive jurisdiction of the
12 Police Services Board, and I certainly
13 didn't want my advisor to interfere
14 with that at all.

15 Okay, [says Commission Counsel,] and
16 the discussions that are being had
17 here, would you agree that this is
18 impermissible, a kind of political
19 interference in something that's been
20 the exclusive purview of the Board?"
21 (As read)

22 Mr. Di Tommaso says,
23 "I don't know whether anyone followed
24 up with these actions at all, but I
25 made it clear to both Ken Weatherall
26 and the advisor that they were not to
27 interfere with the exclusive
28 jurisdiction of the Board, and it was

1 the Board's sole responsibility to
2 select the next Chief full stop." (As
3 read)

4 And then Commission Counsel asks,
5 "So if these actions have been taken,
6 is it your view that they would -- that
7 this would have been improper?" (As
8 read)

9 And Mr. Di Tommaso says, "Yes.
10 Can we just get your views on that as well, Mr.
11 Stewart?

12 **DM ROBERT STEWART:** Sorry, this is the domain of
13 Mr. Di Tommaso, so -- which I'm really very unfamiliar. I don't
14 understand or have deep knowledge of the operation of local
15 police governance.

16 **MS. SHANTONA CHAUDHURY:** That's fair enough.
17 Thank you. Those are my questions.

18 **COMMISSIONER ROULEAU:** Okay. Well, thank you
19 very much for your testimony, and no -- you're now free to go,
20 and we appreciate your coming to testify at the Commission.

21 **DM ROBERT STEWART:** Thank you, Commissioner.

22 **ADM DOMINIC ROCHON:** Thank you very much.

23 **COMMISSIONER ROULEAU:** So we'll -- I think we'll
24 take the afternoon break, 15 minutes, and when we come back,
25 there's a new panel, so 15 minutes.

26 **THE REGISTRAR:** The Commission is in recess for
27 15 minutes. La commission est levée pour 15 minutes.

28 --- Upon recessing at 4:35 p.m.

1 --- Upon resuming at 4:53 p.m.

2 **THE REGISTRAR:** The Commission is reconvened. La
3 Commission repreneur.

4 **COMMISSIONER ROULEAU:** Okay. We have two new
5 witnesses.

6 **MS. SHANTONA CHAUDHURY:** We do indeed. Shantona
7 Chaudhury for the Commission, for the record.

8 Our new witnesses, we're changing gears
9 completely. We heard from Public Safety all day so far and now
10 we're going to Global Affairs. So the Commission has called Ms.
11 Cindy Termorshuizen and Mr. Joe Comartin to the stand.

12 **THE REGISTRAR:** Ms. Termorshuizen, will you swear
13 on a religious document or do you wish to affirm?

14 **ADM CYNTHIA TERMOSHUIZEN:** I wish to affirm.

15 **THE REGISTRAR:** For the record, please state your
16 full name and spell it out.

17 **ADM CYNTHIA TERMORSHUIZEN:** Cynthia
18 Termorshuizen. Do you want both names spelled?

19 **THE REGISTRAR:** Yes, please.

20 **ADM CYNTHIA TERMORSHUIZEN:** C-Y-N-T-H-I-A T-E-R-
21 M-O-R-S-H-U-I-Z-E-N.

22 **--- ADM CYNTHIA TERMORSHUIZEN, Affirmed:**

23 **THE REGISTRAR:** Thank you.

24 Mr. Comartin, will you swear on a religious
25 document or do you wish to affirm?

26 **MR. JOSEPH COMARTIN:** I'll swear on a bible.

27 **THE REGISTRAR:** For the record, please state your
28 full name and spell it out.

1 **MR. JOSEPH COMARTIN:** Joseph Comartin, J-O-S-E-P-
2 H C-O-M-A-R-T-I-N.

3 **--- MR. JOSEPH COMARTIN, Sworn:**

4 **THE REGISTRAR:** Thank you.

5 **MS. SHANTONA CHAUDHURY:** Thank you. Mr.
6 Commissioner, I'll just note that I'll be conducting the first
7 half of the examination, and then my colleague, Ms. Dahlia
8 Shuhaibar will be taking over.

9 **--- EXAMINATION-IN-CHIEF BY MS. SHANTONA CHAUDHURY:**

10 **MS. SHANTONA CHAUDHURY:** So good afternoon, Ms.
11 Termorshuizen and Mr. Comartin. Thank you for being here.

12 We'll just start by introducing your witness
13 summary.

14 So Mr. Clerk, can you pull up WTS00000052,
15 please?

16 You'll recall having sat for an interview on
17 August 23rd with Commission Counsel?

18 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

19 **MR. JOSEPH COMARTIN:** Yes.

20 **MS. SHANTONA CHAUDHURY:** And you've had a chance
21 to review this interview summary?

22 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

23 **MR. JOSEPH COMARTIN:** Yes.

24 **MS. SHANTONA CHAUDHURY:** And you'll note that
25 certain interviewees who were present at the interview were not
26 present today, namely Ms. Marta Morgan, the Deputy Minister, Mr.
27 Loken, Mr. Sébastien Beaulieu.

28 Can you confirm on your own behalf that you've

1 reviewed the summary and that it's accurate to the best of your
2 knowledge and that insofar as it contains the information
3 provided by your absent colleagues, they have reviewed and
4 accepted it as well?

5 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

6 **MR. JOSEPH COMARTIN:** Yes.

7 **MS. SHANTONA CHAUDHURY:** Then the second just
8 little piece of housekeeping is the Institutional Report. So
9 Mr. Clerk, that's DOJ.IR.00000002.

10 So Ms. Termorshuizen, do you recognize this as
11 the Institutional Report provided by Global Affairs Canada?

12 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

13 **MS. SHANTONA CHAUDHURY:** And you've reviewed it?

14 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

15 **MS. SHANTONA CHAUDHURY:** And you confirm that
16 it's accurate to the best of your knowledge ---

17 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

18 **MS. SHANTONA CHAUDHURY:** --- before the
19 Commission? Okay. Thank you very much.

20 Okay. So I'll just start now by asking each of
21 you to introduce yourselves.

22 So starting with you, Ms. Termorshuizen, can you
23 tell us -- well I understand you're the Associate Deputy
24 Minister of Foreign Affairs. Can you just tell us briefly,
25 describe that role?

26 **ADM CYNTHIA TERMORSHUIZEN:** Sure. So in -- maybe
27 just by way of context, Global Affairs Canada has four Deputy
28 Ministers. There is a Deputy Minister of International Trade,

1 of Foreign Affairs, and of International Development, and then
2 there's a four Deputy Minister, which is my role, which is the
3 Associate Deputy Minister of Foreign Affairs. And so in that
4 role, I support the Deputy Minister of Foreign Affairs, and the
5 Minister of Foreign Affairs in the overall management of the
6 department, but also in the management of foreign policy files
7 that are delegated to me.

8 **MS. SHANTONA CHAUDHURY:** Okay. And the Deputy
9 Minister, as we've seen, is Ms. Marta Morgan? Or at least was
10 at the time of convoy? I think recently changed?

11 **ADM CYNTHIA TERMORSHUIZEN:** That's correct. She
12 retired. But she was at the time of the convoys.

13 **MS. SHANTONA CHAUDHURY:** Okay. And the Minister
14 of Foreign of Affairs is Ms. Mélanie Joly?

15 **ADM CYNTHIA TERMORSHUIZEN:** Exactly.

16 **MS. SHANTONA CHAUDHURY:** Okay. And Mr. Comartin,
17 can you tell us your position? Well your position is Consul
18 General of the Detroit Consulate, but tell us a little bit about
19 what that role involves?

20 **MR. JOSEPH COMARTIN:** Yes, I was Consul General
21 in Detroit until the end of September of this year. The
22 Consulate is responsible for four states in the United States:
23 Michigan, Ohio, Kentucky, and Indiana.

24 I would say our primary work is divided between
25 certainly Consular Affairs, but that's a small part of what we
26 do. The other major part is a breakdown between the trading
27 relationship between the two countries and the amount of work
28 that we do in terms of contacts with -- mostly with the business

1 community. The other side of the office deals with political,
2 and academic, and people like that.

3 **MS. SHANTONA CHAUDHURY:** Okay. I'll then ask you
4 to describe, at a very high broad level, how each of your roles
5 was engaged at the time of the convoy. So during the convoy,
6 generally speaking, what was your role in all of this.

7 So for instance, Ms. Termorshuizen, I understand
8 that you essentially oversaw GAC's response, GAC being Global
9 Affairs Canada's response to the events as they were unfolding
10 of the Freedom Convoy. Is that right?

11 **ADM CYNTHIA TERMORSHUIZEN:** That's correct. So
12 at the time where the convoys were starting, we actually had
13 another crisis situation brewing, which was the imminent
14 invasion of Ukraine by Russia. And so Deputy Minister Morgan
15 made the decision that she would focus on Ukraine primarily and
16 would delegate responsibility to me to handle the headquarters
17 aspects of the convoy related issues.

18 So my primary role at the time was to participate
19 in the regular meetings of the DMOCC, the Deputy Ministers
20 Operations Committee, that I think you've heard about earlier in
21 these sessions. And then also, I engaged with a number of
22 colleagues in the department, particularly our colleagues
23 responsible for North America relations and then also colleagues
24 in Protocol, which is a part of the department that is
25 responsible for supporting foreign missions in Canada.

26 **MS. SHANTONA CHAUDHURY:** Okay. We'll be getting
27 into all of that. DMOCC is one acronym that we actually have
28 learned today, but thank you for -- there are a lot, and

1 especially in Global Affairs. It's challenging.

2 And our understanding is that along with Deputy
3 Minister Morgan, Minister Joly's time was very much occupied by
4 Ukraine during this period? Is that accurate?

5 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely. She also
6 was very focused on Ukraine.

7 **MS. SHANTONA CHAUDHURY:** Okay. And Mr. Comartin,
8 can you tell us at a high level what your involvement was during
9 the time of the convoy?

10 **MR. JOSEPH COMARTIN:** I'd have to say it was
11 mostly reactive. We were being contacted both from elected
12 officials, not only from Michigan, but also from Ohio, and a
13 good number of senior business people, particularly from the
14 auto industry and the manufacturing sector as well, some from
15 the agricultural sector, basically looking for, I guess,
16 information from us as to how the blockade at the
17 Windsor/Detroit tunnel was going to -- or bridge was going to be
18 dealt with.

19 **MS. SHANTONA CHAUDHURY:** Okay. So essentially,
20 interacting with U.S. officials and business stakeholders?
21 Okay.

22 **MR. JOSEPH COMARTIN:** Yes.

23 **MS. SHANTONA CHAUDHURY:** We'll be looking at some
24 specific examples of that, but before we get there, can you just
25 tell us about the very early days of the convoy? When did the
26 convoy hit the radar, so to speak, at GAC?

27 **ADM CYNTHIA TERMORSHUIZEN:** I would say it
28 probably hit the radar when it did for a lot of average

1 Canadians. We first started hearing about a convoy potentially
2 coming to Ottawa in sort of late January. And so we were very
3 much following the news, and that would be when we first were
4 aware of it.

5 **MS. SHANTONA CHAUDHURY:** Okay. And within the
6 department, what was the reaction at that point, or response?

7 **ADM CYNTHIA TERMORSHUIZEN:** So I think the
8 initial response was like a response to maybe other protests
9 that had happened in the past in Ottawa. I mean, Ottawa is the
10 capital city, and so protests are not infrequent. And so I
11 think my own early thoughts were, "I wonder what kind of road
12 closures there will be? We might have to ask staff to
13 redirect." So initially it was, I think, that kind of response.
14 And then of course, as the convoy actually came to Ottawa and
15 settled in, there were other reactions.

16 **MS. SHANTONA CHAUDHURY:** And you were attending
17 the daily DMOCC meetings as they were happening on behalf of
18 GAC?

19 **ADM CYNTHIA TERMORSHUIZEN:** Yeah. So the daily
20 DMOCCs didn't start until I think it was around February the
21 10th. According to my recollection, the first DMOCC discussion
22 that I attended where the convoy was a specific topic of
23 conversation was January the 31st.

