



**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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III

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IV

Appearances / Comparutions

Mr. Peter Sloly

Mr. Tom Curry

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Mr. Nikolas De Stefano

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Mr. David Migicovsky

Ms. Jessica Barrow

Ontario Provincial Police

Mr. Christopher Diana

Ms. Jinan Kubursi

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V

Appearances / Comparutions

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The Democracy Fund, Citizens for Freedom, JCCF Coalition	Mr. Rob Kittredge Mr. Antoine D'Ailly Mr. Alan Honner Mr. Dan Santoro Mr. Hatim Kheir Mr. James Manson
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The Convoy Organizers	Mr. Brendan Miller Ms. Bath-Sheba Van den Berg
Insurance Bureau of Canada	Mr. Mario Fiorino

VI
Table of Content / Table des matières

	PAGE
<u>DS JACQUELINE BOGDEN, Affirmed</u>	1
<u>MR. JEFFERY HUTCHINSON, Sworn</u>	1
Examination in-Chief by Ms. Shantona Chaudhury	1
Cross-Examination by Mr. Alan Honner	54
Cross-Examination by Mr. Brendan Miller	64
Cross-Examination by Mr. David Migicovsky	70
Cross-Examination by Ms. Jennifer King	75
Cross-Examination by Mr. Mitch McAdam	82
Cross-Examination by Ms. Stephanie Bowes	87
Cross-Examination by Mr. Robert MacKinnon	88
<u>MS. JANICE CHARETTE, Sworn</u>	105
<u>MS. NATHALIE DROUIN, Affirmed</u>	106
Examination in-Chief by Ms. Shantona Chaudhury	106
Cross-Examination by Mr. Brendan Miller	211
Cross-Examination by Mr. Mitch McAdam	228
Cross-Examination by Mr. Sujit Choudhry	242
Cross-Examination by Mr. Alan Honner	255
Cross-Examination by Ms. Ewa Krajewska	264
Cross-Examination by Ms. Alyssa Tomkins	274
Cross-Examination by Ms. Christine Johnson	275
Cross-Examination by Ms. Jinan Kubursi	280
Cross-Examination by Mr. Thomas McRae	287
Cross-Examination by Ms. Stephanie Bowes	296

Ottawa, Ontario

--- Upon commencing on Friday, November 18, 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.

Okay. Commission Counsel this morning...?

MS. SHANTONA CHAUDHURY: Good morning, Commissioner. Shantona Chaudhury, Commission Counsel.

I'd like to call Ms. Jacqueline Bogden and Mr. Jeffery Hutchinson to the stand.

(SHORT PAUSE)

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

DS JACQUELINE BOGDEN: My name is Jacqueline Bogden, J-a-c-q-u-e-l-i-n-e; my last name is Bogden, B-o-g-d-e-n.

--- DS JACQUELINE BOGDEN, Affirmed:

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

MR. JEFFERY HUTCHINSON: Jeffery Hutchinson. Pardon me; I'll get closer to the mic. I'm Jeffery Hutchinson; J-e-f-f-e-r-y; surname, H-u-t-c-h-i-n-s-o-n.

--- MR. JEFFERY HUTCHINSON, Sworn:

THE REGISTRAR: Thank you.

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

MS. SHANTONA CHAUDHURY: Good morning, Ms.

1 Bogden, Mr. Hutchinson.

2 We'll just start with a bit of housekeeping,
3 which is introducing your witness summary. So you'll recall
4 sitting for an interview with Commission Counsel on August 30th,
5 2022?

6 **DS JACQUELINE BOGDEN:** Yes.

7 **MS. SHANTONA CHAUDHURY:** Okay. And following
8 that interview, Commission Counsel prepared a summary of that
9 interview. You've reviewed that summary?

10 **DS JACQUELINE BOGDEN:** Yes.

11 **MS. SHANTONA CHAUDHURY:** And you can confirm that
12 it's accurate, to the best of your knowledge and belief?

13 **DS JACQUELINE BOGDEN:** Yes.

14 **MS. SHANTONA CHAUDHURY:** So for the record,
15 that's WTS00000072. No need to call it up right now, Mr. Clerk.

16 Ms. Bogden, I understand you are the Deputy
17 Secretary of Emergency Preparedness; is that correct?

18 **DS JACQUELINE BOGDEN:** Yes, that's correct.

19 **MS. SHANTONA CHAUDHURY:** Okay. And Mr.
20 Hutchinson, your title is?

21 **MR. JEFFERY HUTCHINSON:** I'm a senior advisor at
22 the Privy Council Office, and I currently have the duties of
23 Assistant Secretary in Emergency Preparedness.

24 **MS. SHANTONA CHAUDHURY:** Okay. And just so you
25 know, we're conducting this examination in panel format. I may
26 direct questions to one or the other of you; if I direct it in
27 general, then whoever's best placed to answer is free to answer.
28 And you can also, of course, jump in if someone else has

1 something to say about a point I ask.

2 So the first question is probably for Ms. Bogden,
3 which is I'll just ask you to briefly explain the structure of
4 the PCO Emergency Preparedness and COVID Response Secretariat.

5 **DS JACQUELINE BOGDEN:** Okay. So we are -- the
6 Secretariat is a newly created Secretariat at the Privy Council
7 Office. It is within the -- it reports to the National Security
8 and Intelligence Advisor. She has responsibility for four
9 different groups, and so the Emergency Preparedness and COVID
10 Recovery Secretariat is one of those. There's also the Foreign
11 Defence Policy Secretariat; the Security and Intelligence
12 Secretariat; and the Intelligence Assessment Secretariat.

13 **MS. SHANTONA CHAUDHURY:** Okay. And when you say
14 it was newly created; when was it created, and why?

15 **DS JACQUELINE BOGDEN:** So the Secretariat was
16 created in October 2021, thereabouts, and it was created to
17 support the new dedicated role of the Minister of Emergency
18 Preparedness, which is -- the Minister is situated in the Privy
19 Council Office, and our Secretariat was created to support him
20 in his activities.

21 **MS. SHANTONA CHAUDHURY:** And that would be
22 Minister Bill Blair?

23 **DS JACQUELINE BOGDEN:** Yes, correct.

24 **MS. SHANTONA CHAUDHURY:** Okay. And as I
25 understand it, Minister Blair is supported both by the Emergency
26 Preparedness Secretariat within PCO and by the Department of
27 Public Safety, is that right?

28 **DS JACQUELINE BOGDEN:** That's correct.

1 **MS. SHANTONA CHAUDHURY:** Okay. Can you explain
2 how that interaction works, and what each of you do to support
3 the Minister?

4 **DS JACQUELINE BOGDEN:** Okay. So from the Privy
5 Council Office perspective, we support the Minister in his
6 horizontal responsibilities. So you know, when the Prime
7 Minister created this new, dedicated role of Minister of
8 Emergency Preparedness, you know, he asked the Minister -- and
9 this is outlined in his mandate letter that's available on the
10 Prime minister's website -- to exercise a leadership role and
11 coordinate efforts to improve our emergency preparedness and our
12 emergency management capabilities in the government; working, of
13 course, with provinces and territories.

14 And in addition to that, he also asked Minister
15 -- the Minister to play convening -- exercise a convening and
16 coordinating role to support both the Prime Minister and the
17 Cabinet in the acute phases of emergency response. So, you
18 know, for example, this would be one of those situations. He
19 would do something -- you know, something similar; for example,
20 Hurricane Fiona, which we dealt with at the end of September.

21 **MS. SHANTONA CHAUDHURY:** Okay. So maybe that's a
22 good time to explain, what different kinds of emergencies does
23 Emergency Preparedness deal with?

24 **DS JACQUELINE BOGDEN:** It's all hazards. So you
25 would -- we would be concerned with human-made situations that
26 might arise, you know, such as the protests, the occupation and
27 blockades, but we would also be concerned with any number of
28 natural disasters. Or public health emergencies, like, for

1 example, you know, part of the genesis of this is we've just
2 lived through two and a half years of COVID-19 and all that that
3 has entailed for the country.

4 And in addition to that, we've seen an
5 acceleration of climate-related impacts on the country. So an
6 increase in, you know, fire -- devastating fires, floods, you
7 know, and we need to be prepared -- increasingly prepared to
8 respond as a country to those kinds of events.

9 **MS. SHANTONA CHAUDHURY:** So in a sense, the
10 Secretariat was created in response to a recognition that there
11 are a growing number of emergencies that Canada has to deal
12 with?

13 **DS JACQUELINE BOGDEN:** Correct.

14 **MS. SHANTONA CHAUDHURY:** Okay.

15 **DS JACQUELINE BOGDEN:** Correct. And that we need
16 to be prepared to respond to those, and working proactively
17 with, you know, any number of other orders of government, civil
18 society, private sector to make sure that the country is as
19 prepared as it can be for what we can see on the horizon.

20 **MS. SHANTONA CHAUDHURY:** Okay. And when were you
21 appointed Deputy Secretary of Emergency Preparedness?

22 **DS JACQUELINE BOGDEN:** January 10th; I started
23 January 10th of this year, 2022.

24 **MS. SHANTONA CHAUDHURY:** Okay. So shortly before
25 the events of ---

26 **DS JACQUELINE BOGDEN:** Correct.

27 **MS. SHANTONA CHAUDHURY:** --- the Freedom Convoy
28 in question.

1 **DS JACQUELINE BOGDEN:** Correct.

2 **MS. SHANTONA CHAUDHURY:** And Mr. Hutchinson, can
3 you briefly describe your role?

4 **MR. JEFFERY HUTCHINSON:** Certainly. My principal
5 role is to support the Safety, Security, and Emergency
6 Management Committee, and Minister Blair is the Chair of that
7 committee.

8 So I have a small team that ensures that we have
9 membership agendas, appropriate documents that are ready for
10 Cabinet consideration, that sort of thing.

11 I also, as part of the functions that Ms. Bogden
12 was describing, when there is an emergency of one sort or
13 another, then I work with my counterpart at Public Safety, we
14 have a fairly close partnership, and we can pull our
15 counterparts across town together to make sure that we have good
16 information-sharing, up-to-date situation reports, that kind of
17 thing.

18 **MS. SHANTONA CHAUDHURY:** And who would your --
19 sorry to interrupt, but who would your counterpart at Public
20 Safety be?

21 **MR. JEFFERY HUTCHINSON:** The Assistant Deputy
22 Minister of Emergency Management Preparedness Branch. His name
23 is Trevor Bhupsingh.

24 **MS. SHANTONA CHAUDHURY:** Okay. Okay, the next
25 thing I'll ask you to do is briefly explain the role of
26 Emergency Preparedness in responding to Requests for Assistance.
27 So can you tell us what a Request for Assistance is, a request
28 for federal assistance, RFA is the acronym, and the process by

1 which it's reviewed?

2 **MR. JEFFERY HUTCHINSON:** That question's for me?
3 Sorry. There's a framework whereby provinces can make a request
4 for federal assistance in certain circumstances, where they just
5 need help in managing an emergency, and you see that in
6 different situations. So after Hurricane Fiona, for example,
7 you saw the military deployed for sandbagging and logistics and
8 things like that. That's generally done under an RFA.

9 Our role in that tends to be kind of at the level
10 of coordination. It's actually our partners at Public Safety
11 that really manage the core of that process.

12 So a request comes in. Normally, with some
13 advance warning, there's often discussion with the Province
14 beforehand as to what's being sought, why, whether all available
15 resources have been considered and utilised in the province.
16 We're usually aware that it's come in. As it comes in, we know
17 it goes to Public Safety, there are discussions between Public
18 Safety and the Minister's office in terms of determining the
19 outcome, and in the normal course, our response in the form of a
20 letter would normally go to the province, and resources are
21 deployed, or not, in accordance with the decision.

22 **MS. SHANTONA CHAUDHURY:** Okay. Thank you, that's
23 helpful. One of the many things we're doing in this Commission
24 is attempting to sort out who does what within the Federal
25 Government and it's not always an easy answer. That's helpful.

26 Okay. We're now going to move to the meat,
27 essentially, of what we're going to talk about today, which is
28 your role in convening and coordinating the Federal Government's

1 response to the Freedom Convoy.

2 And I'll just let you know, in the time that we
3 have, given -- in an attempt to sort of use our time
4 productively, given that we heard from the NSIA yesterday, and
5 we'll be hearing from the Clerk and the Deputy Clerk this
6 afternoon, we're going to be concentrating on the first couple
7 of weeks, so sort of right up until the first IRG. We'll go a
8 little beyond that, but that's where I anticipate we're going to
9 be focussing our efforts this morning.

10 **DS JACQUELINE BOGDEN:** Okay.

11 **MS. SHANTONA CHAUDHURY:** So I'll open it up to
12 you to tell us, essentially, what role you played in
13 coordinating the Federal Government response.

14 **DS JACQUELINE BOGDEN:** Okay. So I guess the
15 first part of our role, obviously PCO plays, you know, as it
16 does in many different situations, it helps to coordinate the
17 Federal Government response to any given situation, and the same
18 would be true in this case. And -- so what we're trying to do
19 in coordinating that response, we'll convene departments and
20 agencies together, we're trying to develop a common
21 understanding, a common, kind of up-to-date understanding of the
22 situation and assess that situation. We're determining, you
23 know, what are the actions that the Federal Government needs to
24 take in response to the situation or might need to take.

25 And the objective there is really to make sure
26 that, you know, we're ready to do whatever's needed, the efforts
27 are coordinated, and ideally, that the course of action is
28 effective.

1 So what we would've been doing in this case, like
2 the Emergency Preparedness Secretariat, you would have heard,
3 for example, from others who testified earlier this week, that
4 there was a governance structure set up at the Deputy Minister
5 level. There was governance that was set up at the ADM level to
6 facilitate that sharing of information.

7 What we would be doing is, then, in the, you
8 know, let's say in the week preceding the arrival of the
9 demonstrations in Ottawa, helping ensure that that information
10 that is being collected is flowing in to, for example, staff of
11 the Office of the Minister of Emergency Preparedness, staff in
12 the Prime Minister's Office, so that they have visibility over
13 this -- something that is on the horizon that is happening, what
14 information do we know, what do we not know, what action are we
15 taking, and they have confidence that, you know, the Federal
16 Government across departments and agencies is doing what it
17 should do in response to this kind of situation.

18 **MS. SHANTONA CHAUDHURY:** Okay. So when we spoke
19 in your interview, you identified January 30th as sort of the
20 day that it became clear to you that the convoy wasn't going
21 anywhere fast and there would have to be some coordination. I
22 won't say response at that point, necessarily, but some
23 coordination of what the Federal Government was going to do
24 about this at this point. So can you walk us through that first
25 week of the protest and how that unfolded?

26 **DS JACQUELINE BOGDEN:** Okay. So maybe, if you'll
27 permit me ---

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

1 **DS JACQUELINE BOGDEN:** --- just to...

2 So in that week, I think our efforts really began
3 in seriousness in the week in advance of the arrival of the
4 demonstrations; right? So the briefing that I was mentioning
5 for, you know, the Office of the Minister of Emergency
6 Preparedness, the Prime Minister's Office, we were also, as we
7 got closer to the weekend, thinking about making sure that
8 ministers, also, had a collective and common understanding of,
9 you know, what we knew about the weekend. And so we would've
10 started briefing, having joint briefings with ministers the
11 Thursday before the arrival of the convoy, and again, we're just
12 making sure that they have a common understanding of the
13 situation.

14 The other thing that we're doing is we're
15 thinking a little bit about making sure that we're prepared in
16 the event that things don't go as planned that weekend. Right?
17 This is a scenario where -- that has been billed as a peaceful
18 protest, a slow roll that will go through the Nation's Capital,
19 and there's a series of activities on the Hill, and you know, in
20 the park, a prayer service, and that those things will happen as
21 intended.

22 But in the back of our mind, we were also
23 thinking about, you know, what if things don't go as planned?
24 There's a lot about this situation that we don't. You know, it
25 is -- it isn't like Canada Day, where law enforcement has, you
26 know, it happens on the same day every year, there are weeks to
27 prepare. We don't have perfect information about the situation
28 as it's developing, we don't, like, have fidelity, for example,

1 on how many trucks, how many individuals. You know, so we're
2 thinking about that.

3 And when you have large groups of people get
4 together, you always need to be foreseeing the possibility that
5 intentionally or otherwise, you know, it could lead to violence
6 and loss of life, and so we're thinking about how do we make
7 sure that the government would be ready and we could bring
8 ministers together if something unfortunate happened over the
9 weekend.

10 And it wasn't a theoretically possibility. Like
11 some of the statements that were being made in the lead-up to
12 that weekend, you know, references to the January 6th attack on
13 Capitol Hill, you know, we -- I think the Federal Public Service
14 was well aware of the actual threat of lone actors that could
15 take advantage of the situation.

16 So that's kind of what's going through our mind.
17 On one hand, making sure that everybody understands what's
18 happening. We hope everything is going to go as planned, but we
19 also need to be prepared if things don't transpire as they are
20 presented.

21 So to get to your question, which is about, you
22 know, when did you know that things were... So I think it
23 became clear to us on Sunday that things... I remember watching
24 the news conference that was held by the organisers of the
25 convoy, where it was made clear that they were staying. And so
26 then we're starting to give some thought to, okay, Parliament is
27 scheduled to return on the Monday, we -- you know, we're still
28 in hybrid format, but we know some ministers are going to be

1 making a decision to return to Ottawa, either flying in on the
2 Sunday evening or the next day. We need -- you know, presumably
3 the Prime Minister would like some information about whether
4 it's safe and secure for them to do that, how will they access
5 the Hill.

6 We're also thinking about our own employees in
7 the Federal Public Service. Our -- you know, whether that's at
8 PCO or other employees, while we're in a remote work posture,
9 there are still many, including in the security and intelligence
10 sphere, that need to access our building, so we need to be
11 thinking about their health and safety. So by that Sunday
12 night, we would have been having meetings with the National
13 Security Intelligence Advisor, and then ultimately with the
14 Clerk, in order to brief her so that she would be in a position
15 to brief the Prime Minister and the Prime Minister's Office
16 about the current situation, kind of leading into the week.

17 **MS. SHANTONA CHAUDHURY:** Okay. Do you recall
18 when the Prime Minister was first briefed?

19 **DS JACQUELINE BOGDEN:** I don't.

20 **MS. SHANTONA CHAUDHURY:** Okay.

21 **DS JACQUELINE BOGDEN:** I don't, sorry.

22 **MS. SHANTONA CHAUDHURY:** Okay, we'll ask the
23 Clerk, that's fine.

24 Okay. So essentially, what you just told us, if
25 I can summarize it, is the initial posture before the convoy
26 arrived was, on the one hand, you have the information you have;
27 on the other hand, it's expect the unexpected.

28 **DS JACQUELINE BOGDEN:** Correct.

1 **MS. SHANTONA CHAUDHURY:** Okay. And then when the
2 unexpected, let's put it that way, sort of happens on the 30th,
3 what happens from there? How do you respond from there, what --
4 how does your role kick in?

5 **DS JACQUELINE BOGDEN:** Okay. So I mean the
6 events have unfolded; we, you know, have the return of
7 Parliament on the Monday. For the first two days of that week,
8 so that would be January 31st and the 1st, we're continuing --
9 we'd been, at this point, having daily briefings for Ministers.
10 And those briefings consist of just -- so that listeners and the
11 Commissioner understand, what we would do with these briefings
12 everyday would -- we would have the Commissioner of the RCMP, we
13 would have the Director of the Canadian Security and
14 Intelligence Service, and at a certain point -- or we would have
15 had the Deputy Minister of Public Safety, and a few others,
16 providing real-time, live updates of the situation as it's
17 developing.

18 And at this point, we have a situation, not just
19 in Ottawa, we also have the situation in Coutts which is
20 developing. And so, you know, we have two different situations
21 to be alive to.

22 So we're keeping Ministers apprised. By midweek
23 we have these two situations -- midweek, which would be February
24 31st, 1st, 2nd ---

25 **MS. SHANTONA CHAUDHURY:** Second (2nd), probably?

26 **DS JACQUELINE BOGDEN:** Yeah.

27 **MS. SHANTONA CHAUDHURY:** I'll just stop you there

28 ---

1 DS JACQUELINE BOGDEN: Okay.

2 MS. SHANTONA CHAUDHURY: --- with one question;
3 which Ministers would have ---

4 DS JACQUELINE BOGDEN: Which Ministers? At this
5 point, the -- we would have Minister Blair; Minister Mendicino;
6 Minister Leblanc, who is the Minister of Intergovernmental
7 Affairs; Minister Alghabra, who is the Minister of
8 Transportation. I believe those four Ministers at this point in
9 time.

10 MS. SHANTONA CHAUDHURY: Okay.

11 DS JACQUELINE BOGDEN: Yeah, and this is the
12 Ministers who've been meeting on a daily basis to take stock of
13 the situation and understand what we know, what we don't know,
14 and what actions are being taken.

15 So by midweek, around Wednesday, you know, we
16 have these -- this situation. There's not clear signs that the
17 situation's going to be resolved, or we don't have confidence of
18 any signs that it's going to be resolved.

19 We're also starting to hear a lot of reports
20 that, you know, there will be additional protest activity over
21 the weekend, both in Ottawa and in Alberta, and so, you know,
22 starting to be concerned that, you know, not only is this
23 situation not resolving, but the situation could get worse.

24 So at a certain point here, we make a decision
25 that it is time to convene a Cabinet Committee, which is the
26 Safety, Security, and Emergencies Committee. Do you want me to
27 explain the mandate of the committee, or...?

28 MS. SHANTONA CHAUDHURY: I will.

1 DS JACQUELINE BOGDEN: Okay.

2 MS. SHANTONA CHAUDHURY: I'm just going to ask
3 the Clerk to pull up ---

4 DS JACQUELINE BOGDEN: Okay.

5 MS. SHANTONA CHAUDHURY: --- the minutes from
6 that first SSE meeting, which is SSM.NSC.CAN00000292.

7 So you can continue, with the benefit of the
8 minutes.

9 DS JACQUELINE BOGDEN: Okay. So this meeting,
10 this is -- this is -- okay, maybe I'll -- just for the benefit
11 of others who won't know, this is the -- this is a standing
12 committee of Cabinet, it's the Cabinet Committee on Safety,
13 Security, and Emergencies. It has a threefold mandate. One, is
14 to be concerned about threats and risks to the safety and
15 security of Canada and Canadians. It has a second
16 responsibility for management of ongoing emergencies; and,
17 thirdly, to ensure that there's proactive, integrated, forward-
18 looking thinking around the -- our level of emergency
19 preparedness and capacity to respond to emergency management.

20 So that's the intent and purpose of the
21 Committee. It's a standing committee that will meet on a fixed
22 schedule but it also, like other Cabinet committees, has the
23 ability to meet on an *ad hoc* basis. And that's exactly what we
24 would have done at this situation, is decided, okay, I think
25 it's time to bring together the -- and support a conversation
26 amongst the, you know, standing Cabinet committee.

27 And so the meeting would've proceeded in two
28 ways, as you'll see reflected in the minutes, asking, you know,

1 key heads of different institutions to report on the situation;
2 so the Commissioner of the RCMP, I think the Director of the
3 Canadian Security and Intelligence Service also provided an
4 update, probably Deputy Minister Rob Stewart. And the idea
5 there, just like the Ministerial briefings is to give everybody
6 a common understanding of this situation, how it's evolving,
7 what we know, what we don't know.

8 And then the second part of the discussion is to
9 start to talk about -- a little bit more about what more the
10 federal government might want to do to try to support the
11 resolution of this situation.

12 So you will see, I think in the minutes, there is
13 a placemat that, you know, puts together a quick snapshot of
14 some different range of options that the government could
15 consider. And it wasn't perfect, but it was there to kind of
16 stimulate conversation on the range of options within federal
17 jurisdiction of things that Ministers and departments might be
18 able to think about.

19 **MS. SHANTONA CHAUDHURY:** Okay.

20 Mr. Clerk, can you just scroll down to page 8, I
21 believe?

22 Is this the placemat you were talking about?

23 Okay. So can you just walk us through, obviously not all of it,
24 but the general ideas that are expressed and...?

25 **DS JACQUELINE BOGDEN:** Yeah, sure. So, you know,
26 like I said, you're thinking about all of the things that are in
27 area of federal responsibility. So you're thinking about what
28 authorities do you have; what influence do you have; what

1 resources do you have; what are the kinds of things that you
2 could do? So you see on the left-hand side of this document,
3 the convening and engagement power that -- power; the convening
4 and engagement sort of influence that the government could bring
5 to bear.

6 So, for example, is there more that we should be
7 doing with provinces and jurisdiction -- provinces and
8 territories that we're not already doing? And that could be,
9 you know, Ministers. Ministers at this point had already been
10 doing some engagement. Should there be more? You know, should
11 we be thinking about a call between the Prime Minister and
12 Premiers, or anything; just thinking about all of those things.

13 Engagement, you know, with the City of Ottawa,
14 directly. Should we be doing more? And, you know, what form
15 should that take? You know, making sure that with -- like, you
16 know, determining whether additional assistance should be
17 provided to the Ottawa Police Service, right? In terms of sort
18 of increasing their ability to respond to this situation.