24 **MS. SHANTONA CHAUDHURY:** Okay.

25 **ADM CYNTHIA TERMORSHUIZEN:** So I think that's
26 when it started to be a topic of discussions interdepartmentally
27 that I was a part of.

28 **MS. SHANTONA CHAUDHURY:** So that would be the

1 Monday after the first weekend, essentially.

2 **ADM CYNTHIA TERMORSHUIZEN:** I'll take your word
3 for it that it was a Monday.

4 **MS. SHANTONA CHAUDHURY:** Okay. Well, it doesn't
5 matter too much day of the week, but that's the approximate
6 moment in time. Okay.

7 So what would you say the GAC's mandate became
8 very engaged?

9 **ADM CYNTHIA TERMORSHUIZEN:** So I think initially
10 the mandate was around wanting to ensure that we were living up
11 to our obligations under the Vienna Convention on diplomatic
12 relations. So this is the International Legal Instrument under
13 which we are responsible for ensuring the security of diplomatic
14 missions in Canada. And so in the downtown core area, that was
15 affected by the convoy initially, there were about 50 diplomatic
16 properties. Most of them were embassies, a couple of them
17 official residences, so those are the homes of ambassadors or
18 high commissioners. And so the department, under that legal
19 instrument, has a particular responsibility to ensure the safety
20 and security of diplomatic missions and their staff, and to
21 ensure that they're able to access their facilities unimpeded,
22 that their consular clients are able to attend to those
23 buildings. So that was the early area of focus for us, and this
24 was primarily done at the working level in the early days.

25 And then the second aspect of our mandate that
26 really started to come into play a little bit later was with the
27 blockades at various border crossings, and particularly, the
28 blockade of the Ambassador Bridge became an enormous area of

1 focus, just because it's such an important crossing, about 25
2 percent of our trade with the United States goes over the
3 Ambassador Bridge. So that's when there started to be an
4 enormous of amount of engagement, particularly with U.S.
5 officials, but also concerns that we started to have about our
6 reputation as an international trading country and as a country
7 that was safe for investment, and that started to come up as we
8 headed into sort of the 7th and 8th of February and thereafter.

9 **MS. SHANTONA CHAUDHURY:** Okay. We'll come back
10 to all of that. My colleague, Ms. Shuhaibar will be asking you
11 some more specific questions about the mission. And I'll be
12 asking you some questions now about the -- your engagement with
13 U.S. officials and what you were hearing. But before we get
14 there, I just want to set the stage contextually a little bit,
15 some things that you brought up in your interview and that are
16 also referred to in the institutional reports and in the
17 documents. So you've mentioned that Ukraine was a crisis the
18 GAC was dealing with at the time as well. And there's a couple
19 of other contextual elements.

20 So, Mr. Clerk, I'll ask you to bring up
21 PB.CAN.0000027. And if you can just scroll down to page 3.
22 There we go.

23 So this is a Tweet from representative Elissa
24 Slotkin that's mentioned several times in the documents we
25 received from GAC. First of all, who is Slotkin; can you tell
26 us?

27 **ADM CYNTHIA TERMORSHUIZEN:** Maybe I'll direct
28 that to Joe Comartin ---

1 **MS. SHANTONA CHAUDHURY:** Sure.

2 **ADM CYNTHIA TERMORSHUIZEN:** --- who knows this
3 better than I do.

4 **MR. JOSEPH COMARTIN:** She's a member of the House
5 of Representatives at the federal level in the United States.
6 As an interesting background, she actually was -- she was posted
7 a number of times in Iraq. She has a military background, and I
8 believe also some association with the CIA at one period of time
9 ---

10 **MS. SHANTONA CHAUDHURY:** Okay.

11 **MR. JOSEPH COMARTIN:** --- in her career. She --
12 but this particular quote, quite frankly, was of concern to us
13 in terms of the context. She was speaking about the impact the
14 blockade was having at one of the Ottawa plants that is in her
15 district.

16 **MS. SHANTONA CHAUDHURY:** Okay. So we'll just
17 take a moment to read through that quote. It's a Tweet, I
18 believe on February 3rd is the date, and it says -- sorry, just
19 scroll up a tiny bit. Thank you.

20 **MR. JOSEPH COMARTIN:** Be later than that.

21 **MS. SHANTONA CHAUDHURY:** "If we needed another
22 example of why supply chains matter,
23 look no further..."

24 It might be the 9th.

25 "The blockade of the Ambassador
26 Bridge..."

27 That's right. Sorry, I think it's the 9th.

28 "...the busiest border crossing in

1 America, is already creating major
2 disruptions for our businesses in
3 Michigan."

4 Just scroll down a little, Mr. Clerk. The next
5 Tweet she says,

6 "Michiganders have been saying for
7 decades that when our manufacturing is
8 outsourced too much, we end up paying
9 the price. It doesn't matter if it's
10 an adversary or an ally -- we can't be
11 this reliant on parts coming from
12 foreign countries.

13 I've been in contact with the White
14 House today about [the] situation,
15 [...] they are closely following these
16 events. We are [...] waiting for [the]
17 Prime Minister Trudeau's way forward."

18 So, yes, thank you for the correction on the
19 date. I believe it's the 9th.

20 And then she goes on to say,

21 "The one thing that couldn't be more
22 clear is that we have to bring American
23 manufacturing back home to states like
24 Michigan. If we don't, it's American
25 workers like the folks at Delta
26 Township who are left holding the bag."

27 So can you tell us a little bit generally about
28 that concept of bringing manufacturing back to the U.S. and what

1 was going on generally in that at the time?

2 **ADM CYNTHIA TERMORSHUIZEN:** So maybe I'll start,
3 and Mr. Comartin might want to add. A couple of different
4 things that I would point to. First, from a Canadian
5 perspective, we were quite concerned because, of course, the
6 blockade at the Ambassador Bridge was happening after two years
7 of COVID, where we already seeing supply chains quite stressed.
8 A lot of businesses were already under considerable strain. And
9 so I think there was a lot of concern on the part of businesses
10 that was exacerbated by that background.

11 The second issue is that we have over many, many
12 years had to fight very hard for access to American markets and
13 also for the supply chains including with respect to the auto
14 industry in Canada. There's a strong trend towards buy America
15 in the United States and also a strong trend among some parts of
16 the U.S. political class to bring manufacturing back to the
17 United States. And so there's an ongoing effort by Global
18 Affairs, by other federal departments, but also by provincial
19 governments and our missions in the United States to continually
20 make the case that Canada is a reliable trading partner and also
21 reliable investment partner. And so that's very much the
22 context behind this.

23 **MS. SHANTONA CHAUDHURY:** So this Tweet would
24 essentially be an example of that bring manufacturing back home
25 sentiment?

26 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely.

27 **MS. SHANTONA CHAUDHURY:** Mr. Comartin, would you
28 have anything to add to that?

1 **MR. JOSEPH COMARTIN:** Well, just that this was
2 the -- her comments were the strongest that we had from any of
3 the elected representatives. I think it reflected, to some
4 degree, the passion she feels for her district, but it also
5 reflects a certain level of ignorance in terms of the
6 relationship, the treaty relationship we have between ourselves,
7 Canada, Canada, U.S. and Mexico, which we'd just gone through,
8 you know, in the previous couple of years, of renegotiating that
9 agreement, and this idea of, you know, bringing back
10 manufacturing to the United States, even from allies, would have
11 been a complete contradiction of that agreement.

12 **MS. SHANTONA CHAUDHURY:** So you're referring to
13 the negotiation of NAFTA?

14 **MR. JOSEPH COMARTIN:** Yes.

15 **MS. SHANTONA CHAUDHURY:** Okay. Okay. Well,
16 let's start looking at some of the specific examples of
17 communications or statements that were made by U.S. officials.
18 I don't know if you want to start, or please do start actually
19 by giving a general overview of what you were hearing, Mr.
20 Comartin.

21 **MR. JOSEPH COMARTIN:** Well, a great deal of
22 concern coming from the elected -- both senators and members of
23 the House of Representatives. I was dealing with those who were
24 from my territory. I think one of the messages was the impact
25 was having on the supply chain. They also were expressing
26 repeatedly, I got messaging to the extent that why isn't Canada
27 doing more. Their analysis was that the three levels of
28 government were not cooperating, didn't have a coordinated plan.

1 That was the kind of perception they had of what was going on.
2 And that was difficult for us to respond to in the first couple
3 of days. Certainly, by the 10th and the 11th, we were able to
4 point out that we were dealing with specific responses.

5 **MS. SHANTONA CHAUDHURY:** Okay. So ---

6 **MR. JOSEPH COMARTIN:** That message was quite
7 strong that they did not see that the -- all levels of
8 government were responding in a coordinated fashion.

9 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can
10 you pull up PB.CAN.00001661?

11 So I appreciate this isn't an email that either
12 of you received. It is your colleague -- Mr. Comartin, I'm
13 sorry, Martin Loken, who's the Deputy Head of Mission, Foreign
14 Policy and National Security at the Canadian Embassy in
15 Washington and he's writing to Jody Thomas whom we've heard is
16 the National Security Advisor and he says at the bottom here:

17 "Concern about Ottawa situation now overshadowed
18 by the blocked Ambassador Bridge and supply chain
19 disruptions to Detroit. There is a sense Canada
20 is not devoting enough resources, human or
21 otherwise, to dislodge the truckers."

22 So is that an example of what you were just telling us about,
23 Mr. Comartin?

24 **MR. JOSEPH COMARTIN:** Yes.

25 **MS. SHANTONA CHAUDHURY:** And that's something
26 that Mr. Logan was hearing and you were hearing as well?

27 **MR. JOSEPH COMARTIN:** Yes, we were hearing that
28 directly from the White House; he was, and I was getting it

1 locally in our -- in my territory.

2 **MS. SHANTONA CHAUDHURY:** And, Ms. Termorshuizen,
3 you were hearing that as well?

4 **ADM CYNTHIA TERMORHUIZEN:** That's right; we were
5 also hearing that directly from the United States Embassy here
6 in Ottawa and then also there were a number of conversations at
7 the ministerial level between various departments where similar
8 concerns were being conveyed.

9 **MS. SHANTONA CHAUDHURY:** And if we can just turn
10 up SSM.CAN.00000442. And just scroll down a little bit, please.
11 So this is a public statement by Governor Whitmer, so that's the
12 Governor of Michigan, I take it?

13 **MR. JOSEPH COMARTIN:** That's correct.

14 **MS. SHANTONA CHAUDHURY:** Okay. And scroll down a
15 little bit. She says at the beginning:

16 "My message is simple; reopen traffic on the
17 bridge."

18 Scrolling down onto the next page:

19 "It is imperative that Canadian local,
20 provincial and national governments de-
21 escalate this economic blockade. They must
22 take all necessary and appropriate steps to
23 immediately safely reopen traffic so we can
24 continue growing our economy, supporting
25 good paying jobs and lowering costs for
26 families."

27 So if I can just ask you -- so this statement, I believe the
28 date was February 9th as well? And this was a public statement

1 made. So in addition to direct communications being made to
2 you, there were politicians making public statements. And what
3 was the purpose of that, do you believe?

4 **ADM CYNTHIA TERMORSHUIZEN:** I think the public
5 statements were very much an opportunity to send a message not
6 only to the Canadian Government, but also I would suspect to
7 their own public to make clear that they were working hard to do
8 something about this situation. I mean the impact of the
9 closure of the Ambassador Bridge was almost immediate,
10 particularly in the auto sector which Mr. Comartin would know
11 better than me, is a critical part of the Michigan economy, and
12 of course of the Ontario economy as well.

13 **MS. SHANTONA CHAUDHURY:** Mr. Comartin, why don't
14 you tell us a bit now about what you were hearing from the auto
15 industry, from who and what they were saying?