19 **MS. SHANTONA CHAUDHURY:** So that, I think, falls
20 under Policing Agreements; what agreements are in place between
21 the OPP and OPS, what agreements are in place with RCMP and OPS?
22 So would it be correct to say that that reflects the federal
23 government sort of attempting to sort out in a -- or the
24 Committee, rather, sorting out what the jurisdictional issues
25 are there?

26 **DS JACQUELINE BOGDEN:** I don't know if it's
27 attempting to sort out the jurisdiction, because I think
28 jurisdiction is clear, ---

1 **MS. SHANTONA CHAUDHURY:** Okay.

2 **DS JACQUELINE BOGDEN:** --- in my mind. Like,
3 what we're trying to do there is to ask ourselves what support
4 does the City need? What support does, you know, the Ottawa
5 Police Service need, and how can we be helpful? And it might be
6 people, it might be equipment, it might be bollards. You know,
7 we didn't do that kind of thing at that point, but later in the
8 -- you know, you're sort of thinking about those kinds of
9 things.

10 **MS. SHANTONA CHAUDHURY:** So to put it a slightly
11 different way, "What can we do within our jurisdiction?"

12 **DS JACQUELINE BOGDEN:** Totally.

13 **MS. SHANTONA CHAUDHURY:** Okay.

14 **DS JACQUELINE BOGDEN:** Totally. You know, if --
15 to help bring this to a, yeah, to a resolution.

16 **MS. SHANTONA CHAUDHURY:** Okay. Is there anything
17 else you'd like to say about this particular document, or should
18 we move to the next?

19 **DS JACQUELINE BOGDEN:** No. I think -- I think
20 that's good. It, you know, just essentially sets out, like
21 there's a -- any number of ways, right, that we can bring
22 influence to the situation, provide direct support, you know,
23 being creative about it. But this was the -- a start of a more
24 formal conversation that we need to be thinking about, about
25 supporting a resolution of what's happening.

26 **MS. SHANTONA CHAUDHURY:** Okay. And then, so how
27 does that lead in to the next meeting of the SSE, which I
28 believe was February 6th?

1 **DS JACQUELINE BOGDEN:** Yeah. So, you know, as we
2 expected, that weekend there was an increase in protest
3 activity. And you know, we, you know, not only saw an increase
4 in protest activity in Ottawa and in Coutts. You know, you saw
5 the situation expand into B.C., Manitoba now, in central Canada.
6 You know, we're seeing similar slow roll protests in Toronto and
7 in Quebec City. Fortunately, those two jurisdictions learned a
8 little bit about the experience in Ottawa and were able to
9 manage those situations differently, and it didn't result in,
10 you know, what we were seeing happen in Ottawa.

11 So we see, you know, an increase in protest
12 activity over that weekend. I believe that is also the weekend
13 where we received a formal request for assistance from Alberta,
14 for both people and equipment to help resolve, you know, the
15 situation in Coutts.

16 **MS. SHANTONA CHAUDHURY:** Just stopping you there,
17 we'll just ask the Clerk to turn that one up. So that's
18 SSM.CAN.00000082, please. This is the request from Alberta that
19 you ---

20 **DS JACQUELINE BOGDEN:** Correct.

21 **MS. SHANTONA CHAUDHURY:** Okay. So can you just
22 walk us through that from your perspective and what was done
23 with that request?

24 **DS JACQUELINE BOGDEN:** Sure, so this is the
25 request that was received from Alberta. And I think you need to
26 scroll down to actually get to the essence of the request.

27 **MS. SHANTONA CHAUDHURY:** Yeah.

28 **DS JACQUELINE BOGDEN:** So looking for,

1 "...federal assistance that includes
2 the provision of equipment and
3 personnel to move approximately 70
4 semi-[truck] trailers and approximately
5 75 personal and recreational vehicles
6 from the area."

7 And looking, you know, essentially, for
8 assistance from the government to deal with that.

9 So the request would have come in to -- directly
10 to the Minister's office. It would have also went in directly
11 to Public Safety and Emergency, the Department of Public Safety
12 and Emergency for them to work on for us. In receipt of this
13 request, I probably received the copy from the Minister's
14 office. What I would have been wanting to do at that particular
15 moment in time is to make sure that my colleague that looks
16 after intergovernmental affairs is aware. There's probably a
17 record in the collection that I would have shared it with
18 Michael Vandergrift, who is the Deputy Minister for
19 Intergovernmental Affairs at the Privy Council Office. And
20 also, wanting to make sure, you know, that the National Security
21 Intelligence Advisor is aware and that the Clerk and the Deputy
22 Clerk are also aware that we've received this request from
23 Alberta that will need to be.

24 And as Jeff explained ---

25 **COMMISSIONER ROULEAU:** Can I just interrupt,
26 please?

27 **DS JACQUELINE BOGDEN:** Oh, slow down.

28 **COMMISSIONER ROULEAU:** Slow down a bit for the

1 interpreters, please.

2 **DS JACQUELINE BOGDEN:** I'm very sorry, sir. My
3 counsel was reminding me, and I knew that you've warned others.
4 Sometimes I can speak very quickly. I will try -- I get
5 excited. Sorry about that, sir.

6 **COMMISSIONER ROULEAU:** And it's an exciting
7 inquiry.

8 **DS JACQUELINE BOGDEN:** All right. I will try to
9 breath.

10 Okay. So I would have made sure that those who
11 needed to know inside PCO at a senior level, you know, were
12 aware. And then as Jeff had explained earlier, or Mr.
13 Hutchinson had explained earlier, Public Safety would have done
14 what they do to sort of look at the request and how the
15 government would want to respond to that.

16 **MS. SHANTONA CHAUDHURY:** And eventually, skipping
17 ahead, I don't know if, Mr. Hutchinson, you have anything to add
18 on that, but it was determined that this was not a request that
19 could be fulfilled as intended?

20 **MR. JEFFREY HUTCHINSON:** That's correct.

21 **MS. SHANTONA CHAUDHURY:** Okay. Sorry to have
22 interrupted you. So we're on February 6th now, and ---

23 **DS JACQUELINE BOGDEN:** Yeah. So we're on
24 February 5th. We received this request, and I'm not entirely
25 certain if we knew then, or we knew on Sunday, but we were
26 anticipating an additional request for assistance from the City
27 of Ottawa, looking for additional resources to help the Ottawa
28 Police Service. So by Saturday, we had decided, okay, we need

1 to bring Ministers together again on Sunday night, so we began
2 the preparations for that discussion on Sunday night.

3 **MS. SHANTONA CHAUDHURY:** Okay. So we'll just go
4 to the minutes for the February 6th SSE, which is
5 SSM.NSC.CAN.00000293.

6 **DS JACQUELINE BOGDEN:** That's funny.

7 **MS. SHANTONA CHAUDHURY:** Sorry?

8 **DS JACQUELINE BOGDEN:** It says postal station B,
9 but it wasn't. It was a virtual meeting.

10 **MS. SHANTONA CHAUDHURY:** Oh, very good memory.
11 Okay. So -- yes, can you situate us for this meeting, how it
12 took place and what was discussed?

13 **DS JACQUELINE BOGDEN:** So, I mean, this meeting
14 was, you know, similar to the meeting that we had on Tuesday
15 night in that it sort of was transacted in two ways. One was to
16 update Ministers on the situation as we knew it at that point in
17 the afternoon, and those briefings would have been delivered as
18 they were on the Thursday night, you know, by the Commissioner
19 of the RCMP, the Director of CSIS, and others to make sure that
20 Ministers had an up-to-date situational awareness. And then
21 there would have been a follow-up discussion about, you know,
22 we've seen an escalation of protest activity over the weekend.
23 You know, we're going into week two now of this, and what
24 additional things -- you know, picking up from the conversation
25 on Thursday and over the weekend, because remember, we're still
26 briefing, you know, the core Ministers over the weekend. They
27 were very seized with this over the weekend. What more should
28 we consider doing heading into hitting into the week?

1 So, you know, as an example, one of the ideas
2 that was talked about was should we seek to bring together the
3 representatives of the Ontario government with the Government of
4 Canada and Ottawa, which is what became known as the tripartite
5 discussion or tripartite table. And so that was, you know, one
6 of the -- like, that is, you know, one example of something that
7 would have -- tangible action that would have flowed from that
8 meeting. I would have been asked the next day to organize that
9 meeting and get that started.

10 **MS. SHANTONA CHAUDHURY:** Okay. So this is
11 February 6th. So this is the day that the City of Ottawa
12 declares a state of emergency.

13 **DS JACQUELINE BOGDEN:** Correct.

14 **MS. SHANTONA CHAUDHURY:** And was that part of the
15 discussion at this meeting; do you recall, or was ---

16 **DS JACQUELINE BOGDEN:** If we knew it at that
17 time. I can't remember the timing, I'm sorry. I didn't go back
18 and double check the timing. This meeting was at two o'clock in
19 the afternoon, so I don't remember that the minutes reflect
20 that, but, you know, if we knew that at the time, that would
21 have -- it would have been something that we would have
22 discussed.

23 **MS. SHANTONA CHAUDHURY:** And in any event, as you
24 said, a decision was taken that it was time to convene the
25 trilateral?

26 **DS JACQUELINE BOGDEN:** Yeah, that would have been
27 one of the things, yeah.

28 **MS. SHANTONA CHAUDHURY:** Okay. So can you take

1 us through that a little bit? You said you were tasked with
2 setting up the next day.

3 **DS JACQUELINE BOGDEN:** Sure. So I would have,
4 you know, sought to organize that. The next day, I think the
5 meeting would have been, you know, maybe at five o'clock that
6 day. And so we were seeking to invite the Ontario Solicitor
7 General and her Deputy Solicitor General, who is the head --
8 it's Mario Di Tommaso who you've heard testimony here at the
9 hearings, and then the Mayor of the City of Ottawa, as well as
10 Minister of Public Safety Mendocino, and the Minister of
11 Emergency Preparedness Bill Blair, and he would have had a few
12 individuals from the senior public service. So, for example, I
13 was there, Rob Stewart, the Deputy Minister of Public Safety
14 would have been there.

15 And the conversation was really -- you know, the
16 idea here was can we get the three orders of government
17 together, there's a situation in Ottawa that there is no line of
18 sight on resolution. How can we help? What more can we do to
19 help?

20 **MS. SHANTONA CHAUDHURY:** Okay. And so that first
21 -- that was convened same day then, February 7th ---

22 **DS JACQUELINE BOGDEN:** Right.

23 **MS. SHANTONA CHAUDHURY:** --- 5 p.m. And as we
24 know, Minister Jones did not attend that meeting?

25 **DS JACQUELINE BOGDEN:** Correct.

26 **MS. SHANTONA CHAUDHURY:** Okay.

27 **DS JACQUELINE BOGDEN:** There was not
28 representation from Ontario.

1 **MS. SHANTONA CHAUDHURY:** Was Mr. Di Tommaso?

2 **DS JACQUELINE BOGDEN:** No.

3 **MS. SHANTONA CHAUDHURY:** Okay. So the first one
4 was sans Ontario. Can you tell us in general terms sort of what
5 was discussed and what came out of that first meeting?

6 **DS JACQUELINE BOGDEN:** I mean, it was a good
7 conversation just to update on -- from each party. I'm sure
8 there would have been a recollection, for example, that we had
9 already -- RCMP -- additional RCMP officers had already been
10 deployed to support the City of Ottawa. This is Monday, Monday
11 the 7th? I'm sure the Mayor would have indicated to the
12 Ministers that there was a request forthcoming for about 1800
13 additional personnel, and he would be looking for support, and
14 he would be looking for support in response sooner rather than
15 later.

16 **MS. SHANTONA CHAUDHURY:** Okay. That's fine.

17 **DS JACQUELINE BOGDEN:** Yeah.

18 **MS. SHANTONA CHAUDHURY:** And despite the fact
19 that you appear to have a fantastic memory, it's not a memory
20 test, ---

21 **DS JACQUELINE BOGDEN:** Okay.

22 **MS. SHANTONA CHAUDHURY:** --- so if ever you want
23 me to bring up a document, I can do that.

24 **DS JACQUELINE BOGDEN:** Super. Thank you.

25 **MS. SHANTONA CHAUDHURY:** Okay. So that sort of
26 takes us, at this point, to we're in the second week of
27 protests, getting into that, and then the third and then final,
28 I believe, SSE. So that was February 8th. The document number

1 is -- drumroll please, SSM.NSC.CAN.00000295.

2 Was this one also an ad hoc meeting or was this a
3 regularly scheduled one?

4 **DS JACQUELINE BODGEN:** This is a regularly
5 scheduled meeting. And I think -- so as I said, you know, there
6 was intention heading into this week to be, you know,
7 intensifying and thinking about what proactively the government
8 could do to support the resolution of the situation. I think
9 it's important to also maybe note that at the start of this week
10 is we'd already seen some protest activity around the Ambassador
11 Bridge, and now we're in a situation where that, you know, is a
12 much more dire situation. And so what we decided to do was add
13 on an item at this meeting and again update Ministers and talk
14 about what more might need to be done.

15 And I think, you know, the situation is becoming
16 increasingly concerning. You know, it's getting worse, and not
17 getting better. And we don't have line of sight on how these
18 different situations that exist are going to get resolved or get
19 better quickly. And so there's a further conversation about
20 what more Ministers or departments and agencies need to be
21 thinking about doing.

22 **MS. SHANTONA CHAUDHURY:** Okay. And just a
23 clarification here, so the SSE is a Cabinet committee with, as I
24 understand it, no decision-making power?

25 **DS JACQUELINE BODGEN:** Yeah, so this is true for
26 all standing Cabinet committees, is that they will deliberate
27 either on policy or other issues and make recommendations to the
28 Prime Minister and Cabinet. But they're not a decision-making

1 body.

2 **MS. SHANTONA CHAUDHURY:** Okay. So coming out of
3 the February 8th SSE then is a decision that it's time to do
4 something more, essentially? Okay. So what is the more? What
5 happens after that?

6 **DS JACQUELINE BODGEN:** So I mean I think it's
7 important to acknowledge that nobody has been sitting around
8 doing nothing, you know, up until this point; right? But it's
9 leaning in a little bit more. And so what I would say happened
10 next is, for example, you know, very early the next morning, the
11 Clerk of the Privy Council Office pulled all of the -- I
12 shouldn't use the word "pull" -- convened all of the Deputy
13 Secretaries of the Privy Council Office and Deputy Ministers who
14 were implicated together and asked us to, you know, pull
15 together, in written form, all of the options that are available
16 to the Federal Government to resolve this situation and get that
17 into some kind of a form that we could put it in front of
18 Ministers, whether that is another SSE meeting or what. But,
19 you know, to be decided.

20 **MS. SHANTONA CHAUDHURY:** Okay. So, sorry, I'll
21 just interrupt. The PB.NSC.CAN.000002418. I just want to make
22 sure that this is what we're talking about here. Okay. So this
23 is an email from Mike MacDonald. If you just scroll down a
24 little bit, there's an email from you to Genevieve Binet, who is
25 also ---

26 **DS JACQUELINE BODGEN:** Yeah.

27 **MS. SHANTONA CHAUDHURY:** --- a PCO, Mike
28 MacDonald, ---

1 **DS JACQUELINE BODGEN:** Yeah.

2 **MS. SHANTONA CHAUDHURY:** --- who we know is the
3 Assistant Secretary, Mr. Hutchinson was copied.

4 "Genevieve, I am looking at this now and
5 will make changes in track changes [...]
6 send back to you..."

7 **DS JACQUELINE BODGEN:** Yeah.

8 **MS. SHANTONA CHAUDHURY:**

9 "...my sense is [...] we need more info from
10 [...] RCMP..."

11 So this is what you're discussing?

12 **DS JACQUELINE BODGEN:** That's essentially what's
13 happening; right? Is we've had a conversation with the clerk
14 amongst deputies that morning. We and our team are acting as a
15 bit of an aggregator of information that is coming in from
16 departments. We're not writing a lot ourselves. We're just
17 pulling it in from departments.

18 And the nature of the conversation that we had
19 that morning was I think I would characterize it -- if you
20 permit me to do that? Can I do that? To -- you know, is two
21 things.

22 So on the one hand, was it all of the range of
23 things within existing federal authorities that can be brought
24 to bear to resolve this situation? And you know, you're looking
25 at not just resolving the current situation, you're also
26 thinking about, you know, mitigating the situation getting
27 worse; right? Because we do have a serious, you know,
28 situation, and, you know, how do we prevent it from getting

1 worse?

2 So I think that the Commissioner and those who
3 are listening today would have heard in other testimony that was
4 given by other Deputy Minister's this week some of the things
5 that we talked about in that meeting that morning, the work that
6 had been underway in getting that on paper.

7 So the kinds of things I'm talking about are, for
8 example, you know, first order of business is to think about
9 what additional resources does law enforcement need? You know,
10 whether that is people, or it's equipment, or, you know,
11 whatever it is that they need in order -- money, what is it, in
12 order to be able to enforce the laws and address the situations
13 that we're seeing.

14 You know, another example is engagement. You
15 know, do we need to be doing more in terms of engagement with
16 other orders of government, or engagement, for example, with the
17 organizers of the protests and the demonstrations. So that's,
18 you know, a second line. And I think you maybe had heard that
19 from Deputy Minister Stewart during his testimony earlier this
20 week, that that was something that he had been working on.

21 You know, the other examples of things that we
22 were working on, you would have heard from Deputy Minister
23 Keenan about the strategic enforcement strategy; right? How do
24 we, you know, encourage people to consider taking their trucks
25 and leaving? They're engaging in illegal behaviour, how, you
26 know, can we help in that way?

27 The tow truck strategy, which I think gave
28 everybody gray hair, just thinking of the millions of ways that

1 we could try to resolve that situation.

2 So that's -- and there was other things in that
3 bucket of things that we need to do within our existing
4 authorities, like in the vein of thinking about how do we make
5 sure this situation doesn't become worse, one of the things
6 that, for example, the President of the CBSA would have been
7 worrying about is how do we harden or, what's another way to say
8 that, make more resilient our border points across the country?

9 Like, you know, at this point in time, you know,
10 at the SSE meeting on the 8th or, you know, as we're having that
11 discussion in the morning, he's been reporting out on no less
12 than 10 different, you know, border points being occupied.
13 Ambassador Bridge is, for all pretense and purposes blocked,
14 he's having difficulty redirecting that critical traffic to
15 Sarnia. Like, so we need to think about how do we make sure
16 that this situation doesn't get worse; right? Because these are
17 critical supply lines, both in terms of Canadians, both in terms
18 of trade, you know, and so we need to be thinking about that.

19 So there, we're kind of working on what are all
20 the things that we can do within our existing authorities to try
21 to support the resolution of this situation and not have it
22 escalate or become worse.

23 **MS. SHANTONA CHAUDHURY:** Okay. And I think if we
24 just scroll down a little bit in this document, Mr. Clerk?

25 Find essentially that list that you just
26 described.

27 **DS JACQUELINE BODGEN:** Yeah.

28 **MS. SHANTONA CHAUDHURY:** Enforcement ---

1 **DS JACQUELINE BODGEN:** Oh, perfect. Okay.
2 Sorry. I should have allowed you to do that. That would give
3 you sort of the kind of lines of effort that we were thinking
4 about. So enforcement, engagement, finance refers to thinking
5 about, you know, one of the -- I talked a little bit about the
6 trucks. One of the other policy problems that we had was the
7 fundraising, you know, and what do we do about the fact that
8 there is a significant amount of money that is being raised that
9 is going to support illegal activity. And what do we do about
10 that?

11 **DS JACQUELINE BODGEN:** Okay. So I'm going to ask
12 you to walk us through all of those options a little more slowly
13 with the assistance of the next document, which is
14 PB.NSC.CAN.000002418. Oh, sorry, 2419.

15 Okay. So do you recall, ---

16 **DS JACQUELINE BODGEN:** Yeah.

17 **MS. SHANTONA CHAUDHURY:** --- Ms. Bodgen, this
18 being the attachment to that email, essentially, that set out
19 the various plans ---

20 **DS JACQUELINE BODGEN:** Yeah.

21 **MS. SHANTONA CHAUDHURY:** --- that have been
22 discussed?

23 **DS JACQUELINE BODGEN:** This was the first cut;
24 right? We're ---

25 **MS. SHANTONA CHAUDHURY:** That's right.

26 **DS JACQUELINE BODGEN:** --- taking information
27 that's being provided from different organizations. This -- I
28 can't remember off the top of my head whether this came from the

1 RCMP or Public Safety, but it would have been one or the both of
2 them.

3 **MS. SHANTONA CHAUDHURY:** Okay. So this is
4 essentially, it's assessing the request because at this point
5 the request for additional resources, I think it was 1,800, had
6 been made; is that right?

7 **DS JACQUELINE BOGDEN:** Yeah. By this point we
8 are Wednesday; yeah.

9 **MS. SHANTONA CHAUDHURY:** And so ---

10 **DS JACQUELINE BOGDEN:** Yeah.

11 **MS. SHANTONA CHAUDHURY:** --- the assessment of
12 the -- there we go, it's spelled out there, a 1,000 regular, 600
13 public order, 100 investigative, 100 civilian.

14 **DS JACQUELINE BOGDEN:** Yeah.

15 **MS. SHANTONA CHAUDHURY:** And what's said about it
16 is:

17 "The broad request at both levels of
18 government is without specifics and is
19 almost impossible to meet until details
20 are worked out. Given other
21 operational demands faced by RCMP, OPP
22 and other police services...there is a
23 requirement to understand the specific
24 resources needed and the objectives
25 the...(OPS) is trying to achieve, prior
26 to providing [those]...resources."

27 **DS JACQUELINE BOGDEN:** Correct.

28 **MS. SHANTONA CHAUDHURY:** So this is the

1 information that you would have been receiving from
2 Commissioner Lucki and the RCMP?

3 **DS JACQUELINE BOGDEN:** Yeah, presumably. Yeah.

4 **MS. SHANTONA CHAUDHURY:** Okay.

5 **DS JACQUELINE BOGDEN:** Yeah. And this is a
6 request that is going to both levels of government; right? And
7 I think both of, you know, both the RCMP and the OPP would be
8 asking themselves the same questions; right? Like what's the
9 order of magnitude of the people that you need, and what is the
10 plan that you're putting those people against? Right?

11 Because I remember that quite distinctly at a
12 number of occasions the Commissioner making that clear, that it
13 isn't just about the number of people, it's what are the duties,
14 like what is the capabilities that you need? What will be
15 asking them to do? And you need fidelity on that plan, both,
16 you know, for their safety and to make sure that you have enough
17 individuals to be able to prosecute on that.

18 And I remember when this came in; right? It was
19 a big, big ask, and it was a big ask for a lot of different
20 kinds of needs and services, like including everything from, you
21 know, media relations help and things like that. Like we were
22 asking ourselves, okay, could we do a call out, you know, find
23 individuals within the Federal Public Service to lend them?
24 Like is there a way we can help? Like that was really the way
25 everybody was thinking at this point in time, is like, all hands
26 on deck. How do we help get this done kind of thing?

27 **MS. SHANTONA CHAUDHURY:** Okay. So I think that
28 some of those concerns are reflected.

1 If we just scroll a bit down the document a bit,
2 and then we get to Strategic Enforcement Options.

3 **DS JACQUELINE BOGDEN:** M'hm.

4 **MS. SHANTONA CHAUDHURY:** Scroll down to the next
5 page.

6 And take us through what's being expressed here.
7 I believe this is what you were referring to when you were
8 saying that ---

9 **DS JACQUELINE BOGDEN:** Yeah. This is a short-
10 form kind of articulation of what you heard from Deputy
11 Minister Keenan a little bit earlier in the week about the
12 strategic enforcement strategy, is how do we, you know, show
13 that there are consequences, you know, economic consequences, or
14 other consequences, both through the police and law enforcement,
15 but also, is there a way to work with provincial transportation
16 authorities and looking at, you know, for example, you know, the
17 *Ontario Highway Traffic Act*. And you know, these are commercial
18 vehicles with -- that are, you know, that are registered either
19 in the province, or Ontario or other provinces. Is there a way
20 that we could work with provincial transportation authorities to
21 try to resolve the issue.

22 **MS. SHANTONA CHAUDHURY:** And this is being
23 cobbled together, this document, not cobbled, but put together
24 on February 9th, which as we know from Deputy Minister Keenan,
25 is the day after he received a letter from Ontario Ministry of
26 Transportation, which I think he characterised, and I'm
27 paraphrasing here, but as a polite thanks but no thanks.

28 **DS JACQUELINE BOGDEN:** Yeah.

1 **MS. SHANTONA CHAUDHURY:** Okay.

2 **DS JACQUELINE BOGDEN:** Yeah.

3 **MS. SHANTONA CHAUDHURY:** So if we just keep
4 scrolling down a bit here.

5 Now, we get to Border Related Enforcement
6 Options. So I think this probably refers to what you were
7 telling us about CBSA having -- dealing with no less than 10
8 different ---

9 **DS JACQUELINE BOGDEN:** Yeah.

10 **MS. SHANTONA CHAUDHURY:** --- potential
11 disruptions.

12 **DS JACQUELINE BOGDEN:** And the prospect that that
13 could get worse. And I think when I was talking about, you
14 know, the idea of making sure that our critical infrastructure,
15 like that we've hardened it or made it more resilient, you know,
16 I was strictly talking about the borders, you know, ports of
17 entry, but we were also worried about things like rail, and you
18 know, other modes of transport. Right? So, yeah.

19 **MS. SHANTONA CHAUDHURY:** So both domestically and
20 ---

21 **DS JACQUELINE BOGDEN:** Correct.

22 **MS. SHANTONA CHAUDHURY:** --- and cross border?
23 Okay.

24 **DS JACQUELINE BOGDEN:** Yeah. Like what are the
25 other -- you know, you -- what are the other places that could
26 become a target of protest activity or blockades; right?

27 **MS. SHANTONA CHAUDHURY:** And do you recall having
28 any information at that point that those things might happen?

1 Any intelligence in that?

2 **DS JACQUELINE BOGDEN:** Well, I mean, we had -- I
3 think there has been testimony here about a slow roll around the
4 airport in the City of Ottawa. You know, we had -- I think
5 there were indications around rail, I can't remember precisely
6 what they were, but yes, I think that we were hearing that, you
7 know. And even if they're unconfirmed reports, right, once --
8 you still have to take all of that stuff seriously and be
9 thinking about how do you mitigate the situation getting worse.
10 Right?

11 **MS. SHANTONA CHAUDHURY:** Okay. So then if we
12 just scroll down now to page 4, Mr. Clerk, we get to Engagement
13 Plan.

14 So we'll be getting into this in a little more
15 detail a bit later, but can you walk us through a little about
16 what the idea here is with potential engagement? We see at the
17 second bullet:

18 "Engagement could open lines of
19 communication, signal willingness to
20 listen...create leverage to move
21 protesters out."

22 **DS JACQUELINE BOGDEN:** Yeah.

23 **MS. SHANTONA CHAUDHURY:** So at that point in
24 time, that's on the table as something that could be helpful in
25 the situation.

26 **DS JACQUELINE BOGDEN:** Yeah. As -- like, there's
27 a range of options that we can explore here, right, and we need
28 to -- you know, the idea of potential engagement with the

1 organisers of the protesters, like it's been an idea that was
2 thought of and talked about, and -- so now starting to put some
3 definition around well, what would that mean. What would that
4 involve? Who would do that?

5 **MS. SHANTONA CHAUDHURY:** Okay. And now, just
6 scrolling down a little bit, there's one point I want to ask you
7 about. And I don't know if this is information that you were
8 aware of or came from you, but it says here:

9 "DM of [Public Safety] and NSIA are
10 meeting with senior levels of the City
11 of Ottawa daily."

12 **DS JACQUELINE BOGDEN:** Yeah.

13 **MS. SHANTONA CHAUDHURY:** It talks about potential
14 expansion of engagement to include the Federation of Canadian
15 Municipalities or other mayors, and then says, "The Chief", and
16 I'm assume that's Chief Sloly from the context here:

17 "...continues to communicate publicly
18 his view that OPS lacks resources to
19 effectively manage the situation. This
20 may be somewhat true but may also be a
21 strategic tactic and may need to be
22 managed."

23 Do you have any knowledge of where that
24 information came from?

25 **DS JACQUELINE BOGDEN:** No, not -- I mean -- no, I
26 don't. I don't. The DM -- the sort of bullet before about the:

27 "[Deputy Minister] of [Public Safety]
28 and NSIA are meeting with senior

1 levels..."

2 That's factually true. Where the idea of:

3 "Engagement could be expanded to

4 include the [FCM]..."

5 I don't know where that idea came from. Whether
6 that was from us or it came from another department, I really
7 can't recall.

8 But I know the idea that's behind it, right, is
9 that we're thinking about, it's not just addressing the
10 situation as it exists today, it's preventing the situation
11 worsening. So thinking about, you know, what we had seen with
12 Toronto and Quebec City, right, having learned the lessons of
13 how to create the conditions for a peaceful protest, but not
14 allow it to turn into an occupation or a blockade. And so the
15 idea behind that is how do we share those lessons learned? You
16 know, these situations are not a normal occurrence, and -- so,
17 yeah, I think that's kind of the idea behind that. I'm going to
18 -- that's me speculating a little bit, but...

19 **MS. SHANTONA CHAUDHURY:** Yeah, that's fine.

20 Okay. Scrolling down, it next discusses
21 International Engagement, so what's been going on between CBSA
22 and U.S. Customs and then the -- Public Safety and the
23 Department of Homeland Security were in touch and meeting
24 following that.

25 And then the next page discusses Ontario
26 Engagement. And at that point, I think February 8th is when the
27 second tripartite happens as well?

28 **DS JACQUELINE BOGDEN:** That's correct. Yeah.

1 **MS. SHANTONA CHAUDHURY:** Yeah. And as we know,
2 there was no representation from Ontario at the political level
3 at that one.

4 **DS JACQUELINE BOGDEN:** Correct.

5 **MS. SHANTONA CHAUDHURY:** Okay.

6 **DS JACQUELINE BOGDEN:** Or the Public Service
7 level.

8 **MS. SHANTONA CHAUDHURY:** Okay.

9 **DS JACQUELINE BOGDEN:** Mr. Di Tommaso was not
10 there either.

11 **MS. SHANTONA CHAUDHURY:** Did not participate in
12 that one either.

13 **DS JACQUELINE BOGDEN:** Yeah.

14 **MS. SHANTONA CHAUDHURY:** Okay. And then we have
15 summarised here, and we'll get into this more next week when the
16 ministers testify, but Minister Mendicino and Minister Leblanc
17 starting to reach out to Premier Ford, specifically.

18 **DS JACQUELINE BOGDEN:** Yeah.

19 **MS. SHANTONA CHAUDHURY:** And then we have DM IGA,
20 so that would be Intergovernmental Affairs from PCO ---

21 **DS JACQUELINE BOGDEN:** Correct.

22 **MS. SHANTONA CHAUDHURY:** --- Mr. Vandergrift ---

23 **DS JACQUELINE BOGDEN:** Correct.

24 **MS. SHANTONA CHAUDHURY:** --- speaking to his
25 counterpart in Ontario on February 9th?

26 **DS JACQUELINE BOGDEN:** Yeah.

27 **MS. SHANTONA CHAUDHURY:** So presumably this
28 reflects some attempt on the part of the Federal Government to

1 get that engagement going at a ---

2 **DS JACQUELINE BOGDEN:** Yeah.

3 **MS. SHANTONA CHAUDHURY:** Okay.

4 **DS JACQUELINE BOGDEN:** Yeah. That's what I had
5 mentioned earlier, is that engagement take many forms; right?
6 And so how can we influence and work closely with other partners
7 to bring this to a resolution.

8 **MS. SHANTONA CHAUDHURY:** Okay. So the next page
9 then, please, and we won't spend too much time on this today
10 because we spent a lot of time on it yesterday, but financial
11 levers being considered. At that point, were the PCMLCFA ---

12 **DS JACQUELINE BOGDEN:** Yeah.

13 **MS. SHANTONA CHAUDHURY:** I'm comforted by the
14 fact that Mr. Sabia doesn't like that acronym either, and we can
15 just keep going. And the second option is the *Bank Act*.

16 **DS JACQUELINE BOGDEN:** Yeah.

17 **MS. SHANTONA CHAUDHURY:** Okay. And then the last
18 thing that's discussed in this document, page 9, is what's
19 described as the federal narrative. So can you tell us a little
20 bit what is that, what is the federal narrative here? What's
21 the purpose of putting this on paper and ---

22 **DS JACQUELINE BOGDEN:** I think it's just to help
23 ---

24 **MS. SHANTONA CHAUDHURY:** Is it a communication
25 strategy? Is it a ---

26 **DS JACQUELINE BOGDEN:** Yeah, it's part of a
27 communication strategy. It -- I mean, in these kinds of
28 situations, it's really -- it's important to have clarity and

1 consistency on your communications about the initiative. And I
2 think at this point -- where are we, we're the 9th? We do --
3 like, the federal government wants to make sure that Canadians
4 understand that, on the one hand, we understand their
5 frustration with COVID and the world that we have all had to
6 live with up until that point, and -- and I didn't read these --
7 the narrative again before my testimony, but so it's on the one
8 hand ---

9 **MS. SHANTONA CHAUDHURY:** You can take a minute to
10 read it now if you want or ---

11 **DS JACQUELINE BOGDEN:** Yeah, and then it talking
12 about what is the -- so, okay, so I was not that far off. The
13 first is sort of empathy and understanding with the frustration
14 that everyone is feeling with the current situation, and then
15 starting to talk a little bit about what it is that we're doing
16 to support the jurisdictions to resolve the situation, to
17 protect us. Oh, okay, this is the work that we've done with
18 provinces and territories to respond to COVID.

19 Okay. If we could keep going down?

20 "What we[']re now seeing is,
21 unfortunately a very real demonstration
22 of this frustration and exhaustion..."

23 So, you know, expressing understanding, but also
24 making clear that illegal actions are not the answer; right?
25 They're -- yeah.

26 And so this kind of notes are kind of put
27 together to help Ministers and others, you know, have a common,
28 consistent message about how do we want to talk about the

1 situation. Canadians expect to hear from their government.
2 They want to know what they think. And I think this is an early
3 draft of that. I think there would have been additional drafts
4 but ---

5 **MS. SHANTONA CHAUDHURY:** Okay. So this document
6 then -- we can take that down now, thank you, Mr. Clerk -- is
7 put together, and as you say, it summarizes essentially the
8 options being considered, efforts made, options being
9 considered. What's done with it? So that -- who's that
10 circulated to, what happens to it next?

11 **DS JACQUELINE BOGDEN:** Yeah. So this is the 9th.
12 That's an early version. There would have been a later version.

13 **MS. SHANTONA CHAUDHURY:** Okay. So that would
14 probably be SSM.CAN.00008758.

15 **DS JACQUELINE BOGDEN:** Yeah.

16 **MS. SHANTONA CHAUDHURY:** This is the February 10th
17 version.

18 **DS JACQUELINE BOGDEN:** Yeah, and there are -- we
19 had that very -- this is the February 10th version because it's 3
20 o'clock in the morning by this point. That's why it's February
21 10th, but, so, you know, the 9th, we had that early conversation
22 with the Clerk. People have been working really hard. They're
23 feeding us information and we're trying to package it into some
24 kind of form that kind of makes sense, right, or that could help
25 the -- whether it's the, you know, senior leadership in the PCO
26 have, you know, briefings or discussions, either with the Prime
27 Minister or the Prime Minister's office, but just, you know, the
28 Clerk had asked us to get these ideas together on paper, pull it

1 in from departments and get it on paper.

2 Yeah, and knowing that, you know, the -- part of
3 our job in the public service is to put together options and
4 advice for Ministers to consider what to do.

5 **MS. SHANTONA CHAUDHURY:** Okay. Mr. Clerk, can
6 you just pull up now SSM.CAN.00008757?

7 So, Ms. Bogden, I think this is the email that
8 you sent, and looking at that timestamp, that does mean it's
9 about 2:45 in the morning, to Mr. Hutchinson and MacKilop, Ms.
10 Thomas, whom we heard from yesterday, Ms. Drouin, so
11 essentially, higher ups at PCO. And do you want to walk us
12 through your thinking in this email, what you're conveying about
13 what your efforts have been in putting this together?

14 **DS JACQUELINE BOGDEN:** Okay. So at the top of
15 the email -- here I'm just -- you know, the document that you
16 had projected earlier was an earlier version, right, like, a
17 first cut. And here I'm just saying to them, so we've done the
18 best we can to not just take the input from the departments but
19 try to put it together in a way that might be thoughtful. I
20 think, you know, with the emphasis on enforcement, both in
21 Ottawa and Windsor, and I've kind of put it into, you know, Plan
22 A is provide resources, you know, whatever's needed to help
23 resolve, and, you know, if that's not successful, what else do
24 we need to be thinking about? And that's always the world we're
25 in is what can we do within existing resources. And when that
26 doesn't work or the situation escalates, or deteriorates,
27 however you want to characterize it, you need to be thinking
28 about what is Plan B, you know, what other -- you can call it

1 Plan B or you could call it Track 2, but you need to be thinking
2 about what other options that you might need to be thinking
3 about.

4 And again, I'll just say this is part of what we
5 need to do in government is to be thinking ahead, to make sure
6 that we're ready if the government looks to us and says, what
7 are our options, how can we proceed. We've actually done the
8 homework and we've pulled that information together. We don't
9 wait until we're asked.

10 **MS. SHANTONA CHAUDHURY:** Okay. So I think you've
11 foreshadowed what I was going to ask, which is Plan A here and
12 Plan B is what eventually then becomes known as Track 1 and
13 Track 2 ---

14 **DS JACQUELINE BOGDEN:** Yeah.

15 **MS. SHANTONA CHAUDHURY:** --- in the IRG tracker?

16 **DS JACQUELINE BOGDEN:** Yeah.

17 **MS. SHANTONA CHAUDHURY:** Okay. Track 1 being, as
18 you said, what can we do within existing authorities, and Plan B
19 or Track 2 being what other authorities might be of assistance,
20 whether that is the *Emergencies Act* or some other type of new
21 legislation, or amendment, or ---

22 **DS JACQUELINE BOGDEN:** Yeah.

23 **MS. SHANTONA CHAUDHURY:** Just a couple more
24 questions on this.

25 "We [...] have a Tripartite table [you
26 say] booked at 12:[...]pm for federal
27 Ministers, hopefully the Ontario
28 Minister and Mayor Watson and

1 officials. I will check in the morning
2 whether the Ontario Minister [...] has
3 accepted the meeting or not."

4 Do you recall whether she did, whether she
5 attended?

6 **DS JACQUELINE BOGDEN:** No.

7 **MS. SHANTONA CHAUDHURY:** Okay.

8 **DS JACQUELINE BOGDEN:** No, Ontario didn't --
9 wasn't able to participate in any of the meetings.

10 **MS. SHANTONA CHAUDHURY:** Okay. So this email
11 goes out, and where do things go from there?

12 **DS JACQUELINE BOGDEN:** So the next morning, I
13 believe that the Clerk had a conversation with the Prime
14 Minister, and there was a decision taken to convene the Incident
15 Response Group, so that is another Cabinet Committee. This is -
16 - its express purpose is to be called in a crisis for national
17 emergency of some kind, and it includes the Prime Minister, and
18 it will include the -- you know, the sort of most implicated
19 Ministers who need to be there to help provide information and
20 advice. And so a decision was taken that morning to bring
21 together the Incident Response Group.

22 And the only other thing I would say about that
23 is, is that Cabinet Committee is a decision-making body, so it
24 can make decisions. Yeah.

25 **MS. SHANTONA CHAUDHURY:** Okay. And is that
26 because the -- as a matter of procedure, it is a decision-making
27 body because the Prime Minister is there? Okay.

28 **DS JACQUELINE BOGDEN:** Yes.

1 **MS. SHANTONA CHAUDHURY:** Well, I think we'll be
2 hearing a lot more about the IRG from the Clerk and the Deputy
3 Clerk this afternoon, so won't go too much further into that.

4 There's one thing that I'm hoping you can help us
5 with and that's actually addressed more to Mr. Hutchinson
6 probably. It might -- it's actually to both of you, but is --
7 we've referred to it before, but the engagement proposal that
8 Mr. Stewart ended up preparing.

9 So Mr. Clerk, if I can ask you to pull up
10 SSM.CAN.00008759?

11 So this is an email on February 10th. The
12 timestamp is challenging, but that's probably about 2:00 o'clock
13 in the -- 2:00 or 3:00 in the afternoon. So email from Mr.
14 Stewart to both of you and to the NSIA providing "input for our
15 advice on engagement".

16 So can you just summarize for us the context of
17 this email and why Mr. Stewart was sending it? Why to you? How
18 did this come about?

19 **DS JACQUELINE BODGEN:** So this is the same as
20 other departments were doing the day before that we'd talked
21 about. Like, if you saw in the document there was kind of a
22 place holder for more information about the engagement proposal,
23 and so this is what Deputy Minister Stewart was able to send to
24 us the next day, to kind of be integrated into the package. And
25 I think it -- I mean, he is better placed to discuss the
26 contents of this, but I think it's a reflection of, you know,
27 where we were at that point in time. We had begun work on
28 developing some advice on a potential path for engagement and

1 had been doing that with police -- some advice from police
2 experts.

3 **MS. SHANTONA CHAUDHURY:** And Mr. Hutchinson, I
4 gather you were involved in some of those calls? And the police
5 expert was Marcel Beaudin? Okay. Can you tell us a little bit
6 about those calls and how that progressed?

7 **MR. JEFFERY HUTCHINSON:** Certainly. That's
8 correct. I was involved in those calls. So my understanding,
9 and I don't have first hand knowledge of this part, but Deputy
10 Minister Stewart obtained the name of Marcel Beaudin as an
11 expert in PLTs and crowd psychology, those kinds of issues. And
12 he -- Deputy Minister Stewart intended to speak with Supt.
13 Beaudin and he called me and asked me if -- or texted. I can't
14 remember how he contacted me. But he asked me if I would be
15 willing to participate. I said certainly.

16 As Ms. Bodgen mentioned earlier, this was kind of
17 an all hands on deck moment. If you were asked to help, you
18 helped.

19 So you heard Deputy Minister Stewart describe my
20 role as observer. And he just wanted to ensure that PCO had
21 line of sight on the conversations.

22 So we had a phone call with Supt. Beaudin. I
23 agree with Deputy Minister Stewart's characterization that we
24 learned quite a bit about PLTs and engagement and sort of the
25 general approach. I think it was underscored that the utility
26 of this kind of engagement at this point in time would be to see
27 if we could shrink the footprint of the protests, much more so
28 than looking for a resolution or a complete pathway to ending

1 the protests in Ottawa. It was more about that intermediate
2 step of shrinking the footprint.

3 My recollection of the discussion is that there
4 was quite a bit of focus on the idea of leadership. And I know
5 when Supt. Beaudin testified earlier in the Inquiry he used the
6 word "juice". And that was a term he used in our phone calls
7 both on the 10th and the 11th, "Who has the juice?" And by that,
8 he meant we need to find the leaders that have the influence on
9 the ground so that if they were to enter into any kind of
10 arrangement, that there would be people that would follow them
11 in the execution of that arrangement.

12 My recollection was that while there may have
13 been numbers of leaders thrown around, certainly on the first
14 day that was very much a question of we'll need to see, we're
15 still assessing. And then Deputy Minister Stewart started to
16 put the ideas on paper, there was a second call with Supt.
17 Beaudin.

18 There was also a discussion about how to keep the
19 different lanes clear. And I think that has been referred to so
20 far in the Inquiry as matters of church and state. How do we
21 ensure that the police are operating under their authority, how
22 do we ensure that engagement that might happen by officials or
23 even at a political level are coordinated but not interfering
24 with the police authority? So there was certainly an
25 attentiveness to the coordination element of how this could play
26 out.

27 And based on those conversations, Deputy Minister
28 Stewart put together a piece of paper, which I know is in the

1 minutes from a subsequent IRG meeting, he put together a
2 proposal for consideration at the IRG.

3 My understanding of our intent in those meetings
4 was to essentially test the viability of a proposal. It was a
5 proposal for engagement. What was the best possible proposal, I
6 guess, that we could put forward that might have a chance of
7 being accepted? So it was about doing the leg work on putting
8 together a proposal and then putting that up to decision makers
9 to consider.

10 **MS. SHANTONA CHAUDHURY:** Okay. And thank you,
11 that's helpful to be walked through that. And as we know, that
12 proposal was eventually brought to the IRG on February 12th and
13 it was decided there not to pursue the engagement strategy.

14 **MR. JEFFERY HUTCHINSON:** The way Deputy Minister
15 Stewart put that was that it wasn't taken up. The way I put
16 that in our witness summary was it didn't proceed. I think
17 that's the best characterization.

18 **MS. SHANTONA CHAUDHURY:** Fair enough. It didn't
19 proceed -- it didn't go anywhere from there. Put it that way.

20 And I think -- I believe in your witness summary,
21 you described it as overtaken by events?

22 **MR. JEFFERY HUTCHINSON:** Correct. I think that -
23 - I probably shouldn't have used that expression because it's a
24 bit of an idiom, but that comes from previous -- a previous
25 stage of my career. But the discussion around engagement was
26 essentially rendered moot by the events of the next couple of
27 days, including the IRG and the Cabinet meeting, and then
28 eventually the invocation of the Act.

1 **DS JACQUELINE BODGEN:** And maybe, you know, the,
2 sort of what happened in Windsor; right? The Ontario Government
3 had attempted to do that and it wasn't fruitful. So I think
4 that would also be one of the considerations.

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

6 Sorry, Mr. Hutchinson, were you going to add
7 something on that?

8 **MR. JEFFERY HUTCHINSON:** No, I was done.

9 **MS. SHANTONA CHAUDHURY:** Okay. and I believe
10 when we were discussing this with Deputy Minister Stewart the
11 other day, we were discussing those different branches of
12 attempts at engagement in Windsor and then this theoretical
13 possibility, and then what was happening, and the Mayor of
14 Ottawa, and I believe he agreed that there was no coordination
15 over these. It was a lot of people trying to do something, but
16 no line of sight over all of it, which complicates things. Do
17 you agree with that?

18 **MR. JEFFERY HUTCHINSON:** I wouldn't necessarily
19 have, like, first hand knowledge of that. I have no issue with
20 his characterization.

21 **MS. SHANTONA CHAUDHURY:** Okay. Fair enough.
22 Okay. The last area I want to address with you briefly, Mr.
23 Clerk, if you can pull up SSM.CAN.00000429?

24 We're skipping way ahead here. We'll skip
25 invocation, we'll skip enforcement, and we're going to go to the
26 time that revocation was being considered.

27 So if we skip down to the end of that email,
28 please? Well actually page 3, I think, is probably where it

1 starts.

2 Just a -- so good -- this is Ms. Thomas saying:

3 "Good morning

4 Jeff has put pen to paper..."

5 Jeff here would be you, Mr. Hutchinson?

6 **MR. JEFFERY HUTCHINSON:** Correct.

7 **MS. SHANTONA CHAUDHURY:** And if we scroll down a
8 bit more?

9 And again, sot eh following couple pages describe
10 -- I'll let you tell us what they describe, but these are --
11 this is pen to paper on thresholds of revocation of the
12 *Emergencies Act*? Is that right?

13 **MR. JEFFERY HUTCHINSON:** Certainly, yes, it is.
14 That's correct. So as you will flesh out in more detail with
15 other witnesses, after the invocation of the Act, there was
16 fairly careful monitoring of how measures were implemented and
17 the impact they were having, the daily meetings that we had had
18 before invocation continued. And as we went into that next
19 weekend, the 20th, I think, was the Sunday, if memory serves, and
20 the large police action in Ottawa had taken place and
21 circumstances had evolved at other protest sites across the
22 country, including ports of entry.

23 Earlier in the day, the National Security and
24 Intelligence Advisor had reached out to the Deputy community
25 implicated and asked, you know, essentially, "What's your
26 assessment of where we're at with the need for the *Emergencies*
27 *Act*?" And after that step, she turned to me and said, "Can you
28 put some ideas on paper?"

1 Unlike invocation, my understanding of the Act is
2 that it doesn't have specific criteria or a test for revocation,
3 and so we were looking to put together policy advice on when
4 revocation was appropriate.

5 We had been -- it had been part of our narrative
6 for that week that the *Emergencies Act* would be utilized only as
7 long as necessary; and there were several people who would add
8 to that, not a minute longer. It was really very -- a strong
9 message to us, "Not a minute longer."

10 And I think in that weekend, the people who
11 really do, as Ms. Bogden described, the PCO role, they're really
12 charged with looking ahead, what's coming, what's the next step?
13 They knew that we needed to have the criteria in place.

14 My first draft I would characterize as pretty
15 rough. You can see some of my thinking there, which was
16 influenced by some of the conversations I had earlier that day,
17 that what we didn't want to do was keep the Orders in place long
18 enough that the emergency, the crisis started to recede, but
19 then revoke the Orders at just the moment when everything could
20 go back to the way it was, or worse.

21 So you see my reflections on, you know, even if
22 trucks have left downtown Ottawa, are they still positioned to
23 come back? We didn't want to be in a position of having things
24 re-establish quickly. We -- so that kind of influenced the
25 thinking, and the other thing I was trying to sort of think
26 through was, you know, the Orders themselves; how would you
27 assess that they had served their purpose?