16 **MR. JOSEPH COMARTIN:** Well, starting on the --
17 late in the day on the 7th, which is when it first got shut down,
18 we were already hearing from them of having to shut down line
19 production; they were beginning to look at alternate ways of
20 moving the product across, which was primarily going to be -- it
21 turned out they were already looking at it, primarily at the
22 Blue Water Bridge up at Sarnia/Port Huron and at other
23 methodologies of trying to move their product. They were -- I'm
24 trying to wear my diplomat hat here for a second. They were
25 much more aggressive -- is that the right term? They were much
26 more forceful in their comments about the fact that Canada had
27 to get -- you know, get their organization in place and get this
28 stopped right away.

1 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can we
2 pull up SSM.NSC.CAN.0001605? Scroll down to page three, please.

3 Okay. So this is a weekly advocacy report that
4 sort of recaps what happened over the course of February 7th to
5 11th. And the first thing addressed -- essentially it recaps
6 some of the conversations you've had, Mr. Comartin. So I'm
7 hoping you can take us through a few of these with the
8 assistance of the notes here.

9 So the first thing that's mentioned is a call
10 that you had with Congresswoman Brenda Lawrence. And I believe
11 that was in response to a public statement that she had made the
12 day before or earlier, also calling on the Canadian government
13 to do something about the Ambassador Bridge.

14 **MR. JOSEPH COMARTIN:** That is accurate; but it
15 also was -- she had been wanting a call with the Ambassador, our
16 Canadian Ambassador in Washington who was not available at that
17 particular time, so it was offered that I would speak to her
18 initially. I have had several contacts with her before -- you
19 know, worked on a number of items of relative interest to the
20 two jurisdictions. So that's how the call came about.

21 And she did, I believe, subsequently have a call
22 with the Ambassador.

23 The important part about her role, is that both
24 the Ambassador Bridge and the tunnel are in her district, as is
25 the new crossing that's being built currently. So she has a
26 major interest in the impact that this was having. And, again,
27 she had automotive plants and other manufacturing plants that
28 were being negatively impacted already.

1 **MS. SHANTONA CHAUDHURY:** Okay. If we can just
2 scroll down a little bit more, Mr. Clerk. The second call
3 that's mentioned is with Congresswoman Dingell; can you tell us
4 a bit about the context of that one. Can you tell us a bit
5 about the context of that one.

6 **MR. JOSEPH COMARTIN:** Yeah, I've had quite a
7 lengthy contact with her prior to the blockade. I had pushed
8 for this call because she had been on, as it happens, CBC the
9 night before and that would have been on the 10th, and had made
10 some -- which surprised me, quite frankly, because we've always
11 had a close working relationship. And she has with Canada as
12 well. And made some statements that were fairly close to what
13 the statements were that you saw from Elissa Slotkin. So I
14 wanted to raise that with her and so we had a good conversation.
15 I had asked her, in keeping with what calls I had had with
16 Representative Kildee and with Senator Peters that we were
17 seeking from them -- for them when they were talking about this
18 in public, that they would stress the importance of the
19 relationship between Canada and the United States. And she
20 assured me in the course of this conversation that she would
21 attempt to do that going forward.

22 I think the other point at this particular time,
23 so it was easier for me I think to convince her to be
24 sympathetic, was the injunction either had been granted -- I
25 think that call was in the morning; the injunction was granted
26 by the Superior Court in Windsor later that day and I had seen
27 -- I had assured her that I expected it would be a positive
28 order and the injunction would be granted. So, you know, proof

1 positive, I guess, that we were as the jurisdiction, were moving
2 on this.

3 **MS. SHANTONA CHAUDHURY:** Taking some action;
4 okay.

5 And then the next call referred to, just
6 scrolling down a bit, is the Detroit Regional Chamber on
7 February 10th.

8 **MR. JOSEPH COMARTIN:** Yes, President Baruah has
9 been a long-time friend. He is the head of the Detroit Regional
10 Chamber of Commerce which takes in not only the City of Detroit,
11 but a number of the municipalities in southern Michigan. It's
12 the most influential Chamber in the State.

13 And, again, he was speaking forcefully. This was
14 the day before I had told him the injunction had been sought,
15 but it had been ticked over to the following day, but was quite
16 positive and willingness, I guess, to send his messaging out to
17 his membership and to the general public about the importance of
18 the relationship, that it was a strong one and needed to be
19 preserved.

20 **MS. SHANTONA CHAUDHURY:** Okay. And the next
21 series of calls that are mentioned is the OESA and the MEMA.
22 Can you tell us about those conversations, who those are, those
23 organizations, and what was said?

24 **MR. JOSEPH COMARTIN:** They're both basically
25 manufacturing associations. The OESA stands for "Original
26 Equipment Suppliers Association" and then the Motor Equipment
27 Supplies. Again, we've had extensive contact with these
28 associations over the years. They're very knowledgeable of the

1 importance of the supply chain relationship between the two
2 companies. They were -- Ms. Fream in particular was upset; she
3 had raised the concept of the *Emergency Act*, whether it was
4 going to be -- a state of emergency was going to be declared. I
5 don't think she understood the *Act* itself, but wanted that at
6 that point. My information was that it was not being
7 considered; I didn't have any indication to the opposite, and
8 indicated some of the other things that we were doing.

9 Again, this call took place on the 11th, the day
10 the injunction had been granted, and I think this call took
11 place after it was granted, so I was able to say, "We've got
12 that."

13 And at that time, I think I also knew that the
14 province was moving on their emergency legislation as well.

15 **MS. SHANTONA CHAUDHURY:** Okay. So that's
16 February 11th, and you were specifically asked by Ms. Fream
17 whether the Canadian government was planning or intending to
18 invoke emergency legislation, and your information at that time
19 was no?

20 **MR. JOSEPH COMARTIN:** That was what I had to
21 communicate to her.

22 **MS. SHANTONA CHAUDHURY:** Okay. I think in the
23 interests of time we'll leave that document.

24 Can we pull up, Mr. Clerk, PB.CAN.0000038, page
25 1, bottom half? Okay. Yeah, that's exactly where it was
26 supposed to be. Thank you.

27 So this is an email from Stefano Maron. Who's
28 that? Can you identify how Stefano Maron is?

1 **ADM CYNTHIA TERMORSHUIZEN:** He's an employee at
2 our embassy in Washington.

3 **MS. SHANTONA CHAUDHURY:** Okay. And he's writing
4 to Ambassador Hillman, and Mr. Loken and Mr. Comartin are both
5 copied on this.

6 And he's giving an overview of the situation key
7 takeaways, and one of the things he says about midway down that
8 paragraph is, he emphasized the shared nature -- he's talking
9 about a conversation with Representative Kildee. Can you just
10 tell us who Representative Kildee is?

11 **MR. JOSEPH COMARTIN:** He's the representative for
12 one of the districts in Michigan. I think the important thing
13 to know about him in terms of his background is he was a strong
14 proponent of the -- on the side issue a bit -- of the tax
15 credits for the electric batteries and had been strong on
16 pushing this, that those -- these credits were going to be
17 limited to batteries having to be built in the United States as
18 opposed to in Canada and Mexico.

19 So his support that we were trying to get to have
20 them agree that the credit should be granted to vehicles or
21 batteries built in both Mexico and Canada is, his support was
22 really important that we were able to do that, which we
23 eventually did. But at this period of time, it was still up in
24 the air, and so we really needed to get him onside as much as we
25 possibly could.

26 **MS. SHANTONA CHAUDHURY:** Okay. So Representative
27 Kildee is someone that you essentially needed on your side in
28 this battle?

1 **MR. JOSEPH COMARTIN:** Yeah.

2 **MS. SHANTONA CHAUDHURY:** Okay. And what Mr.
3 Loken mentions in this email -- sorry, it's not Mr. Loken, it's
4 Mr. Maron -- mentions in these emails, he emphasized the shared
5 nature of the challenge, referencing American support including
6 through funding for the convoys in Canada, and then the many
7 ways in which the officials are working together.

8 Is that something that you were hearing about as
9 well, American funding, American support for the convoys in
10 Canada?

11 **ADM CYNTHIA TERMORSHUIZEN:** So maybe I'll start,
12 and again, Mr. Comartin may need to add something.

13 But there were a number of concerns, first of
14 all, about American citizens funding through some of the
15 crowdfunding platforms that were being used by the convoy, and
16 in fact, there was information when one of these crowdfunding
17 platforms was hacked, that a very large percentage of the
18 funding was actually coming from U.S. sources. So that was
19 something that I was aware of.

20 And there was also concern about the Ottawa 9-1-1
21 number being flooded and many of the callers were actually from
22 the United States, and this prevented Ottawa Emergency Services
23 from appropriately doing their work.

24 And I believe both of these issues were
25 referenced in the call that took place between President Biden
26 and Prime Minister Trudeau around this time.

27 And I think these were referred to as well in the
28 readout of that call.

1 **MS. SHANTONA CHAUDHURY:** I think that's right,
2 and we'll probably be hearing more about that as the next couple
3 of weeks unfold.

4 For now, I think we've probably -- you've given
5 us a good overview of what you were hearing from the United
6 States, so we're going to move to other countries now.

7 Mr. Clerk, if you can pull up SSM.NSC.CAN00000156
8 please?

9 So this is some material that was prepared for
10 you, Ms. Termorshuizen, skipping a little ahead in time on
11 February 14th, but it gives a bit of a summary of some of the
12 things that were being said.

13 So if we can just scroll down a little bit, Mr.
14 Clerk, to where it says "Top Level Messaging" there?

15 "GAC continues to monitor the situation
16 in the U.S. and around the world.
17 Concerned that the Canadian 'model' is
18 being exported and that the Canadian
19 flag is being misused as a symbol to
20 fuel protests in capitals around the
21 world, eg. France, Belgium,
22 Netherlands, New Zealand."

23 Can you tell us about that, Ms. Termorshuizen,
24 what you were hearing, what was going on?

25 **ADM CYNTHIA TERMORSHUIZEN:** Sure. I mean, one of
26 the things that we are always worried about is Canada's
27 reputation abroad, and that's for a number of reasons.

28 From an economic perspective, we are a very trade

1 and investment-dependent economy. Over 60 percent of the value
2 of our GDP is made up of international trade in goods and
3 services, so we're a particularly trade-dependent country. And
4 so we need to maintain a strong and positive reputation as a
5 place where people can safely trade and invest and do business.

6 And part of that sort of positive trading and
7 investment climate is a climate where the law is respected.

8 And so clearly what we were seeing during this
9 period was a very significant defiance of the law at both
10 significant border crossings and in some of our large cities,
11 including Ottawa.

12 I think we were also really concerned from a
13 broader reputational perspective that our flag was being used in
14 some of these copycat protests that were happening around the
15 world. The flag is a symbol of our country and it was being
16 used, frankly, as a symbol of defiance of the law, and we were
17 quite concerned about those reputational impacts.

18 **MS. SHANTONA CHAUDHURY:** Okay. We're going to
19 come back to some of the copycat protests in this, but I just
20 want to take you to something else right now because it came up.

21 Mr. Clerk, can you pull up SSM.NSC.CAN00000141
22 please?

23 So again, this is some material that I believe
24 was being prepared for you in preparation for DMOC, Ms.
25 Termorshuizen.

26 We'll scroll down a little bit to page 2 please?
27 There we go. "Impact on Canada, the U.S."

28 So this is going to the trade impact that you

1 mentioned.

2 So it says:

3 "There's a high level of U.S. concern
4 on implications on flow of goods,
5 ripple effect of protests across the
6 U.S."

7 Then it says:

8 "Immediate trade impact, 2.4 billion a
9 day, two-way trade, 500 million by
10 Ambassador Bridge alone."

11 And then there's some talk about the longer-term
12 impact and pressure on for near-shoring supply chains.

13 So first of all, was GAC doing its own economic
14 analysis or analysis of trade impact, or where did this
15 information come from; do you know?

16 **ADM CYNTHIA TERMORSHUIZEN:** So I don't know what
17 the exact source of these particular stats were. We do have a
18 chief economist at Global Affairs Canada, and so our chief
19 economist, in particular, one of the areas that she and her team
20 monitor is our international trade performance.