28 In this email exchange that you have pulled up,

1 you see some back and forth with some Deputy Ministers, and
2 Deputy Mike Keenan in particular used some language about,
3 "Okay, these factors may be indicators of the sort of things
4 we're looking at but what this really comes down to is; is it
5 necessary? Is it still necessary?" And the way I understood
6 that language and the way I tried to use it from that point was
7 you have to understand your threat level and then you have to
8 understand whether that threat is manageable within the existing
9 authorities, meaning outside of the *Emergencies Act*, or whether
10 you still need the leverage of the *Emergencies Act* to address
11 the threat that you've assessed.

12 So it became two points, with some indicators
13 that followed to help people think through the two points, but
14 those two points became sort of the focus of how the advice
15 evolved from that point.

16 **MS. SHANTONA CHAUDHURY:** Okay. So essentially
17 this is -- it's starting from first principles, almost, because
18 there are no criteria that you're working with. How do we put
19 together the criteria. And the attempt, as I understand it, is
20 to find that sweet spot between the -- being confident that it's
21 not too early and the emergencies won't recur, and revoking at
22 the earliest minute possible.

23 **MR. JEFFERY HUTCHINSON:** Yeah, I guess that's a
24 fair characterization.

25 **MS. SHANTONA CHAUDHURY:** Okay. Subject to that,
26 those are my questions for you. But before I sit down, is there
27 anything that we haven't discussed today that you would like to
28 raise?

1 **DS JACQUELINE BOGDEN:** They would have been
2 there, yes. They are members of that committee, yeah.

3 **MR. ALAN HONNER:** Yes. And both of you would
4 have been there as well.

5 **DS JACQUELINE BOGDEN:** Correct.

6 **MR. ALAN HONNER:** And the President of the CBSA
7 was in attendance, and so was the NSIA?

8 **DS JACQUELINE BOGDEN:** For each of the meetings
9 to be absolutely certain it would be good just to check the
10 minutes, because that's part of what has been disclosed, I
11 think.

12 **MR. ALAN HONNER:** But they were sometimes
13 present?

14 **DS JACQUELINE BOGDEN:** Yeah, you can say that for
15 sure.

16 **MR. ALAN HONNER:** And later when the Prime
17 Minister convened the IRG meetings, you were both in attendance.

18 **DS JACQUELINE BOGDEN:** Correct.

19 **MR. ALAN HONNER:** Okay. And Commission Counsel
20 didn't concentrate on this area, for the sake of time, but I
21 understand you both attended Cabinet meetings as well.

22 **DS JACQUELINE BOGDEN:** Not full Cabinet, no.

23 **MR. ALAN HONNER:** You attended the Cabinet
24 meeting on February the 13th, though, did you not?

25 **DS JACQUELINE BOGDEN:** Oh yes, sorry. Sorry;
26 when you -- sorry; yes, that is correct. Yes, sorry. I was
27 thinking about the normal regularly scheduled Cabinet meetings
28 as opposed to the one we had on...

1 **MR. ALAN HONNER:** That's fine. And Mr.
2 Hutchinson, you were there as well, I understand.

3 **MR. JEFFERY HUTCHINSON:** I believe so.

4 **MR. ALAN HONNER:** Okay. And that was the last
5 Cabinet meeting before the invocation of the *Emergencies Act*.

6 Can we please pull up
7 SSM.NSC.CAN00000242_REL.0001?

8 (SHORT PAUSE)

9 **MR. ALAN HONNER:** So on that day, on the day of
10 that last Cabinet meeting before the invocation of the
11 *Emergencies Act*, NSIA Jody Thomas gave a situational update.
12 And what we're looking at right now appears to be remarks that
13 were prepared for her to deliver to Cabinet that day. Does that
14 sound right to you?

15 **DS JACQUELINE BOGDEN:** That's what it looks like,
16 yeah.

17 **MR. ALAN HONNER:** Okay. And I won't ask you
18 about everything she said at Cabinet because I understand some
19 of that is subject to national security confidentiality, but I
20 want to take you to parts of this document and then just ask you
21 about them.

22 So if we can scroll down just a little bit. So
23 the first -- stop there, please.

24 So first of all, we see this notation about
25 Ottawa, and we have a note that the:

26 "City of Ottawa [agreed] announced an
27 agreement with protest leader (Tamara
28 Lich) that could lead to

1 [approximately] 70 per cent of trucks
2 and cars [leaving]...residential areas
3 in the downtown...[for] the next 24
4 hours..."

5 And it goes on, and then if we look down just a
6 little bit more. If we can scroll down to Windsor, that's
7 great.

8 Before I go on with Ottawa, at this point, NSIA
9 Jody Thomas did not announce, I understand, the fact that the
10 OPP and the OPS and the RCMP had an operational plan that they
11 were about to put into place, right? You don't recall that, do
12 you?

13 **DS JACQUELINE BOGDEN:** Sorry; can you repeat that
14 question again?

15 **MR. ALAN HONNER:** You know what, we'll come back
16 to that. Let's just go back here.

17 So to Windsor, we have an update:

18 "As of [February 13th], police
19 enforcement actions continue with
20 reports of arrests being made and
21 vehicles towed."

22 **DS JACQUELINE BOGDEN:** Correct.

23 **MR. ALAN HONNER:** And we know that later on that
24 night, just past midnight, the bridge was reopened; correct?

25 **DS JACQUELINE BOGDEN:** Correct.

26 **MR. ALAN HONNER:** Okay.

27 And can we scroll down some more, please? A
28 little bit more. More, please. Okay.

1 So Emerson, Manitoba:

2 "As of [February 13th], the blockade
3 remains north of the POE."

4 If we look down to Coutts:

5 "All services have been temporarily
6 suspended at Coutts POE as of [1400
7 hours Eastern time]..."

8 And you'll agree with me that arrests happened
9 later on that day, and Coutts was actually cleared. We know
10 that now, but you didn't know that then, right?

11 **DS JACQUELINE BOGDEN:** We didn't know that then,
12 that evening.

13 **MR. ALAN HONNER:** Right.

14 **DS JACQUELINE BOGDEN:** Yes, that's ---

15 **MR. ALAN HONNER:** Okay.

16 **DS JACQUELINE BOGDEN:** --- that's correct.

17 **MR. ALAN HONNER:** So we have Coutts still going
18 on, we have Emerson going on, and can we scroll down a bit more?
19 A little bit more?

20 So Sarnia,

21 "As of [...] Feb[ruary 13th], the
22 Bluewater Bridge remains open in both
23 directions.

24 Fort Erie, [Ontario]:

25 As of 13th of] Feb[ruary], Fort Erie
26 POE is open for commercial and
27 traveller traffic..."

28 And if we look down below,

1 "Toronto [...]:
2 No major impacts reported from protest
3 activity."

4 And can we scroll down a little bit more, please?
5 Now we see Winnipeg, no major impacts. Fredericton, no major
6 impacts.

7 "Cornwall, On[tario]:
8 As of 13th Feb[ruary], the Cornwall
9 POE remains open."

10 We see that?

11 **DS JACQUELINE BOGDEN:** Yeah.

12 **MR. ALAN HONNER:** Okay. Saskatchewan, no major
13 impacts. Sorry, that's Regina, Saskatchewan. Halifax, no major
14 impacts. Montreal, no major impacts.

15 Scroll down a little bit more, please? We get an
16 update here about the IMVE. I won't go through it for the sake
17 of time. Can we scroll down a little bit more? We get an
18 update here about what's going on internationally. And if you
19 can scroll down a little bit more, we get an update about
20 foreign interference.

21 "RRM Canada has not observed any
22 significant indicators of foreign
23 state-linked interference as it relates
24 to the "Truckers Convoy."

25 Can you remind us what RRM is, please?

26 **DS JACQUELINE BOGDEN:** I can't remember what RRM
27 stands for. That is -- you would find that in the testimony
28 from the Associate Deputy Minister Cindy Termorshuizen ---

1 MR. ALAN HONNER: Okay.

2 DS JACQUELINE BOGDEN: --- Global Affairs.

3 MR. ALAN HONNER: Mr. Hutchinson, do you recall?

4 JMR. JEFFREY HUTCHINSOB: I don't know that
5 acronym.

6 MR. ALAN HONNER: Okay. But they monitor for
7 indicators of foreign ---

8 DS JACQUELINE BOGDEN: Correct.

9 MR. ALAN HONNER: --- interference.

10 DS JACQUELINE BOGDEN: Correct.

11 MR. ALAN HONNER: Right?

12 DS JACQUELINE BOGDEN: They ---

13 MR. ALAN HONNER: Okay.

14 DS JACQUELINE BOGDEN: I can't explain the
15 acronym but the ---

16 MR. ALAN HONNER: That's fine.

17 DS JACQUELINE BOGDEN: --- description is
18 correct.

19 MR. ALAN HONNER: If we can scroll down a little
20 bit more, please? A little bit more.

21 "CSIS/CSE:

22 No concerns at [that --] this time.

23 Social Media Analysis:"

24 I won't go through it, but let's look at the
25 overall assessment here. And what we see if a remark that, "The
26 majority of the events have been peaceful." Now what I want to
27 ask you, based on, you know, everything -- all the meetings
28 you've attended up until that point, all the briefings you've

1 attended up until that point, do you think this document leaves
2 out anything important, other than things that are privileged?

3 **DS JACQUELINE BOGDEN:** Does it leave out anything
4 important?

5 **MR. ALAN HONNER:** Anything important that the
6 government would want to know when deciding whether or not to
7 invoke the *Emergencies Act*. Does this sort of show a totality
8 of the circumstances across the country?

9 **DS JACQUELINE BOGDEN:** So I guess, first off, I
10 need to say I'm not the author of the document.

11 **MR. ALAN HONNER:** Fair enough.

12 **DS JACQUELINE BOGDEN:** You know, there is a team
13 that pulls this information together to support the National
14 Security and Intelligence Advisor when she would be relying on
15 these talking points.

16 **MR. ALAN HONNER:** I'm just asking you about what
17 you would know based on all the briefings you've attended ---

18 **DS JACQUELINE BOGDEN:** Right.

19 **MR. ALAN HONNER:** --- up until that time.

20 **DS JACQUELINE BOGDEN:** So, like, not being able
21 to go through each kind of individual situation, like, I think I
22 remember where I was on that Sunday night, and what I was
23 worried about and the situation that we were seeing. So you
24 referred early in the document to, you know, the -- that there
25 was -- it was -- the situation in Windsor at the Ambassador
26 Bridge was being resolved.

27 **MR. ALAN HONNER:** M'hm.

28 **DS JACQUELINE BOGDEN:** That is true. And the

1 point of -- the port of entry was being opened, but I think at
2 that point in time, we were also concerned about keeping it
3 open, and what it would require in order to keep that border
4 point open, given what the country had been through for the last
5 seven days; right? That situation had existed for almost a full
6 week. So you had no fidelity over whether that situation and
7 the need to keep that open.

8 That weekend, like, the weekend that we're
9 talking about here, we continued to have other instances ---

10 **MR. ALAN HONNER:** M'hm.

11 **DS JACQUELINE BOGDEN:** --- of things that were
12 happening across the country. So, for example, and I can't
13 remember this, and you were scrolling down, the situation at the
14 Pacific Highway. There were large demonstrations in B.C. at the
15 Pacific Highway. There was a circumstance where, for example,
16 four individuals were charged.

17 **MR. ALAN HONNER:** Oh, let me just stop you for a
18 second. Can we scroll up to where it's going to mention
19 Vancouver here? Just maybe a little bit -- right there. Okay.
20 So as of February 13th, no delays reported at the Pacific POE by
21 the CBSA.

22 **DS JACQUELINE BOGDEN:** Yeah.

23 **MR. ALAN HONNER:** Okay.

24 **DS JACQUELINE BOGDEN:** So here -- okay, that is
25 there. No ---

26 **MR. ALAN HONNER:** Okay. And then ---

27 **DS JACQUELINE BOGDEN:** --- delays, okay, but we
28 did have an instance, right, where the RCMP has charged four

1 individuals who have broken through an RCMP barricade there.

2 I'm sorry, I made you hit your time.

3 **MR. ALAN HONNER:** No, you did ---

4 **DS JACQUELINE BOGDEN:** But it's important,
5 because what we're seeing in B.C. and what we're seeing in
6 Alberta is instances of where law enforcement is -- you know,
7 there are an increasing kind of threats, and I think that was
8 something that we were concerned about. So that's there and
9 that's reflected.

10 **MR. ALAN HONNER:** Okay. And let me just ask you
11 one last question just to follow up on what you said. You
12 mentioned the situation in B.C., and was that the situation with
13 the truck, which apparently broke through the blockades?

14 **DS JACQUELINE BOGDEN:** Yeah, it's a -- it was a
15 military style -- that's my recollection, it was a military
16 style vehicle that had tried to break through the blockade.

17 **MR. ALAN HONNER:** And I believe that made it into
18 the Section 58 explanation that there was a military style
19 vehicle that broke through the blockades.

20 **DS JACQUELINE BOGDEN:** That may be -- you could
21 verify that.

22 **MR. ALAN HONNER:** And you are aware that by
23 military style vehicle, they meant a vehicle that was painted in
24 camouflage?

25 **DS JACQUELINE BOGDEN:** Yeah, that may be.

26 **MR. ALAN HONNER:** Thank you very much. Those are
27 my questions.

28 **DS JACQUELINE BOGDEN:** Okay.

1 **COMMISSIONER ROULEAU:** Thank you. Next the
2 Convoy Organizers, please.

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

4 **MR. BRENDAN MILLER:** Good morning.

5 **DS JACQUELINE BOGDEN:** Good morning.

6 **MR. JEFFREY HUTCHINSON:** Good morning.

7 **MR. BRENDAN MILLER:** My name's Brendan Miller and
8 I am Counsel for Freedom Corp., which is the corporation and
9 entity that represents the protesters that were in Ottawa in
10 January and February 2022.

11 So first, again, you've said you were at all of
12 the IRG meetings, correct, and that you were at all of the -- or
13 at the Cabinet meeting on the 13th?

14 **DS JACQUELINE BOGDEN:** Yes.

15 **MR. BRENDAN MILLER:** All right. And I understand
16 in your position as essentially Assistant Deputy Minister and as
17 a bureaucrat within government, there is times that you have to
18 interpret legislation; is that fair?

19 **DS JACQUELINE BOGDEN:** That is something that
20 public servants would do in consultation with -- usually you
21 have advice from lawyers ---

22 **MR. BRENDAN MILLER:** Right.

23 **DS JACQUELINE BOGDEN:** --- on the interpretation,
24 but, yes.

25 **MR. BRENDAN MILLER:** But and you -- you, again,
26 you do it yourself at times; right? You, within your Ministry,
27 because it's -- you agree that there's legislation sets out what
28 you can do and what you can't do; is that fair?

1 **DS JACQUELINE BOGDEN:** So, well, the first part
2 of your question, no, I don't interpret legislation on my own,
3 and I believe the second part of your question is correct. You
4 know, Parliament passes legislation that sets out what their
5 vision and intent for legislation is. And in some cases, it
6 says what you can, and you can't do.

7 **MR. BRENDAN MILLER:** Okay. And can you agree in
8 this circumstance, you're aware that the *Emergencies Act*
9 requires for its invocation for there to be a finding that there
10 to be a threats to the security of Canada?

11 **DS JACQUELINE BOGDEN:** I'm aware of that, yes.

12 **MR. BRENDAN MILLER:** Okay. And you agree with me
13 that a threat to the security of Canada in the *Emergencies Act*,
14 from your understanding, has the same meaning as it does in
15 Section 2 of the *CSIS Act*?

16 **DS JACQUELINE BOGDEN:** I'm going to decline to
17 answer this question. I'm sorry. I don't feel that in my
18 current responsibilities and my knowledge and understanding that
19 I can answer that question for you.

20 **MR. BRENDAN MILLER:** Okay. Can I please ---

21 **DS JACQUELINE BOGDEN:** I think ---

22 **MR. BRENDAN MILLER:** --- bring up document
23 COM00000739 please? It's just one of the Commission documents
24 actually.

25 Okay. Can we scroll down, please? Scroll down.
26 Scroll down. And scroll down. There we go. Thank you. Okay.
27 This is one of the Commission documents, and I just want to know
28 if this is your understanding and was your understanding at the

1 time; okay? This is something that the Commission has wrote.

2 And it says,

3 "Threats to the security of Canada has
4 the same meaning assigned as Section 2
5 of the *Canadians Security Intelligence*
6 *Act.*" (As read)

7 Do you have any reason to disagree with that?

8 **DS JACQUELINE BOGDEN:** Again, I don't feel expert
9 enough to be able to answer that question.

10 **MR. BRENDAN MILLER:** Were you ever advised that
11 that was the case prior to the invocation of the *Emergencies*
12 *Act*?

13 **MR. ROBERT MacKINNON:** Sorry. Objection,
14 Mr. Commissioner. That question invites a question of legal
15 advice, so ---

16 **MR. BRENDAN MILLER:** Okay.

17 **MR. ROBERT MacKINNON:** --- obviously she cannot
18 answer if it concerns legal advice.

19 **MR. BRENDAN MILLER:** I'm not saying whether by a
20 lawyer. What about CSIS, the RCMP, the Canadian Security
21 Intelligence Service, or Canadian Security Intelligence
22 Establishment, all of the other civil servants outside of the
23 DOJ, did they ever advise you of that?

24 **DS JACQUELINE BOGDEN:** Me, personally? No.

25 **MR. BRENDAN MILLER:** You in a group of people?

26 **DS JACQUELINE BOGDEN:** There would have been
27 discussions about this, but I think those questions, you know,
28 about -- were, you know, put to the National Security

1 Intelligence Advisor yesterday, and I would defer to whatever
2 answer she provided to the Commission yesterday on these
3 questions.

4 **MR. BRENDAN MILLER:** Okay.

5 **DS JACQUELINE BOGDEN:** I don't feel in a position
6 that I can answer those questions very specifically ---

7 **MR. BRENDAN MILLER:** Right. And ---

8 **DS JACQUELINE BOGDEN:** --- based on the role and
9 the responsibilities that I had in supporting the Privy Council
10 Office and at the time of the events that transpired.

11 **MR. BRENDAN MILLER:** So can I ask this question?
12 Outside of the National Security Intelligence Advisor yesterday,
13 where you heard her advising that there is going to be legal
14 argument that this means something different than it says, and
15 then there was going to be -- no one seems to be able to answer
16 this. You understand, though, that to invoke an emergency under
17 the *Emergencies Act* that you can only do so if certain legal
18 requisites under that *Act* are met. Is that fair?

19 **DS JACQUELINE BOGDEN:** I think I'm going to
20 decline to answer this question. Thank you.

21 **MR. BRENDAN MILLER:** Okay. And can you agree
22 that many ministers have stated in public that law enforcement,
23 law enforcement advised them that the threshold to invoke the
24 *Act* was met? Have you heard them say that?

25 **DS JACQUELINE BOGDEN:** I don't know that I can
26 answer that either.

27 **MR. BRENDAN MILLER:** Okay. We have not heard,
28 we've heard all of law enforcement so far testify, and it

1 doesn't appear that anyone in law enforcement advised them that
2 the threshold to invoke the *CSIS Act* was met. Do you agree with
3 that?

4 **DS JACQUELINE BOGDEN:** I have no idea. I am
5 sorry, I am not in a position to answer that question either.

6 **MR. BRENDAN MILLER:** Okay. And just for my last
7 point, Coutts; right? The arrests that were made at Coutts,
8 those were done solely by the local `contracted-by-the-province
9 Alberta RCMP. They weren't at a national level; is that fair?

10 **DS JACQUELINE BOGDEN:** That's my understanding,
11 that it was the RCMP.

12 **MR. BRENDAN MILLER:** Right. And those arrests at
13 Coutts and the operations that they were carrying out in
14 arresting those individuals for conspiracy to commit murder and
15 et cetera, you didn't know about that, and Cabinet didn't know
16 about that until after the *Act* was invoked. Isn't that true?

17 **DS JACQUELINE BOGDEN:** I can't speak to what
18 others would have known, and what the -- who would've known what
19 before the operation was executed. I, myself, in the
20 conversations that I was witness to, was aware that there were
21 threats of violence to persons and a worry about the safety of
22 officers, and that was all we knew. And -- like I have to say
23 in the conversations that I was party to, the Commissioner of
24 the RCMP was very careful about operational security.

25 **MR. BRENDAN MILLER:** So it's fair to say that the
26 things that you were a party to, you didn't know about the
27 undercover operation in Coutts or the individuals there, what
28 they were up to?

1 **DS JACQUELINE BOGDEN:** No. I was aware that
2 there was a threat of violence, that there was thought to be
3 firearms involved ---

4 **MR. BRENDAN MILLER:** Right.

5 **DS JACQUELINE BOGDEN:** --- and there were threats
6 to the safety of the officers there ---

7 **MR. BRENDAN MILLER:** Right.

8 **DS JACQUELINE BOGDEN:** --- and they were
9 proceeding cautiously, and that's the extent of what I would've
10 known about that situation.

11 **MR. BRENDAN MILLER:** Okay. But no one advised
12 you that it was such a threat as to be serious violence or
13 terrorism or violent extremism that would meet the threshold in
14 the *CSIS Act*; is that fair?

15 **DS JACQUELINE BOGDEN:** As I think I've already
16 clarified what I knew, I can't speak to what others knew about
17 the situation, so I think I need to leave it there just...

18 **MR. BRENDAN MILLER:** Thank you, those are my
19 questions.

20 And sir, I think I have quite a bit of time left.
21 I would like to cede that time to the Province of Alberta.

22 **COMMISSIONER ROULEAU:** Okay. Again, assuming
23 that's doable.

24 I will call on the -- well, maybe we'll take the
25 morning break. It may be the appropriate time, and we can come
26 back in 15 minutes.

27 **THE REGISTRAR:** The Commission is in recess for
28 15 minutes. La Commission est levée pour 15 minutes.

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

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

3 **THE REGISTRAR:** Order. À l'ordre. The
4 Commission has reconvened. La Commission reprend.

5 **--- DS JACQUELINE BOGDEN, Resumed:**

6 **--- MR. JEFFERY HUTCHINSON, Resumed:**

7 **COMMISSIONER ROULEAU:** Okay. So if we could move
8 to the next, which is the City of Ottawa, please.

9 **MS. ALYSSA TOMKINS:** The City has no questions
10 for this witness. All of the areas were covered by
11 Commission Counsel. Thank you. Alyssa Tomkins, though, for the
12 record. Sorry about that.

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

14 Next, the Ottawa Police Service, please.

15 **--- CROSS-EXAMINATION BY MR. DAVID MIGICOVSKY:**

16 **MR. DAVID MIGICOVSKY:** Good morning, Ms. Bogden,
17 Mr. Hutchinson. My name ---

18 **DS JACQUELINE BOGDEN:** Good morning.

19 **MR. DAVID MIGICOVSKY:** --- is David Migicovsky.
20 I'm a lawyer for the Ottawa Police Service. I just have a
21 couple of questions for you.

22 Ms. Bogden, I'll direct these to you. You were
23 taken to a document on February 9th dealing with the assessment
24 of the request from the City of Ottawa to the Governments of
25 Ontario and Quebec for the 1,800 resources. Do you recall that?

26 **DS JACQUELINE BOGDEN:** Yeah, that was at initial
27 assessment. Yeah.

28 **MR. DAVID MIGICOVSKY:** Right. And a passage was

1 read out to you that -- indicating that there was strong
2 reluctance to commit without some details as to how the
3 resources were going to be used. Do you recall that?

4 **DS JACQUELINE BOGDEN:** If that's what the record
5 says, then yes.

6 **MR. DAVID MIGICOVSKY:** My understanding is that
7 that -- apart from that meeting that comment was made on several
8 other occasions as well in the days leading up to the *Emergency*
9 *Act*. Is that fair?

10 **DS JACQUELINE BOGDEN:** I believe so. Like that's
11 my understanding of what I heard, yeah.

12 **MR. DAVID MIGICOVSKY:** Right. And in particular,
13 I know that you may or may not be aware of it, it came up in a
14 conversation between Minister Blair and Deputy Minister Stewart
15 on February 7th. I don't know if you were made aware of that
16 call or meeting.

17 **DS JACQUELINE BOGDEN:** I don't -- I'm sorry. I'm
18 not sure I know which meeting that you're referring to. Like it
19 could be the tripartite meeting. No?

20 **MR. DAVID MIGICOVSKY:** No, it wasn't.

21 And it wasn't a meeting, I don't think, that you
22 were at, so I wasn't certain if you were aware.

23 **DS JACQUELINE BOGDEN:** Okay. No, I'm not aware
24 of that.

25 **MR. DAVID MIGICOVSKY:** And I think the comment
26 was also in a document -- I don't think you were taken to that
27 specific passage, but I believe the comment also appeared in the
28 February 9th email in which you specifically noted to your

1 colleague a need for more information on the outline of the OPS
2 enforcement plans. Do you recall that?

3 That was in the document that your -- that the
4 Commission counsel took you to this morning, an email on
5 February 9th.

6 **DS JACQUELINE BOGDEN:** Okay. That was, right,
7 the -- so what was shown to me this morning was the information
8 that I got either from public Safety or the RCMP, so that's not
9 my -- that's not my text, right. That's what others have
10 provided to me.

11 **MR. DAVID MIGICOVSKY:** Right. And so you were
12 just made aware of that; correct?

13 **DS JACQUELINE BOGDEN:** Correct.

14 **MR. DAVID MIGICOVSKY:** And were you aware on
15 February 13th that there was an operational plan that had been
16 prepared by the Integrated Planning cell, which included
17 representatives from OPS, OPP and RCMP and others?

18 **DS JACQUELINE BOGDEN:** I was aware that a plan
19 was being developed and was awaiting approval.

20 **MR. DAVID MIGICOVSKY:** Thanks.

21 And just one other area I just wanted to touch on
22 was you talked about the issue of the engagement with the
23 protestors as something that had been considered.

24 And Ms. Bogden, you referenced it being
25 unsuccessful in Windsor; correct?

26 If I could just ask you, please, to turn up
27 PBNSC.CAN.00002963?

28 And if you'd just look at the first bullet in

1 that email:

2 "Ontario sent a letter to the OPP
3 Commissioner last night which was physically
4 shared with protestors. The letter was
5 signed by Minister Jones and committed to a
6 meeting with protestors at a time and place
7 of her choosing. There were no other
8 conditions. Owing to the late hour, the
9 letter did not have much effect and
10 enforcement is proceeding today."

11 So that's what happened in Windsor; correct?

12 **DS JACQUELINE BOGDEN:** I don't have firsthand
13 knowledge of this conversation. This is Deputy Minister Stewart
14 who's relating having spoken to his Ontario counterpart and OPP,
15 and this is information that he's got and/or summarized.

16 So I don't feel equipped. My understanding is
17 that an offer was made to -- you know, separate and apart from
18 this email, that an offer was made to the organizers of the
19 different protests in Windsor and it was not accepted.

20 **MR. DAVID MIGICOVSKY:** Right.

21 **DS JACQUELINE BOGDEN:** That's what I meant when I
22 said, you know, the effort was not successful. It wasn't
23 productive. It didn't result in a resolution. But there was an
24 offer made.

25 **MR. DAVID MIGICOVSKY:** That was by the provincial
26 government ---

27 **DS JACQUELINE BOGDEN:** Correct.

28 **MR. DAVID MIGICOVSKY:** --- you understand;

1 correct?

2 **DS JACQUELINE BOGDEN:** Correct.

3 **MR. DAVID MIGICOVSKY:** Not by the federal.

4 **DS JACQUELINE BOGDEN:** Correct.

5 **MR. DAVID MIGICOVSKY:** There had been a request
6 by Chief Sloly to have an interlocutor appointed by the federal
7 government, but that was not pursued; correct?

8 **DS JACQUELINE BOGDEN:** I really can't say. My --
9 I can't remember what Chief Sloly would have asked for. It
10 would be probably better to put question to Deputy Minister
11 Stewart.

12 **MR. DAVID MIGICOVSKY:** Sure. And sorry, the one
13 final question, and I'll just show you the document, is
14 SSM.CAN00000148.

15 Is a -- and so it starts on January 14th. It's a
16 timeline and you'll see there's a column "Significant
17 developments", "Federal decisions", then "Meetings" and so it
18 goes all the way down to -- page 21 takes us to the Prime
19 Minister invoking the *Emergencies Act* on February 14th.

20 And I will not see in the column of "Federal
21 decisions" any engagement by the federal government with the
22 protestors. Is that fair?

23 **DS JACQUELINE BOGDEN:** Correct.

24 **MR. DAVID MIGICOVSKY:** Okay. Thank you very
25 much. I have no additional questions.

26 **DS JACQUELINE BOGDEN:** Thank you, sir.

27 **MR. DAVID MIGICOVSKY:** Thank you.

28 **COMMISSIONER ROULEAU:** Okay. The next is the

1 OPP, please.

2 **MS. JINAN KUBURSI:** Good morning, Commissioner.

3 I have no questions. It's Jinan Kubursi for the OPP.

4 Thanks.

5 **COMMISSIONER ROULEAU:** Okay. Next is counsel for
6 former Chief Sloly.

7 **MR. NIKOLAS DE STEFANO:** Thank you, Mr.
8 Commissioner. Nikolas De Stefano for former Chief Sloly. We
9 have no questions.

10 **COMMISSIONER ROULEAU:** Okay. Next is the City of
11 Windsor.

12 **--- CROSS-EXAMINATION BY MS. JENNIFER KING:**

13 **MS. JENNIFER KING:** Good morning. I had to check
14 the time to see if was still a morning.

15 Good morning, Ms. Bogden and Mr. Hutchinson. My
16 name is Jennifer King. I'm legal counsel to the City of
17 Windsor.

18 I may take a little bit more than five minutes,
19 but I understand that Windsor Police Service has provided their
20 time to the City, and it might not take the full 10 minutes, but
21 we'll see.

22 So I thank my friend. And Commission, is that --
23 are you content with that?

24 **MR. TOM McRAE:** Yes. Tom McRae for Windsor
25 Police Service.

26 We will have no questions and we ask that all our
27 time go to Ms. King for the City of Windsor.

28 Thank you.

1 **MS. JENNIFER KING:** Thank you.

2 All right. So Mr. Hutchinson, at page 12 of your
3 witness summary, you stated that even when the blockade was
4 cleared in Windsor, police resources were required to hold it
5 open, or something to that effect. Do you recall that?

6 **MR. JEFFERY HUTCHINSON:** Yes, that sounds right.

7 **MS. JENNIFER KING:** And were you aware at the
8 time that there were police plans to harden the route to the
9 bridge and those plans were in place on February the 13th at the
10 same time as the bridge was being cleared?

11 **MR. JEFFERY HUTCHINSON:** I don't recall that
12 specifically.

13 **MS. JENNIFER KING:** Okay. And you've discussed
14 today that there's a risk that the protestors would reassert a
15 presence on the roadways.

16 **MR. JEFFERY HUTCHINSON:** Yes. This was a pattern
17 that we had observed across the country, that when a
18 demonstration started we could never take it off the list. You
19 might have a demonstration in downtown Toronto on one day and
20 then you might have nothing for a few days and then you might
21 have it again.

22 So we monitored a lot of locations and we also
23 noted from time to time the need for police resources to not
24 only clear but hold. Now, that's information that I received,
25 obviously, second or thirdhand. That was my understanding, that
26 -- in fact, I tried never to use the words "resolved" or
27 "cleared" because it didn't seem to describe the situation very
28 accurately.

1 **MS. JENNIFER KING:** Right. So I'd ask Mr. Clerk
2 to please pull up WIN0000932.

3 Mr. Hutchinson, you are aware that the injunction
4 respecting the Ambassador Bridge that was granted by the Chief
5 Justice of the Superior Court on February the 11th was continued
6 on February 18th.

7 **MR. JEFFERY HUTCHINSON:** I'll take your word for
8 it.

9 **MS. JENNIFER KING:** Okay. I'll note that there
10 is a note of this in IRG meeting minutes from February the 18th.
11 I won't bring it up, but I'll just note that for you, if that
12 assists your recollection.

13 Okay. So these are the Chief Justice's reasons.
14 And Mr. Clerk, if you could go to page 8, please,
15 paragraph 47.

16 And you'll see here that the Chief Justice heard
17 evidence and made findings with respect to the efforts to hold
18 the bridge open and the risk that the blockade would be re-
19 established.

20 And I do want to take some time to take a look at
21 the Chief Justice's findings here.

22 So the Chief Justice found that:

23 "...the City has established a strong *prima*
24 *facie* case, on a balance of probabilities,
25 that the protesters have breached multiple
26 municipal by-laws and that there is a risk
27 they will continue to do so based on the
28 following uncontroverted evidence:..."

1 And you'll see -- I won't read it all out, but
2 you will see that there's a number of subpoints here, but the
3 Chief Justice found that:

4 "...the protestors continued to breach
5 multiple municipal by-laws, as [was]
6 evidenced by multiple tickets issued for
7 by-law infractions..."

8 He found that:

9 "There is evidence of the protesters'
10 expressed intent to continue their
11 blockade despite the February 11 Order."

12 Found that"

13 "There [was] evidence that the protesters
14 plan to continue to protest on roadways
15 approaching the Bridge."

16 And cites some evidence that the police provided,
17 the Windsor Police provided, who were monitoring social media:

18 "...including messages of 'it's not over,'
19 'we are not done' and 'Civil war time.'"

20 And:

21 "As a result of the continued threat of a
22 new blockade, police continue[d] to
23 control traffic flow onto Huron Church
24 Road [which we've heard is a municipal
25 roadway] to protect access to the Bridge."

26 So the Chief Justice made these findings and
27 found that:

28 "The evidence clearly establishe[d] that

1 [...] the protestors chose to ignore [the
2 Order] and continue[d] to impede and
3 obstruct access to the Bridge [after the
4 Order was granted]."

5 So were you aware of these findings at the time?

6 **MR. JEFFERY HUTCHINSON:** I think I would have
7 been aware of the injunction, but I didn't read the Order at the
8 time, nor do I recall being in any discussion of the specifics,
9 per say.

10 **MS. JENNIFER KING:** Okay. Well just I wanted to
11 show that the Chief Justice of the Superior Court of Ontario
12 made these findings on February 18th, when he decided to continue
13 the injunction permanently in Windsor.

14 We've also been having some discussion during
15 this hearing about the distinction between lawful and unlawful
16 protests, and I just wanted to show you page 10, paragraph 59.

17 And you'll see here the Chief Justice refers to
18 the rule of law and states that:

19 "The rule of law requires that everyone
20 obey the law. Significant, organized,
21 deliberate and persistent defiance of the
22 law and court orders is a serious threat
23 to the rule of law which is one of the
24 foundations of a functioning democracy.
25 The protesters are obliged, as is every
26 Canadian citizen, to follow the law and
27 not breach municipal by-laws or court
28 orders that prohibit unlawful conduct..."

1 So, you know, I wanted to -- I'm not sure if you
2 have any comments on that, or if you were asked any questions
3 about the distinction between lawful and unlawful protests, but
4 again, the Chief Justice did make findings that the protests
5 were unlawful in Windsor.

6 **MR. JEFFERY HUTCHINSON:** Nothing that you've
7 raised contradicts the information that I was privy to at the
8 time.

9 **MS. JENNIFER KING:** Thank you. So I do have some
10 questions, at the end of your witness summary, you do make some
11 recommendations, or you point out gaps in the legislation and
12 recommend that critical infrastructure protection legislation
13 will require collaboration across federal, provincial,
14 municipal, and private sectors. Do you recall that?

15 **MR. JEFFERY HUTCHINSON:** Yes, I do.

16 **MS. JENNIFER KING:** Okay. Do you have anything
17 further that you could add to that? I know that we've talked
18 about perhaps some gaps in the legislation. You know, we've
19 been asking some questions about the need for emergency
20 management and planning. Is that something that you would also
21 recommend? Some changes or updates to emergency planning?

22 **MR. JEFFERY HUTCHINSON:** So in the PCO
23 Secretariat, we get involved, as Ms. Bogden said, in all types
24 of different hazards and discussions about all types of
25 different hazards. And our perception of emergency legislation
26 is as much about what are the tools to help and what enables
27 help as -- that's kind of our focus more than anything else.

28 I was pretty struck during the summer when the

1 U.K. could declare a national emergency over heat and take steps
2 to protect their citizens under national legislation and, to my
3 knowledge, and I'm learning on the job, as Deputy Stewart
4 referred to the other day, to my knowledge, we don't have that
5 kind of framework. We've a little bit more of a patchwork.

6 Now, you can say that that's due to confederation
7 versus a unitary system of government, but I do think that
8 there's room. And I think that I would take it one step further
9 and say that if we could strengthen the tools and the frameworks
10 around protecting critical infrastructure, we could actually --
11 by doing that, we'd be protecting the space for legal and safe
12 demonstration in our democracy because the rules would be
13 clearer and the protection of what impacts people the most would
14 be well protected.

15 **MS. JENNIFER KING:** Thank you for that. I
16 think, you know, as representing the City of Windsor, I think
17 we've seen, and if you'll agree with me, that these protests in
18 January and February have also emphasized the need for
19 collaboration with the local authorities and the first
20 responders who are responding to these on the ground. And as
21 you're aware, municipalities respond to the vast majority of
22 emergencies in Canada.

23 Would you agree with me that it's important to
24 have the local level engaged in this planning and any discussion
25 around updating legislation and frameworks around emergency
26 planning?

27 **MR. JEFFERY HUTCHINSON:** Yeah, so taking the
28 comment in a very general sense, like not commenting on this

1 situation specifically, we're well aware from all of the
2 situations that we manage that municipalities tend to be -- and
3 communities tend to be the first responders. And we have to
4 have the systems of support in place. Not that I'm suggesting,
5 in any way, shape, or form that the Federal Government should be
6 out of its lane. That's not what I'm suggesting. But the lines
7 of support, the lines of communication, the shared planning
8 where necessary, the collaborative planning, those would all
9 support each level or order of government being able to fulfil
10 its function to the fullest.

11 **MS. JENNIFER KING:** Thank you. Those are my
12 questions.

13 **COMMISSIONER ROULEAU:** Thank you.
14 Next I'd like to call on the NPF, National Police
15 Federation.

16 **MS. LAUREN PEARCE:** Thank you. Lauren Pearce for
17 the National Police Federation. We have no further questions
18 for these witnesses. Thank you.

19 **COMMISSIONER ROULEAU:** Okay. Next for the
20 Government of Saskatchewan, please.

21 **--- CROSS-EXAMINATION BY MR. MITCH McADAM:**

22 **MR. MITCH McADAM:** Good morning.

23 **DS JACQUELINE BODGEN:** Good morning.

24 **MR. MITCH McADAM:** I'm Mitch McAdam, one of the
25 lawyers for the Government of Saskatchewan, and I have a few
26 questions for you this morning, Ms. Bodgen.

27 During your testimony this morning, you mentioned
28 a meeting that was called by the Clerk of the Privy Council on

1 the morning of February the 9th, at which she directed Deputy
2 Ministers and staff at the Privy Council Office to examine all
3 possible options for resolution of the blockades and protests.
4 Do you recall that?

5 **DS JACQUELINE BODGEN:** Yes.

6 **MR. MITCH McADAM:** And then later this morning,
7 you talked to Commission Counsel at some length about a document
8 that emanated out of that meeting dealing with things like the
9 enforcement plan and the engagement plan. And those things were
10 all based on existing legal authorities; correct?

11 **DS JACQUELINE BODGEN:** Correct. Yeah.

12 **MR. MITCH McADAM:** And Ms. Bodgen, when the
13 Incident Response Group began meeting on February the 10th, is it
14 fair to say that that document and what was contained in it
15 really became the genesis for what was referred to as Track 1?

16 **DS JACQUELINE BODGEN:** Yes, that's correct. I
17 think we confirmed that with Commission Counsel this morning.
18 Yeah.

19 **MR. MITCH McADAM:** Okay. Thank you. Now, Ms.
20 Bodgen, when the Clerk of the Privy Council was discussing with
21 Deputy Ministers and staff from your office on the morning of
22 February 9th about all possible options to resolve the blockades
23 and protests, one of those options would have been the
24 invocation of the *Emergencies Act* or what came to be referred to
25 as Track 2? Is that correct?

26 **DS JACQUELINE BODGEN:** That would be an option.
27 Yes. either the *Emergency Act*, or Special Purpose Emergency
28 Legislation; right? Like, there's a couple of different ways

1 you could do that. Yeah.

2 **MR. MITCH McADAM:** Okay. So those things were
3 discussed in that meeting on the morning of February the 9th?

4 **DS JACQUELINE BOGDEN:** Yeah. To a certain
5 extent, yeah.

6 **MR. MITCH McADAM:** Okay. And then they were
7 certainly on the table when the Incident Response Group met on
8 February 10th? Isn't that correct?

9 **DS JACQUELINE BOGDEN:** Yeah, the record will show
10 that. If you -- if you look at the tracker that is attached to
11 the minutes of the Incident Response Group meeting on the 12th
12 of February, you know, the document that's appended there shows
13 the things that we were working on, as you say, in Track 1,
14 which is within existing authorities; and Track 2, you know,
15 what if Track 1 isn't successful or the situation escalates
16 quickly and we need to be in a position to do something
17 different.

18 **MR. MITCH McADAM:** And I won't call it up, but I
19 believe that the minutes of the Incident Response Group meeting
20 from February 10th also refer to a discussion of those Track 2
21 items. Isn't that correct?

22 **DS JACQUELINE BOGDEN:** Yes. Yeah, so the -- I
23 guess what I was trying to -- you're absolutely right, the
24 minutes do refer to that. They refer to a discussion of, you
25 know, the action that could be taken within existing authority
26 and then what might be the process of invoking the *Emergency*
27 *Act*. That was the second part of the conversation.

28 **MR. MITCH McADAM:** Okay, thank you. And

1 Ms. Bogden, you said this morning something along the lines of
2 "a good civil servant does their homework in advance." Did I
3 have that correct?

4 **DS JACQUELINE BOGDEN:** Yeah, probably something
5 like that. Yeah.

6 **MR. MITCH McADAM:** Okay. So do I take it that
7 officials within the Privy Council Office would have been at
8 least looking at the *Emergencies Act* as a potential option or
9 scoping out the potential for using the *Emergencies Act* by that
10 first week of February?

11 **DS JACQUELINE BOGDEN:** Not the first week of
12 February, no. That -- we were not there yet, no.

13 **MR. MITCH McADAM:** Okay. So when we look at the
14 minutes of the SSE Committee meeting on February 3rd, and it
15 talked about "creative options", was that referring to the
16 *Emergencies Act* or was that referring to something else?

17 **DS JACQUELINE BOGDEN:** That's referring to
18 something else. Do you recall when Commission Counsel put up
19 the document that was circulated for the SSE meeting on
20 February 3rd? It's like a placemat, and there's a whole range
21 of options. In the right column it was creative options. So
22 things like le grand débat, and things like that. That's what
23 that refers to.

24 **MR. MITCH McADAM:** Okay. So when would the Privy
25 Council Office have started to do its homework on the
26 *Emergencies Act*? When would you or somebody in your office have
27 first started to look at it as a potential option?

28 **DS JACQUELINE BOGDEN:** It would've probably been

1 on or around the 9th.

2 **MR. MITCH McADAM:** Okay. So it would have been
3 only a day before the first meeting of the Incident Response
4 Group when it was being discussed there?

5 **DS JACQUELINE BOGDEN:** Yeah.

6 **MR. MITCH McADAM:** And no work was ---

7 **DS JACQUELINE BOGDEN:** I think that's right.

8 **MR. MITCH McADAM:** No work was done on the
9 *Emergencies Act* before that?

10 **DS JACQUELINE BOGDEN:** So I can't say that
11 definitively. You know, work would have being done by a lot of
12 different people on an anticipatory basis that, you know, making
13 sure, as I said, that we've done our homework and we would be in
14 a position to answer questions; right? Like if the Government
15 turned to the public servants and said, "What's involved with
16 invocation of the *Act*?", you need to be able to answer all kinds
17 of first order questions; right? Everything from the threshold
18 that's to be met to what's the Parliamentary process, you know,
19 what kinds of considerations do you want to be thinking about.

20 So I can't say definitively who was working on
21 what. I wasn't directing that work. So I'm not being evasive,
22 I'm just trying to understand it was all hands on deck at that
23 point, and I can't speak to every part of the Public Service.

24 **MR. MITCH McADAM:** Do you know if that work was
25 being done within the Privy Council or was it in a -- within the
26 Privy Council Office or was in a different department?

27 **DS JACQUELINE BOGDEN:** I can't say definitively.
28 I know there was work being done in the Privy Council Office.

1 As to how other departments would have been implicated, I can't
2 speak to that.

3 **MR. MITCH McADAM:** Okay. Thank you very much.
4 Those are all of my questions.

5 **DS JACQUELINE BOGDEN:** Okay. Thank you.

6 **COMMISSIONER ROULEAU:** Okay, thank you.

7 Next, if I can call on the Government of Alberta,
8 please.

9 **--- CROSS-EXAMINATION BY MS. STEPHANIE BOWES:**

10 **MS. STEPHANIE BOWES:** Good morning. My name is
11 Stephanie Bowes, and I am counsel for the Province of Alberta.
12 Just a couple of quick questions about the RFA process.

13 Whose responsibility is it generally to send a
14 formal response to an RFA received from a province?

15 **MR. JEFFERY HUTCHINSON:** Sure. The normal
16 process would be for the response to be sent from Public Safety,
17 and we usually speak about the official side or the political
18 side or MNO, which is a acronym for Minister's Office.
19 Normally, the signed letter from the minister would be sent by
20 officials in Public Safety.

21 **MS. STEPHANIE BOWES:** Okay, thank you. Are you
22 aware that a response was drafted and approved by Minister Blair
23 to Alberta's RFA, but does not appear to have been sent to
24 Alberta prior to the invocation of the *Emergencies Act*?

25 **MR. JEFFERY HUTCHINSON:** That's my understanding.

26 **MS. STEPHANIE BOWES:** Okay. Do you know why it
27 was not sent?

28 **MR. JEFFERY HUTCHINSON:** I can't answer that

1 question definitively. What I can tell you is that I have been
2 personally involved in trying to determine where the letter
3 ended up, and I have -- all indications to me at this point are
4 that it didn't get sent simply due to human error. There was a
5 belief on the Public Service side that this was being done,
6 exceptionally, from the Minister's Office, but the Minister's
7 Office had no reason to believe it wasn't being done through the
8 usual process on the Public Service side. So there were people
9 who had the letter, signed letter, but to my knowledge I can't
10 find any record of it having been sent.

11 **MS. STEPHANIE BOWES:** All right. Thank you very
12 much. Those are my only questions today.

13 **COMMISSIONER ROULEAU:** Okay, thank you. I guess
14 nobody's taken up the offer. This is -- okay. So we're
15 finishing a lot sooner so far. Government of Canada, please.

16 **--- CROSS-EXAMINATION BY MR. ROBERT MacKINNON:**

17 **MR. ROBERT MacKINNON:** Good morning. The
18 document I would first like to take you to is one ---

19 **COMMISSIONER ROULEAU:** Could you just for the
20 record identify yourself, please?

21 **MR. ROBERT MacKINNON:** Sorry. Robert MacKinnon,
22 Government of Canada.

23 If I take you to a document that counsel for
24 Democracy Fund took you to, SSM.NSC.CAN, a number of zeros, 242.
25 It was the NSIA remarks.

26 So if you scroll down just a little bit. Yeah --
27 no. Yeah.

28 So at that time, can you just confirm that Ottawa

1 wasn't clear the enforcement hadn't even been taken at the time
2 of the invocation; is that correct?

3 **DS JACQUELINE BOGDEN:** That's correct.

4 **MR. ROBERT MacKINNON:** Okay. And you have also
5 heard, concerning the Ambassador Bridge...

6 If you go down a little bit further.

7 That enforcement actions were still continuing on
8 the 3rd, and that the airspace was still restricted on
9 February 14th. So that was still in effect over the protest
10 area, and you've just heard that the injunction in Windsor was
11 continued because of the fear of returning. You heard that
12 today?

13 **DS JACQUELINE BOGDEN:** The evidence of that,
14 yeah.

15 **MR. ROBERT MacKINNON:** Yeah. So in your mind, or
16 those with whom you're consulting, was there a fear that the
17 protesters would return to the Windsor site?

18 **DS JACQUELINE BOGDEN:** Yeah, that was definitely
19 something that we were alive to, that possibility that you would
20 continue to need resources to make -- keep that open.

21 **MR. ROBERT MacKINNON:** If you keep scrolling down
22 under page 5, or top of page 5. That's it, yeah.

23 So it also mentions Policing Issues of Note. In
24 the remarks:

25 "RCMP is assisting in various impacted
26 areas across the country and is focused
27 on areas where enforcement or the risk
28 of escalation is most acute."

1 Do you see that?

2 **DS JACQUELINE BOGDEN:** Yes, that's correct.

3 **MR. ROBERT MacKINNON:** So is it true to say that
4 by no means had the escalation events subsided to a calm?

5 **DS JACQUELINE BOGDEN:** Correct.

6 **MR. ROBERT MacKINNON:** How would you describe,
7 either of you, your perspective as of February 14th, when the
8 invocation happened, concerning the events?

9 **DS JACQUELINE BOGDEN:** Well, I mean I think I
10 would describe the situation as highly concerning,
11 unpredictable, a lot -- still a lot of uncertainty. You know,
12 no clarity on what the plan was for resolution in Ottawa,
13 concerns about, you know, the border point at Ambassador Bridge.
14 I had referred in my earlier testimony to the escalation of a
15 violence towards law enforcement that we saw in B.C., and I
16 think towards RCMP officers in Coutts, and -- but you know, the
17 prospect that, you know, this situation could continue to get
18 worse if left unattended and if nothing was done to change the
19 trajectory of the situation.

20 **MR. ROBERT MacKINNON:** And Mr. Hutchinson, do you
21 have any comment on...?