21 And so she will -- she and her team will
22 regularly produce stats on those issues. So these may have come
23 from our chief economist. I can't confirm that.

24 We did not do, to my knowledge, at least, a
25 detailed economic assessment of the specific impact. I believe
26 other departments were doing that, including the Department of
27 Finance and possibly the Department of Transport, but specific
28 economic impact assessments weren't being done, to my knowledge,

1 by Global Affairs Canada.

2 **MS. SHANTONA CHAUDHURY:** Okay. So you have less
3 knowledge of the specifics and more of the broader picture; is
4 that fair?

5 **ADM CYNTHIA TERMORSHUIZEN:** That's right. I
6 mean, we would definitely, as a department, have information on
7 the sort of average daily trade on the scale of the trading
8 relationship with the United States, trade flows, that kind of
9 thing.

10 **MS. SHANTONA CHAUDHURY:** Okay, thank you.

11 Thank you, Mr. Clerk. We'll go back now to
12 SSM.NSC.CAN156.

13 If we can scroll down to page 2, please? Keep
14 scrolling, keep scrolling, okay.

15 So we're talking now about what happened and
16 Wellington being New Zealand, the Super Bowl. Can you just give
17 us a bit of an overview of those concerns, Ms. Termorshuizen?

18 **ADM CYNTHIA TERMORSHUIZEN:** Sure. One of the
19 things that we were monitoring is the extent to which the convoy
20 protests and economic blockades in Canada were being copied, if
21 you will, in other countries. And I would say probably the
22 largest copycat protest that we saw was in Wellington, sort of
23 quite a similar phenomenon of large numbers of protestors
24 entrenching themselves around the Parliamentary precinct in
25 Wellington.

26 We also saw other protests of smaller scale in
27 the Hague, in Paris. There were some smaller ones, I think, in
28 Rome, in Sweden. So we were monitoring these protests.

1 **MS. SHANTONA CHAUDHURY:** Okay. Thank you.

2 Mr. Clerk, next document I'd like to pull up is
3 SSMNSCCAN00000703. So this is again on the topic of concerns
4 being heard from other countries.

5 This is an email sent by Ralph Goodale, so can
6 you just tell us what Mr. Goodale's position is?

7 **ADM CYNTHIA TERMORSHUIZEN:** Yes. Mr. Goodale is
8 Canada's High Commissioner to London, England.

9 **MS. SHANTONA CHAUDHURY:** And he was writing to a
10 number of people at Global Affairs. Can we scroll down, please,
11 Mr. Clerk.

12 "Two themes," he says. Disbelief that this is
13 happening in Canada of all places and no one wants this to
14 become an unwelcome Canadian export as the protests spread
15 elsewhere.

16 Are you familiar with this email?

17 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I am.

18 **MS. SHANTONA CHAUDHURY:** Okay. Can you tell us a
19 little bit about what Mr. Goodale was saying? You have it in
20 front of you for your reference but where this email came from,
21 and what was being expressed and why.

22 **ADM CYNTHIA TERMORSHUIZEN:** So we had asked a
23 number of our missions abroad -- so that's our embassies, high
24 commissions, and consulates general -- to report back if they
25 saw these kind of protests emerging in other countries. So
26 while I can't say exactly what Mr. Goodale was thinking when he
27 wrote this, my interpretation of this is that you know, a lot of
28 people that he was talking with were surprised that in Canada

1 you would see protests like this where there was widespread
2 violation of the law and that this wasn't the kind of protest
3 that people would associate with Canada.

4 And I think also, one of the things that we were
5 talking about at the time was also the significant impact of
6 disinformation on the climate here in Canada and abroad. So
7 that was how I interpreted his message.

8 **MS. SHANTONA CHAUDHURY:** Okay. And if we can
9 just scroll down to the next page, please. It's the last
10 paragraph, the concluding paragraph of Mr. Goodale's email. He
11 says:

12 "Two consequences need to be watched
13 very carefully, the negative economic
14 and reputational impacts and trade
15 disruptions and the possible impression
16 that Canadian police, security and
17 intelligence systems are incapable of
18 responding effectively to blatant
19 large-scale illegal conduct."

20 Elaborate a bit on that concern.

21 **ADM CYNTHIA TERMORSHUIZEN:** So I talked about it
22 a little bit earlier but, you know, from a Canadian government
23 perspective, we always need to ensure that we remain a country
24 that is seen as welcoming to foreign investment, to
25 international trade. Those are really some of the foundations
26 of our economic prosperity. And one of the foundations of being
27 able to have that kind of trade and investment environment is to
28 have the rule of law. And I think there were real concerns as

1 Mr. Goodale is expressing here in his email that perhaps Canada
2 was not able to respond effectively to some of the illegal
3 actions that we were seeing in the protests.

4 And then I think more broadly it's not just about
5 that trade and investment environment. It's also the fact that,
6 you know, Canada wants to protect its reputation more broadly as
7 a country where there is rule of law alongside democracy.

8 **MS. SHANTONA CHAUDHURY:** Okay. The last question
9 I'll ask you in closing has to do specifically with the Section
10 58 explanation provided by the government. It's one line. We
11 can pull it up if you'd like to have it in front of you or I can
12 just read it.

13 **ADM CYNTHIA TERMORSHUIZEN:** Sure.

14 **MS. SHANTONA CHAUDHURY:** Okay. It's COM00000670.
15 Okay. I think it's the bottom of page 1. Yeah, there we go.
16 Bullet number 3 references:

17 "...as part of the justification for the
18 *Emergencies Act*, the adverse effects
19 resulting from the impacts of the
20 blockade on Canada's relationship with
21 its trading partners including the U.S.
22 that are detrimental to the interests
23 of Canada."

24 So the reference there is to its relationship
25 with its trading partners in the plural. Did you hear any
26 concerns directly from trading partners other than the U.S.? or
27 was it primarily the U.S.?

28 **ADM CYNTHIA TERMORSHUIZEN:** So I think the

1 overwhelming focus was the United States. And you know, in part
2 that's because 75 percent of our trade is with the United
3 States. So it's overwhelmingly our largest trading partner.
4 Also, the United States is overwhelmingly our largest investor.
5 About 50 percent of all foreign investment in Canada is from the
6 U.S., so it's not surprising that the U.S. would dominate that
7 conversation.

8 That said, just to give an example, some of the
9 key companies that were directly affected by the blockade at the
10 Ambassador Bridge were actually not U.S. companies. They were
11 Korean and Japanese companies. So both Toyota and Honda
12 experienced immediate effects in Ontario as a result of the
13 blockade and the inability to get parts.

14 So while we didn't hear directly from those
15 countries, clearly those major foreign investors from other
16 countries were directly affected and so we were concerned about
17 the perceptions of other trading partners too in terms of their
18 view of Canada as a safe place to do business.

19 **MS. SHANTONA CHAUDHURY:** Thank you. Those are
20 my questions. I'll turn it over to my colleague now.

21 **--- EXAMINATION IN-CHIEF BY MS. DAHLIA SHUHAIBAR:**

22 **MS. DAHLIA SHUHAIBAR:** Good afternoon. For the
23 record I'm Dahlia Shuhaibar with the Commission. So I have some
24 questions for you, Ms. Termorshuizen, about the missions and
25 embassies in Ottawa.

26 And so you mentioned earlier the Office of
27 Protocol. Can you just explain the ---

28 **COMMISSIONER ROULEAU:** Can you please speak a

1 little bit slower?

2 **MS. DAHLIA SHUHAIBAR:** I'm sorry, yes.

3 Can you explain in a bit more detail what the
4 Office of Protocol is?

5 **ADM CYNTHIA TERMORSHUIZEN:** Sure. So within
6 Global Affairs we have an Office of Protocol that has a number
7 of responsibilities. One of its responsibilities is to support
8 both incoming and outgoing high level visits. So the Office of
9 Protocol supports visits in and outgoing that are related to the
10 Prime Minister or the Governor General and the Ministers of
11 Global Affairs Canada.

12 But it also has a specific responsibility with
13 respect to the diplomatic corps in Canada. So there are about
14 8,000 diplomats accredited to Canada. They're across the
15 country but of course, given that Ottawa is the capital city,
16 they are heavily concentrated in Ottawa and many of the
17 embassies and consulates located across the country would engage
18 with us. There's a whole range of things that we take care of
19 them. We take care of their accreditation. We provide advice,
20 help with a lot of the documentation for them, and we have, as I
21 mentioned earlier to you colleague, a very specific
22 responsibility to the diplomatic presence here in Canada under
23 the Vienna Convention on Diplomatic Relations. And that governs
24 all of our obligations under international law with respect to
25 diplomats here in Canada.

26 **MS. DAHLIA SHUHAIBAR:** Okay. I understand that
27 the office was receiving some complaints from missions during
28 this period. Can you elaborate on those?

1 **ADM CYNTHIA TERMORSHUIZEN:** That's correct. So
2 we have a mechanism whereby embassies or any diplomatic presence
3 or diplomat can lodge formal complaints or concerns with the
4 Office of Protocol. And we have on record a number of embassies
5 based in Ottawa raising concerns about the impact of the convoy
6 protest in Ottawa on their ability to function effectively.

7 I should also note that in addition to that
8 formal channel with the Office of Protocol there are also
9 informal channels of communication with our geographic branches
10 in Global Affairs Canada. So we have branches that are
11 responsible for Europe and the Middle East, for Africa, for
12 North America, and for Asia Pacific. And so there are daily
13 conversations between missions in those parts of the department,
14 and we wouldn't necessarily have formal records, but we do
15 understand that there were also complaints lodged through those
16 more informal mechanisms.

17 **MS. DAHLIA SHUHAIBAR:** So did they have any
18 security concerns? Or what kind of concerns did they have in
19 particular?

20 **ADM CYNTHIA TERMORSHUIZEN:** So we heard a range
21 of concerns. A lot of the concerns were around access. It was
22 very hard to get in with -- into the downtown core with any kind
23 of vehicle, personal or otherwise. There were a lot of concerns
24 about noise, which I think were quite similar to what you heard
25 about from Ottawa residents earlier on in the Commission's
26 proceedings. Also concerns about fumes.

27 And then we, of course, were also concerned about
28 the ability of staff to access their offices, and also for

1 consular clients to access their offices.

2 **MS. DAHLIA SHUHAIBAR:** And I believe you raised
3 these concerns at the DMOCC meetings? Is that right?

4 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I did.

5 **MS. DAHLIA SHUHAIBAR:** I'd like to pull up
6 SSM.NSC.CAN00000155.

7 So just for context, I believe the Office of
8 Protocol sent three notice submissions during this period?

9 **ADM CYNTHIA TERMORSHUIZEN:** Yes, that's my
10 understanding as well.

11 **MS. DAHLIA SHUHAIBAR:** Yeah. So this is the
12 third one from February 9th.

13 And if we could just look at the part in red? So
14 if you scroll down a little bit? Oh, it's not around this
15 situation. Okay. The paragraph starting "The RCMP..." So:

16 "The [RCMP] has advised the Office of
17 Protocol that it currently has no specific
18 concerns for diplomatic missions in
19 connection with this event from a
20 protective policing..."

21 **COMMISSIONER ROULEAU:** Can you slow down again,
22 please?

23 **MS. DAHLIA SHUHAIBAR:** Yeah, excuse me. Sorry.

24 "...has no specific concerns for diplomatic
25 missions in connection with this event
26 from a protective policing perspective."

27 So were you aware of this assessment from the
28 RCMP?

1 **ADM CYNTHIA TERMORSHUIZEN:** Yes. So maybe a
2 couple of things to clarify. The RCMP can probably speak to
3 this better than I can. Usually the concerns of both Embassies
4 and Consulates, and frankly our own protocol people, is around
5 demonstrations that are focused on a particular Embassy. So
6 you'll see protests because of a certain country's policies or
7 activities and there are demonstrations like that quite
8 regularly. And so we would count on the RCMP to provide
9 protective policing, if those demonstrations were to the point
10 that we were concerned about the security of that particular
11 facility.

12 What was, I think, quite interesting about the
13 convoy protest is they weren't directed at diplomatic missions
14 at all. In fact, we were obviously concerned about the safety
15 of diplomatic premises, but we never had any indication that
16 Embassies or official residences of Ambassadors were the target
17 of any of the issues. I think a lot of our concerns were more
18 like the concerns that we heard from regular Ottawa citizens,
19 which was their safety on the street, we were concerned about
20 potential harassment because I think we had heard about many
21 cases where that had happened with public servants, with Ottawa
22 residents. And so under international law, we have a particular
23 responsibility to ensure the safety and security of Diplomats.
24 And so it was that broader context that we were concerned about.

25 **MS. DAHLIA SHUHAIBAR:** And would you say that
26 Canada was unable to fulfil its obligations under the Convention
27 during this time?

28 **ADM CYNTHIA TERMORSHUIZEN:** I think it's fair to

1 say that we were concerned that we would be unable to fulfil our
2 responsibilities. And I think as the convoy went on longer, and
3 there were more and more stories about assaults on the street,
4 about unlawful conduct, an unwillingness to comply with
5 injunctions and so on, that concern just continued to rise over
6 time.

7 **MS. DAHLIA SHUHAIBAR:** So I'd like to switch to a
8 different topic, which is the invocation of the *Emergencies Act*.
9 So when did you become aware that it would be
10 invoked?

11 **ADM CYNTHIA TERMORSHUIZEN:** I became aware of
12 when it would be invoked, I think it was the day of.

13 **MS. DAHLIA SHUHAIBAR:** So was GAC providing any
14 input on that or advise to invoke it? That kind of thing?

15 **ADM CYNTHIA TERMORSHUIZEN:** So the input that we
16 provided was through a number of different channels. So it was,
17 first of all, through these DMOCC committees. You know, each
18 day we would do a tour de table and provide inputs from various
19 departments' perspectives and share information.

20 So each day, I would provide inputs on what we
21 were hearing from diplomatic missions, what we were hearing from
22 trading partners, from businesses, and so on. So that was one
23 channel.

24 We also provided reporting in to the Privy
25 Council Office on issues under Global Affairs Canada's mandate,
26 and then we also provided information, where appropriate, to the
27 Government Operations Centre.

28 So for instance, our Rapid Response Mechanism,

1 which is referred to in some of our documents, provided its
2 input through the operations -- the Government Operations
3 Centre.

4 So in answer to your question, yes, we were
5 providing input in through various channels that may have
6 informed the decision making.

7 **MS. DAHLIA SHUHAIBAR:** Since you mentioned RRM
8 Canada, I actually had some questions about that.

9 **ADM CYNTHIA TERMORSHUIZEN:** Okay.

10 **MS. DAHLIA SHUHAIBAR:** Could you just explain
11 what that is in general terms?

12 **ADM CYNTHIA TERMORSHUIZEN:** Sure. So RRM stands
13 for the Rapid Response Mechanism. So this was something that
14 was agreed to at the G7 leaders meeting in 2018 in Charlevoix
15 when Canada was the host.

16 And the mandate of the RRM was really to identify
17 and respond to threats from foreign state actors on G7
18 democracies. And we were particularly focused on threats
19 oriented towards democratic institutions and processes, towards
20 -- threats towards our media and our social media and online
21 environment, and then also threats to the exercise of human
22 rights and freedoms. So this was really, I want to stress,
23 about foreign state actor threats to our democracy.

24 **MS. DAHLIA SHUHAIBAR:** So I understand that RRM
25 Canada produced several reports during this period. I'd like to
26 pull one up. It's SSM.NSC.CAN00000169. This is from February
27 14th.

28 If we look at the key findings, the first one

1 says:

2 "RRM Canada has not seen evidence of
3 significant foreign state sponsored
4 involvement in the online information
5 space to date."

6 So were you seeing these reports at the time?

7 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I was.

8 **MS. DAHLIA SHUHAIBAR:** And was this -- when they
9 speak of "significant foreign state sponsored involvement" can
10 you expand on that? I think you've touched on that already, but
11 what were they looking for?

12 **ADM CYNTHIA TERMORSHUIZEN:** So because the
13 mandate of the RRM is to really focus on foreign state sponsored
14 threats to democracy, that's really what the RRM looks like --
15 sorry, looks at.

16 So the RRM uses tools that would be publicly
17 available to do analysis of social media. And its focus is
18 really on identifying are their foreign state actors that are
19 introducing disinformation, are they amplifying certain messages
20 in order to mislead or deceive, et cetera.

21 **MS. DAHLIA SHUHAIBAR:** And were these reports
22 shared with other departments during this time as well?

23 **ADM CYNTHIA TERMORSHUIZEN:** Yes. So these
24 reports were fed in to the Government Operations Centre and
25 while I didn't share these reports in their entirety with DMOCC,
26 I did provide some of the sort of top line messaging from time
27 to time at DMOCC meetings.

28 **MS. DAHLIA SHUHAIBAR:** I'd like to return to just

1 another few questions about the *Emergencies Act* itself. And
2 just when we looked at the section 58 explanation before, it
3 talks about the adverse affects on trade corridors,
4 international border crossings, and Canada's relationship with
5 its trading partners.

6 Can you comment on how the measures were designed
7 to address those concerns?

8 **ADM CYNTHIA TERMORSHUIZEN:** I wasn't really
9 involved in the design of the measures, so I don't really think
10 I can speak to that question, unless I'm misunderstanding the
11 question.

12 **MS. DAHLIA SHUHAIBAR:** No, that's okay. How did
13 they affect the concerns, I suppose? Were they effective in the
14 end, these measures?

15 **ADM CYNTHIA TERMORSHUIZEN:** So -- and again,
16 maybe Mr. Comartin will have additional points to add, but I
17 would say that the response from many of our particularly U.S.
18 interlocutors as a sense of relief. After those measures had
19 been invoked, the concerns about particularly the economic
20 blockades at border crossings, and not just the Ambassador
21 Bridge, but it was Emerson, it was Coutts, it was the border
22 crossing near Surrey in B.C., and then concerns that some of
23 these would reoccur. And so I think the sense of relief was
24 palpable amongst many of our interlocutors in the United States
25 at both the political level, also the business associations, and
26 amongst unions.

27 **MS. DAHLIA SHUHAIBAR:** Do you have anything to
28 add, Mr. Comartin? Like, did you hear from stakeholders?

1 **MR. JOSEPH COMARTIN:** Not so much at that
2 immediate period of time, but subsequently over the next few
3 weeks, few months, the same point my colleague has raised of
4 that sense of relief and a -- I think a conviction that Canada
5 was not prepared to let this happen again, to the extent that
6 they would move to invoke that type of legislation. So that
7 messaging was fairly clear but it sort of drifted in over a
8 period of time. It wasn't immediate.

9 **MS. DAHLIA SHUHAIBAR:** And did the measures
10 ultimately resolve the concerns that Missions Ottawa had as
11 well?

12 **ADM CYNTHIA TERMORHUIZEN:** Yes. I mean I think
13 with the -- following the invocation of the *Emergency Act* and
14 the enforcement action that happened, the convoy protests were
15 cleared and Missions could go about their usual business and our
16 concerns about being able to uphold our responsibilities under
17 the Vienna Convention were allayed.

18 **MS. DAHLIA SHUHAIBAR:** I think I'm just about out
19 of time, so just a general question; is there anything I haven't
20 raised that you would like to raise for today?

21 **ADM CYNTHIA TERMORHUIZEN:** I think maybe one
22 thing I just want to add with respect to the point about the RM.
23 While we did not see significant amounts of foreign interference
24 or foreign state, interference in the convoys, I think it's fair
25 to say that there was a real underlying environment of
26 disinformation that had been profoundly exacerbated during the
27 two years of the Covid pandemic. And in fact during the Covid
28 period we saw extensive information and data from the analysis

1 that we did of significant disinformation efforts by foreign
2 states. So that underlying disinformation environment was I
3 think a really important factor for us in looking at and trying
4 to understand what was happening around the convoys. Thank you.

5 **MS. DAHLIA SHUHAIBAR:** Anything you'd like to
6 add, Mr. Comartin?

7 **MR. JOSEPH COMARTIN:** Yeah, maybe just to
8 emphasize the -- and, again, I'm speaking particularly in my
9 territory. When the blockade hit, it hit at a really crucial
10 time, both in terms of what was going on in the auto
11 manufacturing sector, the types of development that's coming;
12 we're going to build a whole new supply chain in order to have
13 the electric vehicles come on line. And Canada has the
14 potential to play a great role in that. That was jeopardized by
15 this blockade. I think we've been able to put most of it to bed
16 now, but it was a high risk period of time for that to occur,
17 especially coming out of the pandemic when the manufacturing
18 sector had been so hard hit. It was just a very difficult time
19 to be able to convince our U.S. partners that we were serious
20 about being their partner on an ongoing basis as we have
21 historically.

22 **MS. DAHLIA SHUHAIBAR:** Thank you very much; those
23 are my questions.

24 **COMMISSIONER ROULEAU:** Okay. So can we now go on
25 with the cross-examinations for the Convoy organizers. You're
26 up first.

27 **--- CROSS-EXAMINATION BY MR. BRENDAN MILLER:**

28 **MR. BRENDAN MILLER:** Good evening.

1 **ADM CYNTHIA TERMORHUIZEN:** Good evening.

2 **MR. BRENDAN MILLER:** My name is Brendan Miller;
3 I represent "Freedom Corp" which is an entity that represents
4 the protestors that were in Ottawa on January and February of
5 2022.

6 So I take it, given your positions with respect
7 to international affairs and all of that, your focus in the
8 protest was more dealing with the protests that were occurring
9 at essentially border passings, et cetera, with respect to
10 commercial trucks and vehicles being able to come in and leave
11 Canada; correct?

12 **ADM CYNTHIA TERMORHUIZEN:** I would say that
13 Global Affairs Canada was particularly interested in the border
14 crossings and the economic blockades that were happening there,
15 but also in the convoy protests here in Ottawa given the
16 concerns we had with respect to diplomatic missions in the
17 downtown core.

18 **MR. BRENDAN MILLER:** Right. And I take it that,
19 at least from reviewing some of the records et cetera, that the
20 concern with the diplomatic missions was not that the protest
21 was interfering with the missions, but that it inconvenienced
22 some of the diplomats; is that fair?

23 **ADM CYNTHIA TERMORHUIZEN:** No, I wouldn't agree
24 with that characterization; it wasn't just a matter of
25 inconvenience. As I mentioned to Commission Council, the
26 Government of Canada has an obligation under the Vienna
27 Convention to ensure the safety and security of diplomats here
28 in Canada and to ensure that they are able to carry out their

1 functions without undue difficulty. So we were concerned about
2 being able to fulfill that obligation and I think, given the
3 context in the downtown core, the concern as more than one of
4 just inconvenience.

5 **MR. BRENDAN MILLER:** Right. And it's fair to
6 say that not a single diplomat from a foreign state was
7 physically assaulted by a protestor; correct?

8 **ADM CYNTHIA TERMORHUIZEN:** I am not aware of
9 physical assaults, but we were always concerned about that
10 possibility given the reports that we had heard of quite a
11 number of physical assaults during that period.

12 **MR. BRENDAN MILLER:** Well, this Commission has
13 heard evidence with respect to physical assaults during the
14 period of the protest, that there was a total of five charges,
15 in total. So that's from the beginning of the protest until the
16 end. And I understand your concern, but you have no evidence
17 that any diplomat was physically assaulted by the protestors in
18 Ottawa; is that correct?

19 **ADM CYNTHIA TERMORHUIZEN:** That is correct.

20 **MR. BRENDAN MILLER:** Thank you. And I also
21 understand that you have no evidence that any of the protestors
22 in downtown Ottawa verbally threatened to harm any of the
23 diplomats; is that correct?

24 **ADM CYNTHIA TERMORHUIZEN:** That is correct. And
25 it was always a concern that that might happen and, hence, our
26 concern about being able to live up to our Vienna Convention
27 obligations.