22 **MR. JEFFERY HUTCHINSON:** I concur with that
23 description. As I said earlier, I -- my perspective was very
24 much that a momentary pause in a demonstration had not, up to
25 that point, or after, frankly, proven to be an end of a
26 demonstration. So my view that weekend was that there was --
27 there continued to be a national crisis, that it was impacting
28 communities in almost every province, that we continued to see

1 injunctions, emergency legislation being used, sort of
2 extraordinary actions.

3 And evidence throughout this Inquiry has talked
4 about how unique this situation was, but then the conversation
5 has tended, with all due respect, has tended to be about
6 specific locations. I think on the 12th or 13th, stepping back
7 and looking at it nationally, it continued to be a unique
8 situation with a lot of tools in play, but not a sense of
9 resolution to the threat, the continued, particularly, in my way
10 of thinking, particularly around the economic threat, which I
11 understand would be a threat to property.

12 **MR. ROBERT MacKINNON:** So if you scroll down a
13 little bit further where it has Ottawa on page 5.

14 So you'll see on the last bullet point, the date
15 -- well, on February 12th, it mentions:

16 "Police say protesters overwhelmed
17 officers on Friday night."

18 So there were still lots of events, especially
19 happening in Ottawa during that time; is that correct?

20 **DS JACQUELINE BOGDEN:** Yeah, that's correct.
21 Like at each of the places, you know, over that weekend, like if
22 you review, for example, you know the IRG minutes from that
23 weekend, you'll see reports from the Commissioner of the RCMP
24 and others about continued and growing protest activity across
25 the country. And I've already referred to a few of them, and
26 the same was happening here in Ottawa.

27 And you know, here, this reference to, "Police
28 say protesters overwhelmed officers", you know, that's also the

1 point I made earlier, you know, what we were seeing in B.C. and
2 Coutts. We don't have infinite resources to enforce the law,
3 and you do need to be concerned about threats of violence
4 against the people that you're asking to enforce the law. So
5 there was a lot here to be worried about at this particular
6 point in time.

7 **MR. ROBERT MacKINNON:** I'd like to take you to
8 one of the IRG reports that is after the invocation, on February
9 19th.

10 So let's look at document SSM.NSC.CAN, a number
11 of zeros, 404.

12 So this is a day after enforcement action had
13 begun in Ottawa, this is February 19th.

14 And if you could go to page 5, just below the
15 middle -- so -- yes.

16 So the last line says:

17 "There are indications of additional
18 convoys en-route to Ottawa including
19 from St-Jerome and Peterborough and
20 checkpoints are being monitored, as are
21 areas outside the city, such as Embrun
22 and Arnprior where some protesters who
23 are leaving are beginning to
24 congregate."

25 So does that suggest to you that the protests are
26 calming?

27 **DS JACQUELINE BOGDEN:** No, not at all. Like
28 there's a volatility and uncertainty in this situation. Yeah.

1 **MR. ROBERT MacKINNON:** And while we're on this
2 one, just over the page to the next page at the top.

3 On the usefulness of this -- of some of the
4 measures, you'll see it's noted that:

5 "The Minister reported that he has
6 heard from local law enforcement
7 agencies that the *Emergencies Act* has
8 been a successful tool, particularly
9 around the ability to have clarity on
10 leveraging no-go zones as well seizing
11 assets, rapidly deploying officers and
12 financial control measures."

13 Do you see that?

14 **DS JACQUELINE BOGDEN:** Yes.

15 **MR. ROBERT MacKINNON:** And that was as of
16 February 19th.

17 **DS JACQUELINE BOGDEN:** Yes.

18 **MR. ROBERT MacKINNON:** And I'll just take you to
19 one other influence here of the measures.

20 It's the IRG meeting of February 23rd, page 5,
21 and that's SSM.NSC.CAN, a number of zeros, 408. There you go.
22 So it's about the middle paragraph, "Across the country". Yes.

23 So, "Across the country, yesterday evening", and
24 this is February 23rd, the day it's revoked:

25 "...Winnipeg Police issued a notice to
26 protesters gathered near the provincial
27 legislature advising them that they had
28 24 hours to leave and providing a

1 pamphlet outlining potential
2 consequences of not doing so. The
3 pamphlet mentioned enforcement under
4 the federal *Emergencies Act* as one of
5 the possible measures that police would
6 use if protesters did not vacate the
7 premise by..."

8 A certain time there. Do you see that?

9 **DS JACQUELINE BOGDEN:** Yeah. This is the --
10 yeah, using it as a deterrence, and -- yeah.

11 **MR. ROBERT MacKINNON:** Okay. So ---

12 **DS JACQUELINE BOGDEN:** Yeah.

13 **MR. ROBERT MacKINNON:** --- I'll take you back to
14 another document -- well -- that has been referred to concerning
15 the engagement strategy, just to make sure we understand the
16 evolution of it.

17 So SSM.CAN [sic], a number of zeros, 8757. All
18 right, and if you scroll just a little bit. Okay.

19 So as I understand it, this is the second sort of
20 cut on this draft; correct?

21 **DS JACQUELINE BOGDEN:** Correct.

22 **MR. ROBERT MacKINNON:** And it's just showing the
23 evolution of -- you're trying to put everything together to get
24 people to focus on some options under existing authorities;
25 correct?

26 **DS JACQUELINE BOGDEN:** Correct.

27 **MR. ROBERT MacKINNON:** And you've got Plan A and
28 Plan B, correct, in the third paragraph you refer to?

1 DS JACQUELINE BOGDEN: Yeah.

2 MR. ROBERT MacKINNON: Plan A:

3 "[P]roviding resources to local law
4 enforcement to address the unlawful
5 demonstrations."

6 And Plan B:

7 "[W]here we need to unpack our other
8 options in terms of legal authorities
9 and feasibility of executing these
10 options or what would be needed to make
11 them a reality."

12 Correct?

13 DS JACQUELINE BOGDEN: M'hm.

14 MR. ROBERT MacKINNON: And if you go to the
15 attachment, which is the next number, which is 8758. So if you
16 scroll down a little bit.

17 Then you have Plan A and Plan B for different
18 cities. And you'll see -- is it -- was your intention here to
19 put as much before the ministers and officials for consideration
20 as possible because this is an evolving situation and you're
21 thinking ahead. Is that right?

22 DS JACQUELINE BOGDEN: Yeah, I think that's
23 right. You know, as I was explaining when we were just talking
24 about this with Commission Counsel, like, you know, first and
25 foremost, like at this moment in time, and as we have been for a
26 number of days now, right, really focussed on how do we bring to
27 bear a range of options within existing authorities in order to
28 help bring this matter to a peaceful and timely kind of

1 resolution.

2 But at the same time, you also have to be
3 prepared that Plan A or Track 1 isn't going to be successful,
4 and/or, not just that, I think you also need to be ready for the
5 possibility, and it was not a theoretical risk, that the
6 situation could escalate quickly or deteriorate and that the
7 government would need to be prepared and to intervene and
8 respond in some way. Yeah, it's important.

9 **MR. ROBERT MacKINNON:** And if you look at Plan A
10 and Plan B here, you'll see a second option, "Could the
11 government make use of the *Emergencies Act*?" Correct?

12 **DS JACQUELINE BOGDEN:** Yeah.

13 **MR. ROBERT MacKINNON:** So this was all putting
14 together everything you could think of that would be useful for
15 those who have to make a decision, make the right decision?

16 **DS JACQUELINE BOGDEN:** Yeah, this is a -- it's a
17 culmination of conversations over the days leading up, the 9th,
18 additional meetings over the course of the 9th, and just trying
19 to put this together in a way that would help support a
20 conversation. Yeah.

21 **MR. ROBERT MacKINNON:** And this evolved into
22 what's been referred to as Track 1 and Track 2 ---

23 **DS JACQUELINE BOGDEN:** Yeah.

24 **MR. ROBERT MacKINNON:** --- that is appended to
25 the IRG minutes of February 12th?

26 **DS JACQUELINE BOGDEN:** Correct. Which was -- you
27 know, which was discussed, you know, at the first Incident
28 Response Group. You know, what you find in the minutes of the

1 meeting of the 12th is actually a reflection of what was
2 discussed on the 10th, which is, yeah.

3 **MR. ROBERT MacKINNON:** So just so I can make sure
4 -- I'm not going to go over your testimony from before, but just
5 to confirm that your role in your position is to ask the
6 questions what if and figure out scenarios looking ahead; is
7 that correct?

8 **DS JACQUELINE BOGDEN:** Yeah, it's to encourage
9 that. It's a collective responsibility, right, that PCO would
10 have and actually departments would have in this instance is to
11 make sure, as I said, that we're ready to advise the government
12 in a range of different scenarios that might materialize, like,
13 remembering where we are. We're in an unprecedented situation
14 that is vacillating day by day, hour by hour with new
15 information, imperfect information, and so we need to be ready.

16 **MR. ROBERT MacKINNON:** And you said that from
17 early on, even before the convoy reached Ottawa, you were asking
18 these questions; is that correct?

19 **DS JACQUELINE BOGDEN:** Absolutely, it's part of
20 emergency preparedness is that, you know, you have to maximize
21 the time you have before it turns from being a situation into
22 actually an emergency. And, like, you know, that kind of
23 philosophy is very acute when you're looking at saving lives in
24 terms of, you know, we have a hurricane that's coming. Like,
25 the first 24, 48 hours really matters. So in emergency
26 preparedness, you're trying to maximize the time you have to get
27 ready and think about a couple potential outcomes that might
28 happen and make sure that we've done an analysis and that we're

1 ready to support the government.

2 **MR. ROBERT MacKINNON:** And is it your
3 responsibility and others at PCO to make sure to convene the
4 right committees or groups in order to deal with these
5 situations?

6 **DS JACQUELINE BOGDEN:** Correct. Correct.

7 **MR. ROBERT MacKINNON:** And so you mention that
8 you first started with these questions that you asked after the
9 first weekend, and you got together with -- there were certain
10 Ministers, you mentioned four ---

11 **DS JACQUELINE BOGDEN:** Right.

12 **MR. ROBERT MacKINNON:** --- right, Ministers to
13 discuss on a daily basis; is that right?

14 **DS JACQUELINE BOGDEN:** We were organizing
15 situational updates on the situation, so they had the latest
16 information, because, of course, Ministers are having their own
17 discussion with provincial colleagues. They need the latest
18 information in talking about actions that are being taken.

19 **MR. ROBERT MacKINNON:** And then that moved into
20 another phase of the SSE meetings; is that right?

21 **DS JACQUELINE BOGDEN:** Correct, where we're
22 convening a larger group of Ministers.

23 **MR. ROBERT MacKINNON:** And it moved there because
24 of what reason?

25 **DS JACQUELINE BOGDEN:** Well, like I think as I
26 said in my testimony earlier, when we convened the first Cabinet
27 committee meeting on Safety, Security and Emergencies, we're
28 midway through the next week after the weekend in Ottawa. We

1 have a situation, a blockade in Coutts and an occupation in
2 Ottawa, and we have no fidelity over how this situation's going
3 to get resolved. So, you know, there's a need to support
4 Ministers in coming together and having a conversation about
5 that, and what, you know, are the range of things that the
6 government might want to do or to think about to help bring the
7 situation to a resolution.

8 **MR. ROBERT MacKINNON:** All right. So it went
9 from late January, from looking ahead with scenarios, to
10 meetings with four Ministers, to February 3rd, to the 8th with SSE
11 meetings?

12 **DS JACQUELINE BOGDEN:** Correct.

13 **MR. ROBERT MacKINNON:** And then what was the
14 reason to move from the SSE meetings to the IRG meetings on the
15 10th, 12th and 13th?

16 **DS JACQUELINE BOGDEN:** Well, I think there we are
17 in the middle of the second week. If I -- like, the 9th, the
18 10th, we're in the middle of the second week. You know, the --
19 we don't -- the situation has gotten worse. There's uncertainty
20 about how it will be resolved and need to begin engaging and
21 providing advice to the Prime Minister and others about the
22 range of options that the government could consider at that
23 point in time.

24 **MR. ROBERT MacKINNON:** Okay. I'll just take you
25 to one last document and that's the IRG meeting of February 12th
26 and your tracker is attached to that. So that's SSM.NSC.CAN a
27 number 0s 214.

28 So is it at this point on the 12th that the option

1 1 and option 2, Tracker 1 and Track 2 are being fully considered
2 as an agenda on the -- on this committee or ---

3 **DS JACQUELINE BOGDEN:** So I think there -- it's
4 actually in the meeting on the 10th, if I may.

5 **MR. ROBERT MacKINNON:** Yeah, but does it continue
6 on the 12th?

7 **DS JACQUELINE BOGDEN:** Correct.

8 **MR. ROBERT MacKINNON:** And if you -- it describes
9 in these meetings on the first page, if you scroll down to the
10 page 5, if you go down a little bit further? Yes.

11 It talks about the situations that exist here
12 with tactics being used to "take children to the site to..."

13 **DS JACQUELINE BOGDEN:** Yeah.

14 **MR. ROBERT MacKINNON:** "...prevent police
15 activity, as well as schools walking
16 out to join the protest..."

17 **DS JACQUELINE BOGDEN:** Yeah.

18 **MR. ROBERT MacKINNON:** It mentions a concern
19 about some extremists within the group and the concern about
20 lone wolf attacks?

21 **DS JACQUELINE BOGDEN:** Yeah.

22 **MR. ROBERT MacKINNON:** Do you see all that?

23 **DS JACQUELINE BOGDEN:** Yes.

24 **MR. ROBERT MacKINNON:** And is that accurate?

25 **DS JACQUELINE BOGDEN:** Yes.

26 **MR. ROBERT MacKINNON:** And then if you go down
27 close to the bottom of that one, it mentions the escalation in
28 activity in Ottawa and the role of social media and that its

1 role in the communication and organizes the protesters across
2 the country. Was that very much of a concern at this point on
3 the 12th?

4 **DS JACQUELINE BOGDEN:** Yeah, yeah.

5 **MR. ROBERT MacKINNON:** All right. And I won't go
6 -- take you -- read them through all, but in the minutes, it
7 mentions Windsor, Cornwall, Ottawa, Emerson, among other areas
8 that were of concerns.

9 **DS JACQUELINE BOGDEN:** Yeah, I was just going to
10 say that actually. If you scroll down, you will see that the
11 Commissioner of the RCMP that weekend, this is the 12th that
12 we're talking about?

13 **MR. ROBERT MacKINNON:** Right.

14 **DS JACQUELINE BOGDEN:** You know, she's describing
15 in that meeting, you know, new and different -- either
16 situations that have gotten worse or additional situations,
17 like, Cornwall, I think is there a reference to North Bay, and
18 the situations that we're seeing over that weekend, yeah.

19 **MR. ROBERT MacKINNON:** And there's also a
20 reference on page 9 to,

21 "...an update on [a] potential
22 engagement with [the] leaders of the
23 blockades..."

24 Right? And there was consideration given to a
25 potential engagement strategy at one point that was never
26 pursued; right?

27 **DS JACQUELINE BOGDEN:** Correct.

28 **MR. ROBERT MacKINNON:** And do you know the kind

1 of questions that were asked in order to, you know, decide that
2 issue or not decide that issue? What -- are there any questions
3 that weren't answered concerning whether to engage with the
4 protesters or not?

5 **DS JACQUELINE BOGDEN:** I don't know that I can
6 answer that.

7 **MR. ROBERT MacKINNON:** Okay.

8 All right. Those are all my questions. Thank
9 you.

10 **DS JACQUELINE BOGDEN:** Thank you.

11 **COMMISSIONER ROULEAU:** Okay. Any re-examination?

12 **MS. SHONTANA CHAUDHURY:** No re-examination.

13 **COMMISSIONER ROULEAU:** Okay. I just have one
14 question and it goes back to towards the beginning of your
15 evidence. And this is before the -- I can't remember the exact
16 date, but it would be before the first weekend.

17 **DS JACQUELINE BOGDEN:** Yes.

18 **COMMISSIONER ROULEAU:** And you said that you were
19 preparing for what you knew and what you didn't know ---

20 **DS JACQUELINE BOGDEN:** Correct.

21 **COMMISSIONER ROULEAU:** --- but you also said you
22 were preparing for what if it doesn't go well.

23 **DS JACQUELINE BOGDEN:** Yeah.

24 **COMMISSIONER ROULEAU:** And I just wonder what you
25 do to prepare for what would happen if it did not go well.

26 **DS JACQUELINE BOGDEN:** Right. So I've sort of
27 described kind of the ways in which it could not go well, right,
28 in -- you know, we have this ---

1 **COMMISSIONER ROULEAU:** No, I ---

2 **DS JACQUELINE BOGDEN:** --- this large group of
3 people and that so what were the kinds of things we did.

4 So you know, we are, for example, preparing to be
5 able to bring Ministers together very quickly and organize an *ad*
6 *hoc* Cabinet Committee meeting, whether that would have been
7 Safety, Security and Emergencies or the Incident Response Group,
8 right.

9 So there's some very practical things that you're
10 doing to make sure that you have the ability to reach Ministers
11 in short order and bring that group together, you know, if
12 there's a need to do something. So you're kind of thinking
13 along those lines.

14 But at that point, I think the scenario that I --
15 that I was most worried about was the potential for, you know,
16 violence or, you know, a clash with law enforcement and that
17 there might be -- somebody might get hurt, or a loss of life.
18 And in that case, that's a Public Order situation and law
19 enforcement would deal with the first line of response to that,
20 but it's happening in the nation's capital. There might be a
21 need for, you know, a government or several government Ministers
22 to say something about that, and so just thinking about if that
23 situation materializes, who's on first, who's on second, is
24 everybody clear about roles and responsibilities, how would we
25 get Ministers together.

26 Now, there's a theoretical risk that it could be
27 worse than that, but we just need to know what the machinery is
28 and what we would do and, you know, kind of what happens in the

1 first four hours, first 12 hours, and that's the kinds of things
2 that you're thinking about.

3 **COMMISSIONER ROULEAU:** So to try and summarize,
4 it's to be able to kick in the decision-making ---

5 **DS JACQUELINE BOGDEN:** Correct.

6 **COMMISSIONER ROULEAU:** --- process ---

7 **DS JACQUELINE BOGDEN:** Correct.

8 **COMMISSIONER ROULEAU:** --- but it isn't something
9 concrete such as ---

10 **DS JACQUELINE BOGDEN:** No, there's -- there's
11 nothing to do.

12 **COMMISSIONER ROULEAU:** --- preparing physically.

13 **DS JACQUELINE BOGDEN:** Right. So this kind of
14 situation could arise at any time, right, and so we do have
15 existing structures that kick in, but you know, it is COVID.
16 People are working remotely. Ministers are not all necessarily
17 located in Ottawa. Do we know where everybody is, can we get
18 the Ministers, Prime Ministers together quickly if that need
19 arises.

20 **COMMISSIONER ROULEAU:** Thank you.

21 So thank you very much for coming and providing
22 your testimony. It's very helpful and appreciated.

23 So you're free to go.

24 **DS JACQUELINE BOGDEN:** Thank you, sir.

25 **MR. JEFFERY HUTCHINSON:** Thank you.

26 **COMMISSIONER ROULEAU:** Now, I guess I can give
27 you the option. We can have lunch early and come back at 1:30
28 or we can proceed with the next panel.

1 What would you prefer?

2 **MS. SHANTONA CHAUDHURY:** If I get to state my
3 preference, I'd prefer to take lunch now, Commissioner.

4 **COMMISSIONER ROULEAU:** Okay. Unless there's any
5 objection, we'll take a long lunch again today, an hour and five
6 minutes. We'll come back at 1:30.

7 **THE REGISTRAR:** The Commission is in recess until
8 1:30. La commission est lever jusqu'à 13h30.

9 --- Upon recessing at 12:25 p.m.

10 --- Upon resuming at 1:30 p.m.

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

12 The Commission is reconvened. La Commission as
13 reprend.

14 **COMMISSIONER ROULEAU:** Okay, good afternoon.
15 Bonne après-midi.

16 So we have a panel of witnesses.

17 Okay, Commission Counsel, please.

18 **MS. SHANTONA CHAUDHURY:** Thank you Mr.
19 Commissioner. For the record, Shantona Chaudhury for the
20 Commission, and the witnesses this afternoon are Ms. Janice
21 Charette and Ms. Nathalie Drouin.

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

24 **MS. JANICE CHARETTE:** My name is Janice Charette;
25 J-a-n-i-c-e, C-h-a-r-e-t-t-e.

26 --- MS. JANICE CHARETTE, Sworn:

27 **THE REGISTRAR:** Thank you.

28 Oui, parfait, merci. Pour les fins du procès

1 verbal s'il vous plaît, veuillez indiquer et ensuite épelez
2 votre nom en entier.

3 **MS. NATHALIE DROUIN:** Nathalie Drouin; N-a-t-h-a-
4 l-i-e, Drouin, D-r-o-u-i-n.

5 **--- MS. NATHALIE DROUIN, Affirmed:**

6 **LA GREFFIÈRE:** Merci.

7 **--- EXAMINATION IN-CHIEF BY MS. SHANTONA CHAUDHURY:**

8 **MS. SHANTONA CHAUDHURY:** Good afternoon, Ms.
9 Charette and Ms. Drouin. Thank you for being here.

10 We'll just start with some housekeeping,
11 introducing your witness summary. So you'll recall having sat
12 for an interview with Commission Counsel on September 29th, 2022?

13 **MS. JANICE CHARETTE:** I do.

14 **MS. SHANTONA CHAUDHURY:** Okay.

15 Ms. Drouin?

16 **MS. NATHALIE DROUIN:** I do.

17 **MS. SHANTONA CHAUDHURY:** Okay. And after that
18 interview, Commission Counsel prepared a summary of that
19 interview, which you have reviewed. Can you confirm that that
20 summary was accurate?

21 **MS. JANICE CHARETTE:** I can.

22 **MS. NATHALIE DROUIN:** I confirm.

23 **MS. SHANTONA CHAUDHURY:** Okay.

24 And for the record, that is, Mr. Clerk,
25 WTS.00000074, but no need to pull it up right now.

26 Okay, Ms. Charette, I understand that you are the
27 Clerk of the Privy Council.

28 **MS. JANICE CHARETTE:** I am.

1 **MS. SHANTONA CHAUDHURY:** How long have you held
2 that role?

3 **MS. JANICE CHARETTE:** I was named as the Interim
4 Clerk of the Privy Council in March of 2021, so that is about 18
5 months or so ago, and I was confirmed in the role as the Clerk
6 of the Privy Council in May of 2022.

7 **MS. SHANTONA CHAUDHURY:** Okay. And what was your
8 background before that?

9 **MS. JANICE CHARETTE:** I've been a senior public
10 servant for -- actually I think I've been a Deputy Minister for
11 almost 20 years. Before being named as the Interim Clerk of the
12 Privy Council, I was the High Commissioner for Canada to the
13 United Kingdom, or Great Britain and Northern Ireland, and
14 previous to that, I was actually serving as the Clerk of the
15 Privy Council.

16 I've held roles as the Associate Clerk of the
17 Privy Council; Deputy Minister of Intergovernmental; the Deputy
18 Minister of then-Human Resources and Skills Development; of
19 Immigration, Refugee, Citizenship; Associate Deputy Minister of
20 Health; and, as you can tell, a number of roles over my career.

21 **MS. SHANTONA CHAUDHURY:** It's a long list, is it?
22 Okay.

23 And Ms. Drouin, you're the Deputy Clerk at the
24 Privy Council?

25 **MS. NATHALIE DROUIN:** Exactement.

26 **MS. SHANTONA CHAUDHURY:** And how long have you
27 held that role?

28 **MS. NATHALIE DROUIN:** J'ai été nommée sous-

1 greffière au mois d'août 2021.

2 **MS. SHANTONA CHAUDHURY:** OK. Et avant ça?

3 **MS. NATHALIE DROUIN:** Avant ça, j'étais sous-
4 ministre à la Justice à Justice Canada et, de 2012 à 2016,
5 j'étais sous-ministre à la Justice au gouvernement du Québec.

6 **MS. SHANTONA CHAUDHURY:** OK. Et si vous allez
7 témoigner en français Madame Drouin, je vais vous poser des
8 questions dans les deux langues.

9 **MS. NATHALIE DROUIN:** S'il vous plaît, s'il vous
10 plaît, soyer bien à l'aise et je vais faire la même chose, des
11 fois je vais répondre en anglais, des fois je répondrai en
12 français.

13 **MS. SHANTONA CHAUDHURY:** Parfait. Alors on parle
14 en parfait français.

15 **MS. NATHALIE DROUIN:** Absolument.

16 **MS. SHANTONA CHAUDHURY:** Ms. Charette, would you
17 be able to explain to us, in some detail, the role of the Clerk
18 of the Privy Council? It's well understood by you but maybe not
19 by everyone here.

20 **COMMISSIONER ROULEAU:** And if I can just pipe in.

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

22 **COMMISSIONER ROULEAU:** You have a tendency to
23 speak very quickly, ---

24 **MS. JANICE CHARETTE:** Yes, okay.