28 **MR. BRENDAN MILLER:** Right. And it's not like a

1 situation, for example, in 1970 during the FLQ crisis, where a
2 diplomat was murdered and another one kidnapped where they
3 actually invoked the *War Measures Act*. That wasn't -- you were
4 concerned about maybe someone might threaten a diplomat?

5 **ADM CYNTHIA TERMORSHUIZEN:** We were concerned
6 about being able to comply with our international legal
7 obligations.

8 **MR. BRENDAN MILLER:** Under the Vienna Convention?

9 **ADM CYNTHIA TERMORSHUIZEN:** Correct.

10 **MR. BRENDAN MILLER:** Right, okay. And I take it
11 with respect to the -- just turning your mind now to the border
12 blockades, the information that you have you said there was no
13 actual report done with respect to the losses that were suffered
14 with respect to the blockades causing those losses; is that
15 fair? The Government has never done a full tally of what was
16 the economic ramifications of the blockades; is that fair?

17 **ADM CYNTHIA TERMORSHUIZEN:** I never said that; I
18 only said that Global Affairs Canada did not do that analysis.

19 **MR. BRENDAN MILLER:** All right. And is it fair
20 that Stats. Canada has, and they concluded that all it did was
21 inconvenience the truckers and in fact -- or the people crossing
22 the borders and any imports and they simply had to use other
23 ports?

24 **ADM CYNTHIA TERMORSHUIZEN:** I haven't seen any
25 Stats. Can data; what I would say is, that there were multiple
26 impacts, including factories having to close down and I think as
27 my colleague and I have both mentioned, there were an enormous
28 number of concerns about the economic impacts, particularly on

1 the auto sector and there were long term implications that we
2 were very concerned about, about Canada's reputation as a trade
3 and investment destination.

4 **MR. BRENDAN MILLER:** Does the undermining of
5 Canada's reputation and protests in Canada, in your view, is
6 that a security threat under section 2 of the *CSIS Act*?

7 **ADM CYNTHIA TERMORHUIZEN:** So I'm not an expert
8 on section 2 of the *CSIS Act*. Our primary interest, from a
9 Global Affairs Canada perspective when it comes to security, is
10 really thinking about our economic security. And when you
11 consider that the International Trade and Goods and Services is
12 valued at over 60 per cent of GDP, we were actually very
13 concerned about the economic security of this country.

14 **MR. BRENDAN MILLER:** Right. And the country's
15 reputation; right?

16 **ADM CYNTHIA TERMORHUIZEN:** Yes.

17 **MR. BRENDAN MILLER:** Okay. So how was the
18 country's reputation when various Ministers and the Prime
19 Ministers -- the Prime Minister announced that there was foreign
20 funding coming the United States and that this was undermining
21 Canadian democracy. And I've seen in the disclosure and others,
22 that -- wasn't the United States, some sitting members of their
23 Government, including their Ministries, weren't they a little
24 upset about that when it was accused that the U.S. was financing
25 this protest; weren't they upset? I understood they were.

26 **ADM CYNTHIA TERMORHUIZEN:** I can't speak to the
27 views of all members of the U.S. administration; I can just say
28 that there were a number of conversations that were had by

1 Canadian Government officials, including the Prime Minister,
2 where there were actually concerns about U.S. funding through
3 the platforms that we had discussed earlier.

4 **MR. BRENDAN MILLER:** Right. And you know, you
5 can agree with me that there's nothing wrong with a Canadian
6 donating to an American cause and an American donating to a
7 Canadian cause with respect to funding protests or charities?
8 There's nothing illegal about that, is there?

9 **ADM CYNTHIA TERMORSHUIZEN:** I think the concern
10 was that some of the activities of the protesters were illegal.

11 **MR. BRENDAN MILLER:** Right. And you're saying
12 that was illegal was the blockade, correct?

13 **ADM CYNTHIA TERMORSHUIZEN:** Yes, the blockades --
14 -

15 **MR. BRENDAN MILLER:** Right.

16 **ADM CYNTHIA TERMORSHUIZEN:** --- were illegal.

17 **MR. BRENDAN MILLER:** Right. And the being in
18 downtown Ottawa?

19 **ADM CYNTHIA TERMORSHUIZEN:** It wasn't a matter of
20 being in downtown Ottawa that was illegal per se. In fact, I
21 think in this democracy, we fiercely protect the ability to
22 peacefully and lawfully protest. It was the matter of the
23 illegal aspects that were a concern.

24 **MR. BRENDAN MILLER:** So what was the illegal
25 aspect to you of the protests in downtown Ottawa? Can you tell
26 me what the illegal aspect it is that you're referring to?

27 **ADM CYNTHIA TERMORSHUIZEN:** I think that on
28 matters of what particular aspects were illegal, it is probably

1 better to speak to other witnesses.

2 **MR. BRENDAN MILLER:** We have, and I'm still
3 confused.

4 So what is your understanding, your personal
5 understanding of what the illegal activities in downtown Ottawa
6 were?

7 **ADM CYNTHIA TERMORSHUIZEN:** I think this is
8 probably a question that is better directed to other witnesses.

9 **MR. BRENDAN MILLER:** So you were concerned about
10 Canada's reputation due to illegal activity in downtown Ottawa,
11 but you don't know what that activity is; is that correct?

12 **ADM CYNTHIA TERMORSHUIZEN:** It's not a matter of
13 not knowing. It is a matter of others being better placed to
14 speak to this.

15 **MR. BRENDAN MILLER:** Right. Thank you.

16 **COMMISSIONER ROULEAU:** Okay. Next, the City of
17 Windsor.

18 **MS. JENNIFER KING:** Good evening. My name is
19 Jennifer King. I'm legal counsel to the City of Windsor. Our
20 questions have already been canvassed. We have no further
21 questions. Thank you.

22 **COMMISSIONER ROULEAU:** The Democracy Fund JCCF?

23 **--- CROSS-EXAMINATION BY MR. HATIM KHEIR:**

24 **MR. HATIM KHEIR:** Good afternoon. I am Hatim
25 Kheir, counsel for the Justice Centre for Constitutional
26 Freedoms.

27 **ADM CYNTHIA TERMORSHUIZEN:** Good afternoon.

28 **MR. HATIM KHEIR:** In the interests of time, I'm

1 going to focus my questions on you, Ms. Termorshuizen.

2 So you said in your testimony in-chief something
3 to the effect that it's important that Canada be seen as
4 welcoming to investment. Would you agree with that statement?

5 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

6 **MR. HATIM KHEIR:** And maintaining that reputation
7 involves being known as the kind of country where it has
8 conditions that are favourable to investors?

9 **ADM CYNTHIA TERMORSHUIZEN:** That's correct.

10 **MR. HATIM KHEIR:** Okay. So taking a step back
11 from Canada specifically, would you agree that as a general
12 principle, one of the things that investors look for is
13 stability?

14 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

15 **MR. HATIM KHEIR:** That includes social stability?

16 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

17 **MR. HATIM KHEIR:** Economic stability?

18 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

19 **MR. HATIM KHEIR:** Legal and political stability?

20 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

21 **MR. HATIM KHEIR:** And that's true, because in
22 many countries, there's political instability that can affect
23 people's legal rights, for example, their property rights,
24 correct?

25 **ADM CYNTHIA TERMORSHUIZEN:** I'm not sure what
26 you're referring to, but I would say that yes, there are
27 countries where there is political or other instability and that
28 makes investments more risky.

1 **MR. HATIM KHEIR:** Right. And you know, the kind
2 of situation where the political instability in a country might,
3 for example, affect the property interests of an investor would
4 make that undesirable to the investor, right?

5 **ADM CYNTHIA TERMORSHUIZEN:** Well, I think, for
6 instance, if you have a country where you're making a major,
7 say, mining investment and you have significant instability and
8 you maybe can't access that mine -- this happens in some
9 countries -- that would be an example of the kind of stability
10 you'd be looking for.

11 **MR. HATIM KHEIR:** All right. And would you agree
12 that investors would be hesitant to invest somewhere where their
13 property might be subject to confiscation without judicial
14 authorization, for example?

15 **ADM CYNTHIA TERMORSHUIZEN:** In terms of
16 investors, yes, I would say so.

17 **MR. HATIM KHEIR:** And the same would be true for
18 seizure or freezing without judicial authorization?

19 **ADM CYNTHIA TERMORSHUIZEN:** For investments, yes.

20 **MR. HATIM KHEIR:** Now, under the Emergency
21 Economic Measures, the bank accounts of protesters and donors
22 could be frozen without prior judicial authorization. Don't you
23 think that that could affect their confidence in Canada as a
24 place to make their investments?

25 **ADM CYNTHIA TERMORSHUIZEN:** I wouldn't say so. I
26 think that what you had was illegal conduct by individuals and
27 therefore, actions taken in response to that illegal conduct.
28 That is not a corollary to a law-abiding investor.

1 **MR. HATIM KHEIR:** But prior to the declaration of
2 emergency, there wasn't a law that authorized the freezing of
3 those bank accounts, right?

4 **ADM CYNTHIA TERMORSHUIZEN:** There was illegal
5 conduct at the time.

6 **MR. HATIM KHEIR:** So the Emergency Economic
7 Measure, was it necessary to take that action then?

8 **ADM CYNTHIA TERMORSHUIZEN:** I think others are
9 best placed. That is not a Global Affairs Canada area of
10 expertise, nor is it my area of expertise.

11 **MR. HATIM KHEIR:** But don't you think that
12 responding to a political protest by extrajudicially preventing
13 people from accessing their own funds would deter people from
14 wanting to place their money in the Canadian financial system?

15 **ADM CYNTHIA TERMORSHUIZEN:** I think that that is
16 -- I couldn't really speak to that, but I think investors would
17 be looking at much broader considerations in making decisions to
18 invest in a particular country.

19 **MR. HATIM KHEIR:** So you don't think that
20 subjecting property rights and the financial system really as a
21 whole to rules made without legislative deliberation or any sort
22 of judicial pre-authorization system would concern a potential
23 investor?

24 **ADM CYNTHIA TERMORSHUIZEN:** Again, I think the
25 *Emergencies Act* is a very special consideration that, to my
26 knowledge, is not applied to investors.

27 **MR. HATIM KHEIR:** Now, one of the things you
28 stated is that the *Emergencies Act* sent a message to investors

1 that Canada was doing something about the protests, but that
2 same message could have been sent by other federal government
3 action, couldn't it have?

4 **ADM CYNTHIA TERMORSHUIZEN:** So I think that on
5 the *Emergencies Act*, I can't really speak to what other measures
6 you're referring to. I think the reality is that there were a
7 lot of concerns, particularly on the part of some of the U.S.
8 entities that we spoke to that in fact, the economic blockades
9 at border crossings were continuing and there was a tremendous
10 amount of concern on the part of U.S. officials and businesses,
11 unions, that there weren't effective measures being taken to end
12 those blockades.

13 **MR. HATIM KHEIR:** But successful police
14 enforcement would have assuaged those concerns, wouldn't it?

15 **ADM CYNTHIA TERMORSHUIZEN:** I would simply say
16 that it's kind of a counter-factual point. The reality is that
17 that hadn't been possible so certainly, in our conversations
18 with U.S. interlocutors, there was a sense of relief once those
19 blockades were ended.

20 **MR. HATIM KHEIR:** Well, we've heard from police
21 witnesses that the protests would have been cleared even had the
22 *Emergencies Act* not been invoked, and you have no reason to
23 believe, for the purposes of Global Affairs' responsibilities,
24 that the *Emergency Act* would have been necessary for other
25 reasons then, do you?

26 **ADM CYNTHIA TERMORSHUIZEN:** I can only say that
27 not being an expert on the *Emergencies Act* itself, that the
28 clearance of the blockades was greeted with relief.

1 **MR. HATIM KHEIR:** Right. But what I'm asking is
2 that given that we've heard from police or the experts in
3 policing matters that they've said that they could respond to
4 the protest without the *Emergencies Act*, for the purposes of
5 matters directly under the concern of Global Affairs Canada, the
6 *Emergency Act* wasn't necessary for something outside of policing
7 the protest, correct?

8 **ADM CYNTHIA TERMORSHUIZEN:** I've already answered
9 your question.

10 **MR. HATIM KHEIR:** Okay. No further questions.
11 Thank you.

12 **COMMISSIONER ROULEAU:** Okay. Thank you.
13 Next is the Ottawa Coalition.

14 **MS. EMILIE TAMAN:** Good evening, Commissioner.
15 We don't have any additional questions. Thank you. Emilie
16 Taman, for the record.

17 **COMMISSIONER ROULEAU:** Okay. Next is OPP.

18 **MR. CHRISTOPHER DIANA:** Good evening,
19 Commissioner. Chris Diana for the OPP. We also have no
20 questions. Thank you.

21 **COMMISSIONER ROULEAU:** The Windsor Police
22 Service?

23 You're ---

24 **MR. THOMAS McRAE:** Sorry, my video's not
25 starting. Tom McRae for the Windsor Police Service. We have no
26 questions. Thank you.

27 **COMMISSIONER ROULEAU:** Okay. Next is the
28 Government of Canada.

1 --- CROSS-EXAMINATION BY MR. BRENDAN van NIEJENHUIS:

2 **MR. BRENDAN van NIEJENHUIS:** Thank you,
3 Commissioner.

4 Ms. Termorshuizen and Mr. Comartin, my name is
5 Brendan van Niejenhuis and I'm counsel for the Government of
6 Canada.

7 And I just wanted to follow up on a few of the
8 items you were asked about by my friends.

9 First of all Ms. Termorshuizen, it was suggested
10 -- sorry, you suggested that others were likely to be better
11 placed than you to answer questions from my friends for the
12 convoy organizer group and the JCCF about specific laws being
13 breached and about whether the *Emergencies Act* was necessary.
14 Do you recall that?

15 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

16 **MR. BRENDAN van NIEJENHUIS:** Was the prospective
17 of threat to the reputation of Canada, into the economic
18 security of Canada that you've spoken about, was that simply
19 GAC's input into a broader consideration of that latter
20 question?

21 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely. Global
22 Affairs Canada has a certain mandate focused on a number of
23 issues and there are obviously a large number of players who fed
24 into decisions around this matter.

25 **MR. BRENDAN van NIEJENHUIS:** I wonder if we could
26 pull up PB.CAN.000016 -- actually, sorry, we don't need this
27 reference.

28 Mr. Comartin, I think you'll probably recall

1 this. You've described your call on February the 11th with
2 Representative Debbie Dingell of Michigan's 12th district. And
3 you recall that that was the day of the Windsor injunction being
4 granted; right?

5 **MR. JOSEPH COMARTIN:** That's correct.

6 **MR. BRENDAN van NIEJENHUIS:** And what I will ask
7 to call up, and we'll come to it in a moment, but I'll call it
8 up now, is PB.CAN.00001802.

9 And just coming back to your conversation with
10 Representative Dingell, I believe you said that it was
11 reassuring to her that -- either that this injunction was being
12 pursued and would soon be decided, or possibly that it had
13 already been granted by the time that you spoke?

14 **MR. JOSEPH COMARTIN:** That's correct also.

15 **MR. BRENDAN van NIEJENHUIS:** And but why was that
16 reassuring to her?

17 **MR. JOSEPH COMARTIN:** Again, going back to the
18 comments she had made the night before, and as it happens, she
19 was obviously concerned about the relationship and the long-term
20 impact it would have -- the blockade would have on that
21 relationship. And at that point in time, it was not at all
22 clear that it was going to be resolved quickly. So when I was
23 speaking to her the following day, I was able to give her
24 reassurance that in fact it was going to be resolved quickly at
25 that border crossing.

26 **MR. BRENDAN van NIEJENHUIS:** And I think it was
27 also on the 11th, and you more specifically recalled when you
28 testified earlier about it, that the injunction had been granted

1 in Windsor by this time when you had a call with representatives
2 of the OESA and the EMA. Do you recall that?

3 **MR. JOSEPH COMARTIN:** That's correct.

4 **MR. BRENDAN van NIEJENHUIS:** And those are
5 significant manufacturer trade organizations?

6 **MR. JOSEPH COMARTIN:** They are. And they have a
7 long history of working very closely with companies on the
8 Canadian side.

9 **MR. BRENDAN van NIEJENHUIS:** And were they too
10 relieved that the injunction had been granted in Windsor for the
11 same reasons as representative Dingell?

12 **MR. JOSEPH COMARTIN:** They were, but they were
13 also concerned about reoccurrences, which was when the *Emergency*
14 *Act* issue got raised by Ms. Freeland.

15 **MR. BRENDAN van NIEJENHUIS:** Could we go then to
16 that multimedia file at PB.CAN.1802 at the 2:22 mark, please?

17 (VIDEO PLAYBACK)

18 Did you hear the gentleman express the prediction
19 or opinion that the protestors at the Windsor blockade would not
20 in fact obey the injunction granted by Justice Morawetz?

21 **MR. JOSEPH COMARTIN:** I did.

22 **MR. BRENDAN van NIEJENHUIS:** And was that the
23 case, sir? Did the protestors there at the Windsor blockade
24 obey the injunction as of February the 11th?

25 **MR. JOSEPH COMARTIN:** Well certainly, you know,
26 we heard a lot of this evidence last week from both the OPP and
27 the Windsor Police Services, that it took another 24 hours
28 before it really began to permeate, and certainly by the end of

1 the day, the 48 hours, it was over. So ultimately, it did.

2 The final group that was there was very small. I
3 think there were 30, 40, 50 people maybe, as opposed to the
4 hundreds that had been there before. But by the end of the day
5 on the Sunday the 13th, there were very few people left, so I
6 think both the injunction and the *Emergency Act* invocation by
7 the Province had its desired effect.

8 **MR. BRENDAN van NIEJENHUIS:** Okay. Now, when you
9 speak of the *Emergencies Act*, you're speaking of the Federal Act
10 or the Provincial?

11 **MR. JOSEPH COMARTIN:** The Provincial Act.

12 **MR. BRENDAN van NIEJENHUIS:** I see.

13 **MR. JOSEPH COMARTIN:** It was invoked on the
14 Friday afternoon, shortly after the injunction was granted.

15 **MR. BRENDAN van NIEJENHUIS:** That's -- I believe
16 that's what the evidence shows, that that was invoked as well on
17 the 11th.

18 **MR. JOSEPH COMARTIN:** That's correct.

19 **MR. BRENDAN van NIEJENHUIS:** I think at 9:30 in
20 the morning.

21 But am I mistaken, sir, that the Public Order
22 Operation actually wasn't able to commence until the 12th and it
23 took still 24 hours from there?

24 **MR. JOSEPH COMARTIN:** We did not know what the --
25 you know, what the actual implementation of the new rules under
26 the Provincial *Emergency Act* would be until the following day.

27 **MR. BRENDAN van NIEJENHUIS:** Were you aware of
28 concerns from your American counterparts at all with respect to

1 a continued concern such as the one expressed by the OESA and
2 MEMA about reoccurrence?

3 **MR. JOSEPH COMARTIN:** I think that the one that I
4 can probably think of would be the Chief Legal Counsel for the
5 Governor of Michigan. He and I were having regular
6 conversations on this and a number of other issues. But he
7 certainly raised it about, you know, are we able to give them
8 assurances that this was the actual end of it?

9 **MR. BRENDAN van NIEJENHUIS:** Ms. Termorshuizen,
10 you were asked, and you spoke of what you called international
11 copy-cat protests from time to time. Do you recall those
12 questions?

13 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

14 **MR. BRENDAN van NIEJENHUIS:** And I'd like -- if
15 we could take the same file, PB.CAN.00001802 and play from the
16 14 second mark to 1:55?

17 (VIDEO PLAYBACK)

18 Thank you. Ms. Termorshuizen, are those some
19 examples of the sorts of copy-cats you had in mind?

20 **ADM CYNTHIA TERMORSHUIZEN:** Yes, they are.

21 **MR. BRENDAN van NIEJENHUIS:** And you noted that
22 each appeared, as I saw it, to illustrate the use of the
23 Canadian flag in the protests; right?

24 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

25 **MR. BRENDAN van NIEJENHUIS:** I believe you said
26 that the Canadian brand internationally was thereby being
27 associated with defiance of the rule of law?

28 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

1 **MR. BRENDAN van NIEJENHUIS:** Could you tell me,
2 does Global Affairs Canada, aside from the damage that we've
3 seen to the brand, as you've described it earlier, but does
4 Global Affairs Canada have a sense or an assessment about the
5 strength of the Canadian brand for being a peaceful and lawful
6 society?

7 **ADM CYNTHIA TERMORSHUIZEN:** I think our brand for
8 that is very strong and we'd like to keep it that way.

9 **MR. BRENDAN van NIEJENHUIS:** Is it a concern to
10 Global Affairs Canada the effect that this has on the brand
11 strength not only of Canada as a lawful society, but on the
12 effectiveness of democracy more broadly?

13 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I think that's
14 true.

15 **MR. BRENDAN van NIEJENHUIS:** Is that a sort of
16 branding issue that Global Affairs assesses as being under
17 deliberate attack by foreign states? .

18 **ADM CYNTHIA TERMORSHUIZEN:** I mean, I think what
19 we've seen ad the data shows it that that democracy worldwide is
20 in a period of retreat. We're seeing a rising number of
21 authoritarian governments talking the place of democratic
22 governments or democratic governments becoming less democratic.

23 So it's always something that we keep a close eye
24 on and at Global Affairs Canada we do have a number of programs
25 where we actually support other countries in shoring up their
26 own democracies. So I think we're very vigilant about our own.

27 **MR. BRENDAN van NIEJENHUIS:** Do you have a sense
28 of what the intended audience are for attacks on brand

1 reputation like that that affect the democratic countries?

2 **ADM CYNTHIA TERMORSHUIZEN:** I think that
3 certainly there are some foreign state actors that would be
4 quite keen to see the democracies be under attack and be under
5 threat. SO it's something that we're vigilant for.

6 **MR. BRENDAN van NIEJENHUIS:** Is that part of why
7 RRM was established at the G-7?

8 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely.

9 **MR. BRENDAN van NIEJENHUIS:** I wonder if we could
10 go briefly on the RRM point to ask you a few questions from a
11 recent report issued. It's PB.CAN.00001836, and if we could go
12 to page 5 once it's up.

13 Go down the middle of the page and just that
14 paragraph that starts, "Disinformation thrived in the context of
15 COVID 19."

16 And I'll highlight here the -- what the report
17 describes as a "...fertile ground for hostile state actors to
18 manipulate the information environment."

19 Do you see that?

20 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I do.

21 **MR. BRENDAN van NIEJENHUIS:** And is that
22 something that you saw reflected in the events of the convoy?

23 **ADM CYNTHIA TERMORSHUIZEN:** I mean, I think this
24 is what I was trying to refer to earlier where, you know, the
25 convoy from the RRM perspective -- and I think from the
26 perspective of many who looked at this -- did not happen in a
27 vacuum. There was a long period, particularly during the
28 pandemic where we saw an enormous amount of manipulation of the

1 information environment. And what you saw is foreign state
2 actors using disinformation or manipulating information to
3 undermine the reputation of democratic states and their approach
4 to dealing with COVID to undermine confidence in vaccines,
5 particularly vaccines produced by western countries.

6 So there was a whole series of very deliberate
7 efforts that we could track through our social media analysis
8 showing frankly quite successful efforts by some key foreign
9 state actors to sow, we think, a real sense of mistrust in
10 democratic governments and their approach to dealing with the
11 pandemic.

12 **MR. BRENDAN van NIEJENHUIS:** Can we just move to
13 page 9 for a moment?