25 **COMMISSIONER ROULEAU:** --- which I'm sure is --
26 comes handy when you're delivering messages to government, but
27 if ---

28 **MS. JANICE CHARETTE:** Oh.

1 **COMMISSIONER ROULEAU:** --- for here it's useful
2 to slow down.

3 Thank you.

4 **MS. JANICE CHARETTE:** I wrote the words, "Slow
5 down" just so that I would try to remember that. Thank you,
6 Commissioner.

7 So the Clerk of the Privy Council and Secretary
8 to the Cabinet is the full title of the position. And I would
9 say that that basically encompasses three roles. The Privy
10 Council Office is the department of the Prime Minister. And so
11 I serve as the Deputy Minister of the Privy Council Office, and
12 the Deputy Minister, therefore, to the Prime Minister.

13 I am the most Senior Public Service Advisor to
14 the Prime Minister and to his Office. I'm responsible for the
15 overall management of the Privy Council Office, and the
16 discharge of all of our functions and responsibilities. And
17 making sure that -- so that's kind of the administration side,
18 but I'm also the advisor on all matters that would before -- be
19 before the Prime Minister for his consideration and decision.

20 Second part of the role is the Secretary to the
21 Cabinet. And in that respect, I'm responsible for helping to
22 organize Cabinet meetings, make sure that the agendas are set,
23 the attendance is set, the information is available for
24 Ministers to deliberate on; that the meetings are supported with
25 things like translation, all of the kind of staff support; that
26 the decisions of the Cabinet are faithfully recorded and
27 therefore comm -- and communicated out as necessary. And I'm
28 responsible for overseeing the implementation, then, of those

1 decisions.

2 So anything to do with how Cabinet operates its
3 decision-making structure, I am responsible for. Obviously
4 working with the team in the Privy Council Office, both in the
5 advisory function and the Secretary to the Cabinet function.

6 And then, finally, in our system, the head of the
7 -- the Clerk of the Privy Council has a third role, which is the
8 Head of the Public Service. And I think if you look at the
9 Institutional Summary for the Privy Council Office, we try to
10 describe that in the Canadian's version of the Westminster
11 System, the Public Service is a professional, non-partisan
12 Public Service. And I am responsible, as the Head of the Public
13 Service, for, amongst other things, providing an annual report
14 to the Prime Minister on the state of the Public Service.

15 In this respect, I also provide advice to the
16 Prime Minister on the appointment and performance of Deputy
17 Ministers and other senior officials. And, basically, for
18 making sure that the Public Service is ready to be able to serve
19 the needs of the government and of the country, today, and also
20 a stewardship role into the future.

21 So those are kind of the three roles. And I
22 would say the other thing that might be relevant as we get into
23 this conversation is the Clerk of the Privy Council is one of a
24 community of Deputy Ministers. I think in -- the expression
25 would be *primus inter pares*, you have -- you are one amongst
26 others, and I very much work with the community of Deputies, in
27 order to be able to discharge those functions.

28 **MS. SHANTONA CHAUDHURY:** First among equals?

1 **MS. JANICE CHARETTE:** That's it.

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

3 And Mme Drouin -- but we're going to go back to
4 some of that, Ms. Charette, ---

5 **MS. JANICE CHARETTE:** Okay.

6 **MS. SHANTONA CHAUDHURY:** --- but before we do
7 that, can you explain the role of the Deputy Clerk, Ms. Drouin?
8 And then maybe how the two of you work together.

9 **MS. NATHALIE DROUIN:** Perfect. So let me start
10 with that.

11 So my first role is really to support the Clerk
12 in her role. A little bit like what we call a two-in-the-box
13 model. So on the day-to-day basis, ce que ça veut dire, c'est,
14 entre autres, assurer un leadership au sein du ministère qui est
15 le ministère du Conseil privé. Ensuite, assurer un leadership
16 sur les dossiers qui sont horizontaux, donc dans le
17 développement des politiques, par exemple, assurer une
18 cohérence. Un des pouvoirs que j'ai, c'est celui de convoquer
19 des sous-ministres pour discuter d'enjeux, donc c'est des choses
20 que je fais régulièrement. Je suis souvent appelée aussi à faire
21 de la gestion de crise, qu'on appelle, en anglais, le « issue
22 management ». C'est justement dans ce cadre là que j'ai joué un
23 rôle dans la gestion du convoi dont on va parler cet après-midi.
24 Et j'assume aussi un leadership sur des dossiers horizontaux,
25 par exemple, les dossiers à matière autochtones.

26 **MS. SHANTONA CHAUDHURY:** OK. Et comment est-ce que
27 vous travaillez ensembles tous les deux?

28 **MS. NATHALIE DROUIN:** C'est, you know, I'll say

1 very organic. So my mantra is, I go where the needs are in
2 order to support the Clerk. You know, more instinctively I go
3 where I have strength, competencies and capacities to support
4 her in her main role, advising the Prime Minister and the
5 Cabinet. So this is, you know, how we work.

6 On a weekly basis, we will reassign, you know,
7 where I should put my attention and efforts and what file I
8 should keep under my radar.

9 **MS. JANICE CHARETTE:** Can I just add a little bit
10 to that, if that's all right?

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

12 **MS. JANICE CHARETTE:** So perhaps I'll just add
13 two things. I think one of the operating styles that Madam
14 Drouin and I've tried to follow is that if I'm not there,
15 Nathalie is briefed up enough to be able to handle or to be able
16 to deal with any issue, and vice versa, so that we are not
17 completely interchangeable, but there is leadership at any point
18 in time, because people have holidays or whatever else to do.

19 And secondly, I don't think either one of us
20 mentioned that we also have a number of Ministers within the
21 Privy Council Office portfolio, and I might forget one here, but
22 I'll try not to. So the Minister of Intergovernmental Affairs,
23 who are supported by the PCO.

24 **MS. SHANTONA CHAUDHURY:** And that's Minister
25 LeBlanc?

26 **MS. JANICE CHARETTE:** Minister LeBlanc. That's
27 right. The Government House Leader. That's Minister Holland.
28 The Quebec Lieutenant, which is an intergovernmental type of

1 function. That's Minister Rodriguez. The Minister of Emergency
2 Preparedness. That's Minister Blair. And I have no forgotten.

3 **MS. NATHALIE DROUIN:** And the DPM.

4 **MS. JANICE CHARETTE:** And of course the Deputy
5 Prime Minister, that's right. In her role as the Deputy Prime
6 Minister, she also gets support, of course, from the Department
7 of Finance. But in her role as the DPM, we do provide her some
8 support as well.

9 **MS. SHANTONA CHAUDHURY:** Okay. So as the Senior
10 Advisor within the Public Service to the Prime Minister, can you
11 explain a little bit the interaction between PCO and PMO and
12 just explain how those lines of communication work, how the
13 Prime Minister is briefed, how you communicate with him, those
14 general things?

15 **MS. JANICE CHARETTE:** Sure. I think the term
16 that Madam Drouin used of organic maybe applies here. There are
17 many, many routes in terms of the flow of information and advice
18 between myself and the team in the Privy Council Office and the
19 Prime Minister's office and the team that support him there.

20 When it comes to the Prime Minister himself, it
21 gets more structured. And I'll come back to that in a moment.
22 There would be daily conversations going on between PMO and PCO
23 staff, whether it's around information exchange, trying to think
24 about how to manage an issue, surface a problem we're trying to
25 solve, exchange information. Any number of things in the course
26 of a day would take place.

27 In terms of the advice to the Prime Minister,
28 when it comes to the exchange of information with the Prime

1 Minister, in some cases you will see, I think even in evidence,
2 of documents that have been submitted to the Commission that if
3 it's for the purposes of just sheer information, you would see a
4 briefing note perhaps prepared by one of the Deputy Secretaries
5 to the Cabinet. But if it contains advice, it contains a
6 recommendation, if write to the Prime Minister for the purpose
7 of decision, that would come through me.

8 In some cases, some of those briefing notes may
9 also go through Madam Drouin, and if I'm not around, Madam
10 Drouin can sign off on briefing notes, decision notes for my --
11 over my signature.

12 **MS. SHANTONA CHAUDHURY:** So would it be correct
13 to say that all formal advice to the Prime Minister from the
14 Privy Council Office goes through one of you?

15 **MS. JANICE CHARETTE:** I think that would be fair
16 to say, yes.

17 As well, we have a number of opportunities to
18 provide oral information, oral briefings to the Prime Minister
19 as well. I have a regular bilateral meeting with him every
20 week, which is joined by the Chief of Staff to the Prime
21 Minister. That is Katie Telford. And sometimes other members
22 of the Prime Minister's staff will join us. And that's a
23 session where sometimes the Prime Minister has items, I might
24 have items, the Prime Minister's Office may have items. But
25 what's kind of our regular once a week touch base, traffic
26 management, advisory, decision, kind of -- whatever is on the
27 issue plate of the day.

28 Every second week, the Deputy Prime Minister will

1 be joining into that meeting as well.

2 So that's our regular structure.

3 We may have issue-based meetings or briefings
4 with the Prime Minister. We've done -- for a very long time, we
5 were doing frequent, three times a week briefings of the Prime
6 Minister and his office, sometimes with Ministers on the covid
7 situation, for example. That might involve senior officials
8 from other departments, Dr. Theresa Tam, the Chief Public
9 Officer, officials from Public Health Agency and Health, and so
10 on and so on. You get the picture.

11 When there is a Cabinet meeting that the Prime
12 Minister is involved in, we almost always have a pre-brief
13 session with the Prime Minister where we'll go over the agenda,
14 the kind of show, who is going to say what, the key issues to be
15 deliberated, so he has a focus on, in addition to the written
16 briefing material we would have provided, kind of what are the
17 key issues he's trying to adjudicate at the session, what are
18 some of the perspectives he may want to be listening for, where
19 is the area or the zone for a possible decision. And we would
20 be doing that before a Cabinet meeting, for instance. And
21 certainly, I think which will be relevant to the work of the
22 Commission, before an Incident Response.

23 **MS. SHANTONA CHAUDHURY:** Thank you. That's
24 helpful. We're now going to move to the, I'll say the meat, but
25 the early days of the convoy, the Freedom Convoy, the events
26 that the Inquiry is concerned with.

27 But just picking up on the last point that you
28 made in terms of the communication lines and briefings, could

1 you set the stage for us in terms of what was going on in
2 government at the time? At a very practical level, as well as a
3 sort of ideas level. So were things happening virtually? Where
4 were people working? Where were you? Where was the Prime
5 Minister? That scene.

6 **MS. JANICE CHARETTE:** Right. So to cast your
7 mind back, we were in January of 2022. We -- the country, like
8 many other countries around the world, was dealing with the
9 Omicron variant of covid. We actually had, I believe in mid-
10 January, record levels of hospitalizations, even higher than
11 previous peaks of the covid outbreak.

12 And so the vast majority of the public service
13 was working remotely, although there were some people, but dint
14 of their function who had the need to come into the office to
15 access secure materials or so on. But it was kind of -- the
16 public health advice was to be working remote by default, and
17 that's where the bulk of the public service was.

18 The same thing for, I think it's fair to say, for
19 the Prime Minister, Ministers, and political staff. So we were
20 all working remotely.

21 I remember this well because there was a Cabinet
22 retreat that was held in the week of, I have a little calendar
23 here to try to remind me of dates, the week of January the 24th.
24 That would have been the first Cabinet retreat that had taken
25 place since the Government was formed after the 2021 election.
26 And I think everybody was hoping that that was going to be an
27 opportunity for a face to face, and unfortunately it ended up
28 being a virtual.

1 We are very fortunate to have secure video
2 communications so we can actually have Cabinet meetings held
3 virtually, and so we were able to do that in the week.

4 There was a lot of other issues that were before
5 the Government. I think you would have heard from other
6 witnesses as well that we were monitoring the potential for an
7 emerging situation in Ukraine and trying to prepare for what
8 possibly could happen at that point in time.

9 And so as we came out of the -- came out -- the
10 Cabinet retreat, I believe, was two or three days, and that's
11 when we started to hear the early signals that there might be a
12 protest or a series of protests happening in Ottawa, and
13 potentially other locations.

14 Now, I should say that as of January the 15th,
15 there was a change in the public health measures related to
16 covid that affected truckers in the country, affected cross-
17 border traffic, and that change was for truckers that were
18 unvaccinated coming back into the country. They were -- they
19 had been previously exempt and they were now going to be subject
20 to public health measures.

21 And so we were monitoring very closely both the
22 implementation of that measure, as well as the talking to the
23 trucking association and monitoring, because it was clear that
24 at that point in time, despite the very serious record levels of
25 covid we were facing, that Canadians were kind of getting a bit
26 fed up at that point in time with the restrictions, and the
27 measures, and what they were having to deal with. And so that
28 was very much on our minds.

1 We were getting ready for the return of the House
2 of Commons. They had been on a Parliamentary break coming out
3 of the holiday season and the House was due to resume on the 31st
4 of January. And so as we went into what I think others have
5 described as Weekend 1, the weekend starting Friday, the 28th of
6 January, we were monitoring and waiting for the protest that we
7 had understood was going to be arriving.

8 And that's kind of the context at the very
9 beginning, if that's helpful.

10 **MS. SHANTONA CHAUDHURY:** Yes.

11 **MS. JANICE CHARETTE:** I'm happy to add to that.

12 **MS. SHANTONA CHAUDHURY:** That's helpful. That's
13 perfect. So that takes us to my next question, which is when
14 did you first brief the Prime Minister on what was happening
15 with the convoy?

16 **MS. JANICE CHARETTE:** The first briefing I had
17 with the Prime Minister was an oral briefing on the 30th of
18 January.

19 I think you've heard testimony from other Privy
20 Council Office colleagues that there were PCO/PMO briefings that
21 had been going on in week before that there had been daily
22 Ministerial briefings going on starting, I think, on the
23 Thursday before that.

24 So on the Sunday, the 30th, there was a telephone
25 call or oral briefing with the Prime Minister, including members
26 of his staff, other members of the Privy Council Office to
27 basically kind of give him a situation report.

28 At that point in time, it was Sunday, I believe

1 it was evening, and it was pretty clear that the protestors
2 weren't leaving. So we had a situation in Ottawa and our
3 thoughts were turning immediately to the House return the next
4 day and whether there was any issues we had to be thinking our
5 way through in terms of the safe conduct of Parliamentarians
6 actually accessing the Parliament buildings.

7 As you may recall, Wellington Street was a bit of
8 a challenging area.

9 As the head of the Public Service and responsible
10 for our department, I also had to think about what instructions
11 we were giving to public servants, some of whom were still
12 required to be going into the office about whether we were
13 closing buildings or leaving those open.

14 So that was really the first briefing with the
15 Prime Minister, kind of a situation report, what was happening,
16 giving him information. We were able to tell him that there had
17 been Ministerial briefings, that there was lots of outreach
18 going on by Deputy Ministers across we call it the Town, across
19 Ottawa, across departments and agencies. And so that was -- and
20 I wouldn't say that we sought any decisions from him at that
21 point in time other than to have a conversation about were we
22 well connected, for example, were the right people talking to
23 Parliamentary officials, to the Sergeant at Arms, the
24 Parliamentary Protective Service. Were they connected up to the
25 -- to law enforcement and security agencies to make sure that,
26 you know, Parliament at the centre of our democracy could
27 function well starting the next day.

28 **MS. SHANTONA CHAUDHURY:** We've spent a lot of --

1 I don't know if you had a chance to see the testimony of Ms.
2 Bogden this morning and Mr. Hutchinson and/or the NSIA
3 yesterday.

4 We've heard from many of your Deputy Minister
5 colleagues and we've spent a lot of time on the lead-up to the
6 convoy and the early days, so I think with you this afternoon
7 we're going to be focusing mostly now on the beginning of -- sort
8 of February 9th on. Let's put it that way.

9 So I'm going to ---

10 **MS. JANICE CHARETTE:** Could I just take you back
11 one moment?

12 **MS. SHANTONA CHAUDHURY:** Yes, you can. I thought
13 that ---

14 **MS. JANICE CHARETTE:** When you referred to other
15 Deputy Minister colleagues, I know that yesterday as well you
16 heard from colleagues from the Department of Finance.

17 And so another big preoccupation as we were kind
18 of starting up our work at the end of January was we were in the
19 beginnings of budget preparation for budget 2022. So the Prime
20 Minister, the Deputy Prime Minister, myself, the Deputy Minister
21 of Finance and our teams, both their -- the political teams and
22 the public service teams were thinking our way through what was
23 going to be the economic strategy for the country at a time
24 when, you know, we had hoped to be through the worst of the
25 economic impacts of COVID and, frankly, we weren't as a result
26 of the fact that we were kind of facing another wave.

27 So that was also kind of a contextual factor that
28 I think might be helpful and relevant as we get later on into

1 the discussion.

2 **MS. SHANTONA CHAUDHURY:** That's fair enough. I
3 think that will probably arise.

4 So I'll just set the paraphrasing very briefly
5 the kinds of evidence that we've heard from your colleagues over
6 the first week or two -- let's put it that way -- after the
7 convoy arrived.

8 So the convoy arrived. It was not expected to
9 stay as long as it did. It did stay. At that point, the
10 federal government was meeting to try and understand what was
11 going on. There were regular DMOCs happening.

12 And I'll just ask, actually, were either of you
13 in attendance at those -- at the DMOCs that were happening?

14 **MS. NATHALIE DROUIN:** Starting on the 9th, yes.

15 **MS. SHANTONA CHAUDHURY:** Starting on the 9th
16 there. Okay. Which is why we're soon going to be skipping to
17 the 9th.

18 **MS. JANICE CHARETTE:** I don't know that I
19 attended every DMOC. I attended some of them, so Deputy
20 Minister Operational Committee, for the acronyms.

21 I know you've been through them all now. You're
22 an expert, actually, I've heard.

23 But I don't think I was at all of them. I would
24 have -- those were chaired by the National Security Intelligence
25 Advisor. I would have been at some key ones or I thought I
26 either needed to give direction or to hear, particularly at
27 certain points in time, but I wasn't involved in the day to day.

28 **MS. SHANTONA CHAUDHURY:** Okay. So ---

1 **MS. JANICE CHARETTE:** My first DMOC was, like Mme
2 Drouin's, the 9th of February.

3 **MS. SHANTONA CHAUDHURY:** The 9th, okay.

4 So we're sort of -- all roads lead to the 9th
5 here.

6 So we heard about the three SSE committee
7 meetings that were had. Ms. Bogden took us through those
8 February 3rd, February 6th, February 8th. And we more or less
9 left it off at the end of the day on the 8th it was sort of --
10 it was decided, essentially, that maybe it was -- it's time for
11 the federal government to consider more intervention in the
12 situation. Would that be fair to say?

13 **MS. JANICE CHARETTE:** I would say that I was at
14 the meeting of the Cabinet Committee on Safety, Security and
15 Emergencies, the SSE Committee, on the Sunday, the 6th. That's
16 the only one of the three meetings that you describe that I was
17 at.

18 So I was trying to get a sense -- that was at the
19 end of weekend 2 -- trying to get a sense from Ministers and
20 from my colleagues kind of what the situation was and what the
21 sense was about how this was all going.

22 I got a readout, a debrief, from the Cabinet
23 Committee meeting on the 8th of February from my colleagues who
24 were there, and it was certainly clear to me that the level of
25 concern, anxiety and the situation itself was escalating. And
26 so that was the reason I chose to go to the DMOC meeting on the
27 9th and to hear out my colleagues in terms of -- and to give
28 direction at that point in time.

1 And it was through the course of that day
2 listening to them and other meetings that took place during that
3 day I'm happy to tell you about if you'd like that I formed the
4 view as we went into the 10th that it was time for me to provide
5 the advice for the Prime Minister to decide to -- as to whether
6 or not he wanted to convene an Incident Response Group meeting.

7 **MS. SHANTONA CHAUDHURY:** Okay. We're definitely
8 going to come to that.

9 Just before we do ---

10 **MS. JANICE CHARETTE:** Of course.

11 **MS. SHANTONA CHAUDHURY:** --- I actually want to
12 take you back to the 8th before we get to the 9th.

13 Mr. Clerk, can you pull up PB.NSC.CAN00008073?

14 This is a document you may not have seen before,
15 so I'll just explain to you what it is.

16 These are the notes of Deputy Commissioner Mike
17 Duheme.

18 And if we scroll down, Mr. Clerk, to page 41,
19 you'll see a notation there. So these are Mr. Duheme's notes
20 from Deputy Commissioner Duheme for, I believe, it's the 8th,
21 maybe the 9th, but it looks like it's the 8th.

22 And you'll see 8:00 a.m. there, 7:00 a.m. in
23 office, 8:00 a.m., "Call with clerk. Flesh out the financial
24 [something] financial compensation". I'm not sure what that
25 says. Employee business, maybe?

26 Then "Public safety. Feels organized.
27 Ambassador Bridge stretches. OPP incremental success, OPS.
28 Working in incremental way".

1 And then if we just scroll down a little bit more
2 to what I'm actually looking for.

3 "Clerk. We need to take this over. Do
4 they know what this means?"

5 So I understand that during this time you were
6 having regular calls with various colleagues within the federal
7 government. Can you explain to us, do you recall this
8 conversation?

9 **MS. JANICE CHARETTE:** So I -- so I don't know
10 whether Mr. Duheme himself was at the DMOC meeting. I was not
11 speaking to RCMP colleagues or a broad selection of colleagues
12 working in the National Security and Intelligence Public Safety
13 space on the 8th. That really started on the morning of the 9th
14 for me after I heard the readout.

15 So I think maybe the date, if I'm not wrong ---

16 **MS. SHANTONA CHAUDHURY:** Maybe it's the 9th?

17 **MS. JANICE CHARETTE:** I think it might be the
18 9th.

19 **MS. SHANTONA CHAUDHURY:** Okay.

20 **MS. JANICE CHARETTE:** I certainly was at a
21 meeting at 9 o'clock in the morning -- sorry, 8 o'clock in the
22 morning on the 9th, which was a DMOC, so it's not unreasonable
23 to think that the Commissioner of the RCMP -- either she was
24 there and brought Mr. Duheme with her or he was attending for
25 her. Either one of those two things is possible, so.

26 **MS. SHANTONA CHAUDHURY:** So these are probably
27 Mr. Duheme's notes from the DMOC call.

28 **MS. JANICE CHARETTE:** I never had a one-on-one

1 call with Mr. Duheme, so ---

2 **MS. SHANTONA CHAUDHURY:** Makes sense>

3 **MS. JANICE CHARETTE:** --- it would have been in
4 the context of a broader meeting.

5 It looks like, from what you have heard, that if
6 PS is, in fact, the Public Safety, there was others there as
7 well.

8 Let's talk about what the meeting was about.

9 So having heard the readout from the SSE meeting
10 on the 8th -- I should add as well there was a debate in the
11 House of Commons on the 7th of February, if I'm not wrong, on
12 the convoy situation. Parliamentarians, House of Commons,
13 Member of Parliament can trigger a debate if they wish, and I
14 gather the Speaker consented to that and so there was a debate.

15 So there was rising levels of concern. That was
16 obvious. And we heard this from the SSE Committee as well, and
17 so I went to the DMOC meeting which was taking place at 8
18 o'clock in the morning on the 9th.

19 And my purpose there was really to do a couple of
20 things. I was there to make sure that I was hearing firsthand
21 from Deputy Ministers and agency heads who have responsibilities
22 in this area who had been meeting with the National Security
23 Intelligence Advisor through the days previous to that on their
24 assessment of the situation, and I wanted to provide my
25 direction to them as the senior public servants, that in my view
26 this was a very serious situation, that we had rising levels of
27 questions from federal ministers, who were asking "How is this
28 going to end? What can we do?"

1 And so my commentary at the meeting, I think I
2 was at two DMOCs on this day, as a matter of fact. Certainly at
3 the first meeting at -- in the morning, my objective, my
4 intention was to try to say to my Deputy Minister colleagues,
5 "We have to leave no stone unturned. We have to make sure that
6 we are looking at every power, duty, every authority we have,
7 every resource we have to make we are bringing the full power of
8 the Federal Government and its resources to try to help those
9 who are frontline responsible to manage the situation."

10 I'm not an expert in any of these domains. I
11 would be conveying, like, "we've got to get on this, and we've
12 got to use", like this -- I think you heard the expression this
13 morning, you know, this is an "all hands on deck". I don't know
14 why we use naval references, but all hands on deck situation.
15 And I would've been saying all hands on deck. No idea too
16 crazy. Let's look at absolutely everything. Let's look at
17 every law we have, every resource we have.

18 And including in that, what would it mean, you
19 know, how does law enforcement actually -- well, like, how do
20 the structures work? Who is responsible for what? You know, if
21 it gets beyond the capability of one particular, you know, like
22 a local police force, like the Ottawa Police Service or the RCMP
23 acting in its local capacity, say in Coutts, you know, what
24 happens then? Where does it go from there? Who takes over from
25 that? How does that all work? How does the jurisdiction work?
26 What are the responsibilities work? So this is not a -- my
27 direction to the sense there was any direction was to let's get
28 on this work. We need to get this work done.