14 Just looking under the first heading there,
15 "Implications," if you just take a look at that first paragraph.
16 It indicates that:

17 "These trends demonstrate that foreign
18 [...] sponsored disinformation online and
19 offline -- just one tool in the broader
20 arsenal of hostile state activity -- is
21 increasingly transnational, multi-
22 dimensional, and cross-platform [...].
23 In this context it is difficult to
24 distinguish between foreign and
25 domestic actors..."

26 Do you see that?

27 **ADM CYNTHIA TERMORSHUIZEN:** Yes, I do.

28 **MR. BRENDAN van NIEJENHUIS:** And then in the next

1 paragraph it indicates that:

2 "...attribution is increasingly difficult
3 to achieve with a high degree of
4 certainty."

5 **ADM CYNTHIA TERMORSHUIZEN:** Yes.

6 **MR. BRENDAN van NIEJENHUIS:** And finally that:

7 "Measuring the real or potential impact
8 of disinformation is [...] challenging."

9 **ADM CYNTHIA TERMORSHUIZEN:** That's right.

10 **MR. BRENDAN van NIEJENHUIS:** Are those fair
11 assessments at this point in time?

12 **ADM CYNTHIA TERMORSHUIZEN:** Yes. I mean, this is
13 very much what the RRM is finding. And I should note that this
14 report that you've put up on the screen is a report that was
15 done collectively by all of the members of the G-7 RRM. So this
16 is an analysis that is shared across the G-7 and it also
17 includes input from the European Union and other partners.

18 So this is not just a Canadian RRM perspective.

19 **MR. BRENDAN van NIEJENHUIS:** Is RRM quite a young
20 organization or a collaboration of organizations, I take it?

21 **ADM CYNTHIA TERMORSHUIZEN:** It is a young
22 collaboration. I mean, the G-7 version of the RRM was stood up
23 in 2018 so it's been around for about four years. And this
24 annual report that you're referring to is the first annual
25 report that the RRM G-7 group as a whole has done. So it's a
26 very important analysis from our perspective of the
27 disinformation environment that we see around us.

28 **MR. BRENDAN van NIEJENHUIS:** And has that

1 disinformation environment as you see it and that led to the
2 decision by the G-7 collectively to establish this network
3 called RRM, that's been going on for longer than since 2018, I
4 take it, in your assessment?

5 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely. I mean,
6 I think there's -- you know, disinformation is a longstanding
7 tool of governments, well before the social media age. I think
8 social media has created an entirely new tool and so the RRM --
9 Canada is specifically focused on that social media environment
10 and understanding it and understanding how disinformation plays
11 in that environment and what its impact is on democratic states
12 like Canada.

13 **MR. BRENDAN van NIEJENHUIS:** Okay. SO is it fair
14 to conclude that the RRM analysis -- if we see RRM say it hasn't
15 seen evidence of significant foreign state involvement relative
16 to the convoy, that isn't to suggest that there is a complete
17 lack of connection between the disinformation environment in the
18 broader sense and those events; is that fair?

19 **ADM CYNTHIA TERMORSHUIZEN:** Yeah. I mean, some
20 analysts have suggested that there really wasn't much of a need
21 for foreign state actors to engage significantly in the convoy
22 information environment because there was already such a high
23 level of disinformation surrounding it.

24 **MR. BRENDAN van NIEJENHUIS:** What about -- you've
25 focused on the online environment but do these -- at least as
26 Global Affairs assesses it. Do these operations objectives,
27 whatever you want to call them on behalf of malign actors in the
28 information space include the discrediting of media and the

1 reliability of the traditional media in reporting the truth?

2 **ADM CYNTHIA TERMORSHUIZEN:** Absolutely.

3 **MR. BRENDAN van NIEJENHUIS:** Can we go to
4 PB.CAN.00001800? And Commissioner, I'm just going to ask to
5 play a short clip and I'll have one question and that will be my
6 time, if that's acceptable.

7 **COMMISSIONER ROULEAU:** Okay.

8 **MR. BRENDAN van NIEJENHUIS:** When this is called
9 up, could you play from 5:55 forward, please?

10 (VIDEO PLAYBACK)

11 **MR. BRENDAN van NIEJENHUIS:** Ms. Termorshuizen,
12 do these interactions that we saw on the screen between the CNN
13 reporter Mr. Sullivan and convoy protesters in Ottawa illustrate
14 the concerns that led to the establishment of RRM by the G7?

15 **ADM CYNTHIA TERMORSHUIZEN:** Well, I think when the
16 RRM was established, of course, it was well before these
17 protests took place, but I think the RRM was broadly set up to
18 ensure that we were vigilant about any kind of foreign
19 interference in our democracies.

20 **MR. BRENDAN van NIEJENHUIS:** Thank you. Those
21 are my questions.

22 **COMMISSIONER ROULEAU:** Okay. Any re-examination?

23 **MS. SHANTONA CHAUDHURY:** No re-examination.

24 **COMMISSIONER ROULEAU:** Okay. Well, thank you for
25 coming and testifying, and we appreciate you taking the time to
26 do so out of your schedules and you're now free to go.

27 **ADM CYNTHIA TERMORSHUIZEN:** Thank you.

28 **MR. BRENDAN MILLER:** Sir, before we end for the

1 day, I just wanted to raise a point if I may?

2 **COMMISSIONER ROULEAU:** You absolutely may, but
3 maybe, do we need the -- can the witnesses leave?

4 **MR. BRENDAN MILLER:** No, we do not need the
5 witnesses, sir.

6 **COMMISSIONER ROULEAU:** Okay. So you're free to
7 go and you'll deal with -- I can deal with the issue.

8 Okay, yes.

9 **MR. BRENDAN MILLER:** So, sir, for the record,
10 Brendan Miller appearing as Counsel for Freedom Corp.

11 Sir, there's been an issue with respect to
12 disclosure from the Department of Justice for some time and I
13 just wanted to point out some things. As per Relativity, I've
14 been told how to organize it with respect to uploads and when
15 they were uploaded. I can advise the Commission that since
16 November 6th, the Department of Justice has dumped in about,
17 well, 199 new records, and over the weekend alone, since we
18 adjourned 409. Some of these documents are extraordinarily
19 relevant, including entire team message chats with Brenda Lucki
20 and the RCMP during the IRG meetings, commenting on what's going
21 on. They're not even in the Commission's list of documents for
22 tomorrow because they probably don't know about them. They're
23 not labelled. I found them by accident.

24 There is an issue at this juncture, in my
25 submission, with a dump truck approach, in my submission, on
26 behalf of the DOJ in order to provide in disclosure late that is
27 relevant material, should have been provided quite some time
28 ago, and it's not even properly labelled. For example, all of

1 those -- there's Teams meetings with all the executive of the
2 RCMP about what's happening. It's very interesting. I'm just
3 finding it now, but nobody seems to know about it because of
4 late disclosure and because it's not properly labelled and
5 because it's coming in in mass quantities.

6 So, sir, I wanted to raise that with you. I
7 would submit that this Commission has jurisdiction to compel the
8 DOJ to outline and properly label materials and provide them
9 properly, outline what they are, and not simply name them random
10 letters and numbers, so that people don't see them. I only
11 spotted them today, a couple hours ago, because I got lucky.

12 **MR. BRENDAN van NIEJENHUIS:** It's a rather non-
13 specific complaint and I don't take it my friend is seeking
14 relief. I can assure you, Commissioner, that in -- a large
15 number of people are working incredible hours and have been
16 doing so for many months to assemble documents. The Government
17 of Canada is a large institution with many document sources and
18 the items that are of key relevance, accordingly, take a great
19 deal of time to identify, process and code. If there's a
20 specific complaint about a specific item that I can be of
21 assistance in addressing, I think we'd be more efficient to
22 address that offline with my friend in terms of the concern or
23 through Commission Counsel would be the appropriate route. But
24 in the absence of a specific request or a specific complaint, I
25 don't think there's more I can say sitting here now. I'm not
26 prepared to speak to the issue at the moment in more
27 particularity.

28 **MR. BRENDAN MILLER:** Sir, I'm simply asking if

1 the Commission can direct the DOJ to properly label what the
2 items are in relativity, who the parties are discussing matters
3 in there with the proper date, as opposed to just it being
4 dumped in with random numbers and then, you know, we're dealing
5 with literally 1299 documents, records, not pages, records, that
6 have been dumped in since November 6th, and we're all here, all
7 day, and then trying to find this stuff, it's like trying to
8 find a needle in a haystack. And it's not something, for
9 example, in a civil case, we call them affidavits of records
10 back home. I believe in Ontario they're called statement of
11 records. I apologise, I'm not from here, but you're required to
12 label the date, the actual record and et cetera, and that's how
13 Relativity's set up. But I'm finding these extraordinarily
14 compelling documents that not even the Commission has in their
15 list of documents for tomorrow, and we're talking about text
16 messages and iMessage system of sorts between Commissioner Lucki
17 and all the executive of the RCMP during the IRG meetings and
18 other things about what's going to be done. And they're not
19 labelled, and I found them by luck. And in my submission,
20 that's just not appropriate. These things need to be labelled.
21 They need to actually say what they are. They can't just be
22 dumped into the system last minute in the hopes that one of us
23 luckily finds them. I don't know what else is in there, in
24 those 1299 documents. I'm trying to get through them, but it's
25 impossible to assess by just looking at the labels, et cetera,
26 in Relativity when they're not actually labelled at all as to
27 what they are.

28 **COMMISSIONER ROULEAU:** So if I understand

1 correctly, you'd like to have some sort of an index or some sort
2 of an indication of what the documents are. At this stage, I'm
3 not in a position to respond. I don't know if the Government of
4 Canada can respond, but it's -- maybe you can provide ---

5 **MR. BRENDAN van NIEJENHUIS:** I think what I can
6 say is if it's a complaint about the adequacy of the coding, we
7 are all in the Counsel table here in the same boat. If the
8 Commission Counsel has a concern about the adequacy of the
9 coding, we'll be happy to do our best to remedy that.
10 Obviously, these things take time, and if they take time, then
11 that slows the process of getting things into the database,
12 which is the whole purpose of the inquiry, so that they can be
13 put into the public record as appropriate.

14 **MS. SHANTONA CHAUDHURY:** Commissioner, I think
15 this is a concern that's probably best addressed offline.

16 **COMMISSIONER ROULEAU:** Okay. Well, I think at
17 this stage, certainly as I did at the outset, the Counsel are
18 encouraged to raise issues with Commission Counsel as soon as
19 they arise, and to the degree possible, they can be addressed
20 that way. If they can't be addressed and some relief is
21 necessary, then you bring it to me. I think your concern has
22 been raised. I think Commission Counsel will look into it.

23 I do want to cycle back and point out that I have
24 acknowledged and continue to acknowledge that it is challenging
25 for Counsel, and certainly for Counsel for the Government of
26 Canada, but also, Counsel for all the parties. And I think to
27 the degree that you have frustration, I understand it, and I
28 think at one level it is totally understandable because of the

1 way the compressed timeline that the Commission has to operate
2 under.

3 So if it is possible to provide some relief in
4 the way you describe, I think it is highly desirable, but not if
5 it's going to mean that we won't get access to documents. And I
6 know that's been a concern of mine that to make sure the record
7 is as complete as possible. If there is a real unfairness,
8 that's something I will certainly entertain, because ultimately,
9 the objective of this Commission is to be fair and as open in
10 the context of the constraints we're operating under.

11 So I'd encourage you to speak to Commission
12 Counsel if there's some way to alleviate because I know the
13 Government of Canada obviously is a very significant player in
14 this, as are their witnesses. So I want to be sure we do what
15 we can to ensure the best possible analysis of their documents
16 and listening to their witnesses.

17 So with that, I apologise for being a little
18 preachy, but I do understand, and we'll see what we can do.

19 So we'll adjourn until 9:30 and, again, I expect
20 it'll be a similar day tomorrow and probably similar days this
21 week that'll be fairly long.

22 **THE REGISTRAR:** The Commission is adjourned. La
23 commission est ajournée.

24 --- Upon adjourning at 6:44 p.m.

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

I, Mitchell Kersys, a certified court reporter, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Mitchell Kersys, un sténographe officiel, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Mitchell Kersys