1 I think you heard a lot from Ms. Bogden this
2 morning about then what she was doing the whole day long to try
3 and collect up this information. But that would have been my
4 intention. I didn't tell people what to do, I was asking --
5 we've got to get this work done.

6 **MS. SHANTONA CHAUDHURY:** Okay. So if I
7 understand correctly, when you say -- what Mr. Duheme writes
8 down here is:

9 "We need to take this over, do they
10 know what this means."

11 You're talking in a general sense about it's time
12 for some federal intervention in this. Let's talk about what
13 that might look like or what the options are. Is that fair?

14 **MS. JANICE CHARETTE:** I'm not sure I had reached
15 the conclusion it was time for some federal action. It was
16 certainly ---

17 **MS. SHANTONA CHAUDHURY:** Fair.

18 **MS. JANICE CHARETTE:** It was certainly the case -
19 --

20 **MS. SHANTONA CHAUDHURY:** Time to consider,
21 perhaps.

22 **MS. JANICE CHARETTE:** It was time to consider --
23 to be ready to respond. I think the other thing is, and cast
24 your mind back to, you know, the public environment at that
25 point in time, this was all happening in Ottawa, a lot of it on
26 Wellington Street. You were looking at the coverage in the
27 media. You were seeing the Parliament buildings behind it. So
28 there was a lot of questions being asked of federal ministers,

1 "What are you doing? What are you doing? What are you doing?"

2 And so certainly, we had the sense coming out of
3 the meeting on the 8th they were impatient to know what they
4 could do, and that was my direction to the town at this meeting
5 is go and figure this out. "What can we do? Be as creative as
6 you can. Really think outside the box."

7 **MS. SHANTONA CHAUDHURY:** Okay. And we saw this
8 morning ---

9 Mr. Clerk, you can take those notes down, thank
10 you.

11 We saw this morning that Ms. Bogden put together
12 a -- sort of a list of -- that pretty much wrapped up a lot of
13 the discussions that had been had over the previous two weeks
14 about strategic enforcement strategies, financial options, et
15 cetera, et cetera. That's something she sent off a draft of
16 some point during the -- on the 9th, and think at three o'clock
17 in the morning on the 10th. So we've looked at that.

18 And you mentioned, I'm just going to take you
19 back to your conclusion before, that at some point in all of
20 this you formed the conclusion or gave the advice to the Prime
21 Minister that it was time to convene an Incident Response Group.

22 **MS. JANICE CHARETTE:** So perhaps I can say in
23 addition to that meeting with Deputy Ministers there was another
24 meeting with deputies later in the day. I think if you --
25 you'll hear from the Prime Minister and ministers next week, but
26 in addition to what the Public Service was doing, and outside of
27 these official kind of Cabinet committee meetings and daily
28 ministerial briefings, the Prime Minister was also speaking to

1 his ministers, either one at a time or in small groups, in more
2 informal conversations, getting his own direct kind of "What's
3 happening? Brief me on this." talking to his own team. He'd
4 been talking to mayors, he'd been talking to other stakeholders.

5 And through the day on the 9th, as he was talking
6 to his ministers, a number of which those interactions I was
7 party to, I'm not always, but a number of those, certainly
8 conversations with the Minister of Public Safety,
9 Minister Mendicino and the Minister of Emergency Management,
10 Preparedness Management, I can never remember, Minister Blair,
11 you could feel that, you know, we were moving to a -- it felt to
12 me like we were moving to a place that we had to be ready in
13 case ministers and the Prime Minister actually wanted to look at
14 what our options to be able to act.

15 And so as the day turned over from nine to ten, I
16 certainly formed the view that I believed it was time for the
17 Prime Minister to convene the Incident Response Group. There
18 was another informal call amongst Prime Minister and ministers
19 that morning, and after that I gave my advice, and the Prime
20 Minister accepted it and chose to have a meeting, an in-person
21 meeting, which was unusual at the time because of course we were
22 still working remotely, but given the stakes of what we were
23 talking about and the nature of the situation we were dealing
24 with, my advice was I thought it would be important to have an
25 in-person meeting, and we did that at an offsite.

26 **MS. SHANTONA CHAUDHURY:** Okay. Maybe I should've
27 asked you this or to put it this way to begin with, but to the
28 extent you can, can you walk us through the chronology, then, of

1 what happened on the 9th and how we got to the 10th?

2 **MS. JANICE CHARETTE:** I guess I can try.

3 Certainly what I saw, the parts that I will be part of ---

4 **MS. SHANTONA CHAUDHURY:** That's fine.

5 **MS. JANICE CHARETTE:** --- I was part of a Deputy
6 Minister's meeting in the morning. I would have had various
7 conversations, either individually or with -- in small groups
8 with the Privy Council Office, officials, or other Deputy
9 Ministers and senior officials through the course of the day. I
10 may have spoken to, I can't remember exactly, the Prime
11 Minister's Office. I certainly was part of a meeting that the
12 Prime Minister had, as I said, with Ministers Mendicino and
13 Blair, as well as other members of the PCO and the Prime
14 Minister's Office, and I believe their staff. I don't know
15 whether there were any other senior officials from outside of
16 PCO in attendance.

17 There was a second meeting of the Deputy
18 Ministers Operational Committee on the 9th. When I came to work
19 or got up for work on the 10th, I was -- one of the first things
20 I had was a email from Ms. Bogden with their results of her
21 overnight work, not a practice we like to encourage in the PCO,
22 but very dedicated, and came up with, kind of pulled together
23 everything that basically I had -- all the product of the work
24 that I had tasked on the 9th. And we were in the morning of the
25 10th. There was another informal conversation, and then there
26 was an IRG in the afternoon.

27 **MS. SHANTONA CHAUDHURY:** Okay. And can tell us -
28 - so the Prime Minister accepted your advice to convene the IRG

1 and then did so. Can you tell us about that first IRG meeting?

2 And I'll just -- oh. Was there something?

3 Madame Drouin, si jamais vous vouliez ajouter
4 quelque chose, dites-le. Allez-y.

5 **MS. NATHALIE DROUIN:** Well, maybe, and if you and
6 the Clerk can talk about that thing. Also, the Prime Minister
7 had a call with Premier Ford on the 9th.

8 **MS. JANICE CHARETTE:** I can't remember whether it
9 was the 9th or the 10th. I -- I'm sorry.

10 **MS. SHANTONA CHAUDHURY:** That's fine.

11 **MS. JANICE CHARETTE:** I will defer to
12 Madam Drouin's memory on this one.

13 **MS. NATHALIE DROUIN:** So maybe you'd like to
14 check that. And maybe just to go back to the take over
15 conversation.

16 I think the Clerk talked a little bit about the
17 fact that, you know, a lot of images from, you know, the
18 Parliament, but it was also an international bridge. It was
19 also port of entries. It was also the federal vaccine mandate.
20 So all the indicators were towards it is, you know, the Federal
21 Government is owning the situation, and yet on the ground, RCMP,
22 for example, didn't have jurisdiction on Wellington Street. We
23 don't have jurisdiction on routes that brings you to the bridge.
24 So it feels that we owned it publicly, but we didn't have
25 jurisdiction to address the situation.

26 So asking ourselves, "What can we do to have
27 jurisdiction and really to support?" on top of, you know,
28 supporting municipalities, supporting provinces, but that was

1 also the type of questions we were asking ourselves.

2 **MS. JANICE CHARETTE:** We knew that there had been
3 a lot of conversations going on between our colleagues in other
4 departments, at Transport, Public Safety, RCMP, CBSA with their
5 provincial territorial counterparts, in some cases with local
6 and municipal counterparts, there had been meetings going on
7 with the City officials in Ottawa, all around to try and
8 understand the situation. There was this "What could we do?"
9 That was the -- I mean I think, as we were going into, now, the
10 third weekend, we were really feeling kind of a crescendo
11 escalation, although the situation changed from day to day and
12 the sites changed from day to day.

13 **MS. SHANTONA CHAUDHURY:** Okay, that's fair. And
14 yeah, we've heard a lot of evidence this week about exactly
15 that, sort of what the -- the conversations that have been going
16 on between counterparts in various levels of government, et
17 cetera, so we're pretty well caught up on that. And that, then,
18 takes us to the February 10th IRG, and we've heard that -- from
19 Ms. Bogden -- what started off on her February 19th plan -- or
20 email as Plan A and Plan B, existing authorities or new
21 authorities of some sort, then evolved into Track 1 and Track 2
22 in the IRG Tracker. So can you just take us through that a
23 little bit, what was discussed at the February 10th IRG, how that
24 evolved into the IRG Tracker that we then see in the February
25 12th IRG? And at that point, we'll ask the clerk to bring that
26 up so you can take us through it.

27 **MS. JANICE CHARETTE:** Would it be helpful for me
28 to just -- I don't know whether you talked about what the

1 Incident Response Group is with Ms. Bogden this morning.

2 **MS. SHANTONA CHAUDHURY:** Always helpful to have a
3 reminder.

4 **MS. JANICE CHARETTE:** Okay, I'm happy to do that.
5 So the Incident Response Group is a committee of cabinet. It is
6 usually chaired by the prime minister. Although it can happen
7 without the prime minister, these ones did not. They were all
8 chaired by the prime minister. They include a collection of
9 ministers that are necessary to deal with either a national
10 crisis, an emergency. That could happen in Canada; it could
11 happen outside of Canada but affect either Canadian interests or
12 Canadians.

13 And so I think you did hear testimony this
14 morning, perhaps, from Mr. Hutchinson that the IRGs have been
15 used, for example, with wildfires in British Columbia, for
16 dealing with Hurricane Fiona in Atlantic Canada. It was also
17 used, subsequently, to deal with the illegal invasion of Ukraine
18 by Russia and dealing with Canadian interests and Canadians as a
19 result of that. So it could be a crisis that emerges
20 domestically that affects Canada or a Canadian crisis.

21 It is unlike other cabinet committees, and I
22 think you did talk about this a bit this morning with Ms.
23 Bogden. Cabinet -- the structure of cabinet is cabinet is the
24 decision-making structure. Cabinet committees make
25 recommendations which are ultimately ratified by cabinet. So
26 it's kind of the -- the work gets divvied up amongst cabinet
27 ministers. There's -- because there's a lot of decisions that
28 get taken, kind of more thorough deliberation, and then they

1 come to cabinet for final deliberation and decision-making.

2 The Incident Response Group, the IRG, is unlike
3 those other cabinet committees. Because it is about the
4 management of a crisis or an emergency, it has decision-making
5 powers with the prime ministers in the chair.

6 **MS. SHANTONA CHAUDHURY:** Okay, that's helpful.

7 **MS. JANICE CHARETTE:** So that was such a ling
8 explanation, now I've forgotten your question. I apologize.

9 **MS. SHANTONA CHAUDHURY:** So I have I. No, no,
10 that's helpful. Okay, so if the decisions -- what kinds,
11 actually -- I just want to explore that a little bit. What
12 kinds of decisions can the IRG take?

13 **MS. JANICE CHARETTE:** Oh, the IRG can make
14 decisions like, "Okay, we think we need to ask a minister to do
15 something, to make a telephone call, to go on a visit." They --
16 it could we need to make sure that these resources are actually
17 being allocated to a particular situation. It could be tasking
18 further work like going away and looking at whether there's a
19 regulatory authority that needs to be triggered. So it's
20 anything to do with federal jurisdiction, to use a good term,
21 anything that's in federal jurisdiction but an existing power,
22 an authority, a resource that could be deployed either to help
23 to resolve the situation or to deal with a Canadian in need.

24 **MS. SHANTONA CHAUDHURY:** But the IRG wouldn't
25 have had the power, for instance, to invoke the *Emergencies Act*?

26 **MS. JANICE CHARETTE:** The only ability to invoke
27 the *Emergencies Act* -- the decision-maker there is the Governor
28 in Council, so that's the prime minister in cabinet with the

1 approval of the governor general. And then, of course, there's
2 an approval process requiring a vote by parliament, and I'm sure
3 we'll get into that.

4 **MS. SHANTONA CHAUDHURY:** Yeah, we will. Okay, I
5 just wanted to clarify that right now. Okay, so then let me
6 pull up, Mr. Clerk, SSM.NSC.CAN000000214.

7 **MS. JANICE CHARETTE:** This reminds me of your
8 question, actually. So what did we do ---

9 **MS. SHANTONA CHAUDHURY:** So what was my question?

10 **MS. JANICE CHARETTE:** What did we do at the IRG
11 on the 10th of February, I think?

12 **MS. SHANTONA CHAUDHURY:** Well, apparently you
13 came up with a lot of what ended up in the IRG Tracker on the
14 12th, so ---

15 **MS. JANICE CHARETTE:** The truth, yeah.

16 **MS. SHANTONA CHAUDHURY:** Can we just flip down,
17 please, Mr. Clerk, to where the tracker starts? There we go.
18 Okay, so Ms. Charette or Ms. Drouin, can I ask you to explain
19 sort of what is going on under Track 1 and then Track 2 of the
20 IRG Tracker?

21 **MS. JANICE CHARETTE:** So I'll start, perhaps, and
22 then you can add if you want, Madam.

23 So this goes back to the kind of -- Track 1/Track
24 2 goes back to the conclusions of the IRG meeting on the 10th of
25 February where the prime minister heard from a variety of senior
26 officials on what the situation, their kind of overview of the
27 situation, the treat and risk assessment the NSIA, from agency
28 heads; then he turned to his ministers for their view of the

1 situation, who they'd been speaking to, what was happening, what
2 they thought needed to be done.

3 And coming out of the meeting on the 10th, in the
4 way the conclusions of the meeting and the tasking coming out of
5 that meeting was, there was two tracks of work to be done.
6 Track 1 was everything that could be done within existing
7 authorities, existing jurisdiction; although it may take new
8 resources to do those things, what's everything that we could do
9 within the existing set of powers, duties, and functions under
10 law? And then Track 2 was, are there new instruments that we
11 might need; are there new legal authorities that we might need?

12 So this looks to me like what we would have
13 tabled -- I think this is true -- this is what we would have
14 tables as a supporting document, an input to the deliberations
15 of the IRG as the results of what had -- the work that had been
16 done since the meeting on the 10th. And so it goes item by item
17 and it describes, well, what was -- what were we doing under
18 Item 1, and a bit more description of it; who was the lead on
19 that, if any supporting departments; what the status of it was;
20 if there were any documents. And if you go to number 3, you'll
21 see that there are some supporting documents and any other
22 notes.

23 So we were able to, on an ongoing basis, be in a
24 position to provide ministers with an update on all the work
25 that was underway across all the departments across both Track 1
26 and Track 2.

27 **MS. SHANTONA CHAUDHURY:** Okay, and if we ---

28 **MS. JANICE CHARETTE:** Was that good?

1 **MS. NATHALIE DROUIN:** Yeah, that's perfect, maybe
2 just one thing to add. And I think Jackie covered that a little
3 bit this morning, but those options, or suggestions of work of
4 area -- area of work, sorry, were at different stage of their
5 analysis. You know, some were at the really early stage and
6 then we found out that -- you know, for example, blocking the
7 cell towers, do you see that elsewhere in the IRG? That was
8 something that we look at, was just not feasible; we stopped
9 that initiative. So we look at many things but here you don't
10 really see how in-depth is the analysis on each of one.

11 **MS. SHANTONA CHAUDHURY:** Okay, so it's not clear
12 from looking at this document what stage the analysis ---

13 **MS. NATHALIE DROUIN:** Exact.

14 **MS. SHANTONA CHAUDHURY:** --- is at for these
15 various tracks?

16 **MS. NATHALIE DROUIN:** It can be an idea or it can
17 be something that is very fruitful.

18 **MS. JANICE CHARETTE:** Yeah, and they're all of
19 different sizes. I mean "establish a clear leadership table",
20 that's a relatively simple thing to do. And you see "daily DMOC
21 schedule". Some of the others are a lot more complex,
22 complicated, and involve a lot more parties to do.

23 **MS. SHANTONA CHAUDHURY:** Mr. Clerk, if we can
24 just scroll down a little bit, see what else is on this. Okay,
25 we see the famous ---

26 **MS. JANICE CHARETTE:** The tow-truck strategies.
27 There's a lot about tow trucks.

28 **MS. SHANTONA CHAUDHURY:** We've heard a lot about

1 tow trucks, more about tow trucks than we ever thought we'd
2 know. We also see there -- and I'll just get you to comment on
3 this briefly because we did canvass it with Ms. Thomas, but Item
4 No. 4 there says:

5 "Identify immediate measures to close
6 the intelligence gap."

7 Is there anything you'd like to -- well, I
8 suppose you didn't necessarily hear all of the NSIA's evidence
9 but she spoke at some length of the social media intelligence
10 gap and the difficulty of the federal government in collecting
11 the kind of information that may have been of assistance in this
12 situation. Is that something you've personally observed as
13 well? Would that apply to you as well?

14 **MS. JANICE CHARETTE:** I would say that, again,
15 context matters here. We were the 12th of February and as this
16 track was being put together, we had a situation that was moving
17 very quickly. There was a lot of inputs of information. We had
18 very organized ways to get information through some of the
19 agencies and a lot of that fed in through the National Security
20 Intelligence Advisor, through organizations like the Integrated
21 Terrorism Assessment Centre which operates as part of CSIS.

22 What it felt to us at the time -- and I think, as
23 the time went on, we both found out some things that told us we
24 didn't have a gap -- some people knew things, it's just we
25 didn't have necessarily a way of sharing all the information.
26 So I would say as you read here, the intelligence gap, and it
27 goes on to specify open source, non-criminal, non-terrorist. So
28 we thought we had -- we knew law enforcement was collecting up

1 intelligence, wasn't necessarily sharing it with us, nor
2 necessarily should they have, because it was operational
3 information.

4 Terrorists, that would have been specific
5 agencies that were collecting that.

6 But it fell to us when it came to open source and
7 that there were things happening, particularly in the offline
8 space and through earned media that perhaps we didn't really
9 have a full 360-degree view on.

10 And I would comment here that one of my
11 observations is that on the public service side, we don't tend
12 to be as skilled and as literate -- I'm making a huge
13 generalization here, but stick with me -- we don't tend to be as
14 skilled or as literate in the use of social media as the team
15 that supports ministers and the prime minister on the political
16 side. That's very much kind of in their wheelhouse and we don't
17 tend to do as much of that.

18 And so even going back before convoys and back to
19 kind of through the election and afterwards, I was -- I would
20 find myself on occasion hearing the prime minister's office
21 staff, Ms. Telford and others, talking about things that they
22 were seeing on social media that I just -- I wasn't seeing and I
23 wasn't necessarily hearing or picking up. Those wouldn't have
24 been the same places I would get information. They wouldn't be
25 the normal kind of inputs that I would receive.

26 And so as we sat -- and this is one of the
27 interesting things about the Incident Response Group -- unlike
28 other Cabinet committees, ministers, the prime minister at the

1 table, but senior officials are also at the table able to
2 participate in the conversation. Normally in Cabinet or Cabinet
3 committees, officials are there and we're called on to speak.
4 We don't kind of participate in the conversation.

5 But given the situation we were faced with,
6 everybody was kind of trying to workshop this together. What
7 could we do? And it became clear in the conversation, which is
8 why you see this in the tracker, that there were -- there was
9 things happening in the open source, in the social media
10 environment that we just didn't have a very good handle on. And
11 so that was one of the things, like, how could we close that
12 gap? How could we figure that out better?

13 And I think you see products later that we have
14 attempted to actually try to figure this out.

15 **MS. SHANTONA CHAUDHURY:** That's helpful.

16 Now, if we can just scroll down, Mr. Clerk, to
17 Track 2? I think we can sort of put Track 1 away. We've heard
18 quite a bit about what was going on under Track 1.

19 Track 2, you see that the first sort of item
20 there is "Assess utility of other tools that do not require
21 invoking the *Emergencies Act*, e.g., the *National Defence Act*."

22 Now, I appreciate that the rest of that is
23 solicitor-client privilege which is redacted, but is it fair to
24 day that there were options other than the *Emergencies Act* being
25 considered in some ways?

26 **MS. JANICE CHARETTE:** Yes. We were looking at
27 standalone -- we were looking at authorities under other
28 legislation, standalone legislation that could have been done in

1 the financial area, I think, for example. You may have heard
2 some of that yesterday from the Department of Finance, Mr.
3 Sabia, and the Department of Finance colleagues, or the
4 *Emergency Act*, which is really a legislation of last resort.

5 So were there other things that could be done,
6 other legislative steps that could have been taken? That's --
7 but I'd say that we were trying to do this not so much inventing
8 legislation but trying to understand the nature of the gaps and
9 therefore, what would be the solutions to try to fill those gaps
10 as opposed to kind of think up, you know, new legislative
11 solutions on the spot.

12 **MS. SHANTONA CHAUDHURY:** Okay. So the gaps drove
13 the solution?

14 **MS. JANICE CHARETTE:** Yeah, exactly.

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

16 **MS. JANICE CHARETTE:** Right.

17 **MS. NATHALIE DROUIN:** I can give you maybe
18 another example that I'm sure you have seen in our documents
19 that at some point, we were looking at the definition of "trade
20 corridor"?

21 **MS. SHANTONA CHAUDHURY:** Yes.

22 **MS. NATHALIE DROUIN:** So that's one of the things
23 we were looking at. Do we have regulation powers somewhere
24 where we can come and define what is a trading corridor, and
25 then have jurisdiction in trying to do something?

26 So those were the type of things we were looking
27 at under this regulation.

28 **MS. SHANTONA CHAUDHURY:** And I think it was found

1 that there was nothing available; is that right, that could
2 allow sort of the designation of a trade corridor?

3 **MS. NATHALIE DROUIN:** Exactly.

4 **MS. JANICE CHARETTE:** In Windsor, you know, we
5 had -- *Bridges and Tunnels Act* allowed us to actually control or
6 have jurisdiction over the bridge, but the plaza, the roads
7 going into it, well, that's a bit more complex of a story.

8 So was there a way to look at that piece of
9 critical infrastructure and say, "Okay. This whole trade
10 corridor, the roads leading into it, the plaza, is there a way
11 for us to get jurisdiction over that so that we could manage?"

12 It wasn't just the blockade, as you recall the
13 film footage on this is fabulous in a not very good way, but it
14 shows you just -- like, it wasn't just the bridge, right? There
15 was 10 kilometres, sorry, of trucks backed way up.

16 So the problem wasn't just what was happening on
17 the bridge, it was the entire trade corridor, and the Ambassador
18 Bridge is a pretty important piece of our trade infrastructure.

19 **MS. SHANTONA CHAUDHURY:** Okay. Sorry, I'm trying
20 to figure out how to bring us to the next topic without going
21 too far into it.

22 At the end of the February 12th IRG -- so we'll
23 put away this document for now. That sort of brings us to what
24 is a critical time in the chronology of all of what was
25 transpiring February 13th.

26 **MS. JANICE CHARETTE:** Yeah.

27 **MS. SHANTONA CHAUDHURY:** And what I'd like you to
28 do if you can is walk us through -- I understand that was a very

1 packed day, DMOC, IRG, Cabinet, maybe another DMOC somewhere in
2 there. How did you get from -- well, just walk us through the
3 day, but before we go there, a slight parenthesis, which is, the
4 *Emergencies Act* appears on the IRG tracker, and it sort of
5 appears out of nowhere and -- when you look at the documents.

6 But I understand from our interview that the
7 *Emergencies Act* was something that had sort of been in the
8 background of the consciousness of the federal government since
9 the COVID-19 pandemic started in March 2020, so I wonder if you
10 could give us a little bit of that background before we get into
11 the chronology of what happened on February 13th?

12 **MS. JANICE CHARETTE:** So maybe we'll do this as a
13 tag team because Madam Drouin was there in March of 2020 and I
14 wasn't, and then I could kind of pick it back up in February of
15 2022. Is that okay?

16 **MS. NATHALIE DROUIN:** So go back to 2020 with
17 COVID, and maybe we will come to that later. But we did some
18 talk about the *Emergency Act* and whether or not the conditions
19 were there to trigger the *Emergency Act* for health purposes and
20 not for Public Order purposes, of course.

21 And this is where I think -- and I was at Justice
22 at that time -- we develop a little bit better understanding of
23 the Act, an act that has never been used since its adoption in
24 1988.

25 So we develop a little bit better understanding
26 on how it operates, what is the oversight mechanisms, the House,
27 the Joint Committee, this Inquiry, the consultation with the PT,
28 so all the necessary steps to invoke.

1 So this is where I think we develop a little bit
2 more agility with the Act.

3 But coming back to the convoy, from my
4 perspective, the real first time where we start thinking about
5 that was really after the DMOC of February 9 when, you know, as
6 a group, we said we need to look at all potential options. And
7 this is why we -- sorry, we start looking at what kind of tools
8 the *Emergency Act* can give us, how we -- you know, meeting the
9 thresholds of the *Emergency Act*. So I really think that for me,
10 anyway, it's -- it was really on February 9 that we started to
11 seriously look at whether or not it was an option.

12 **MS. SHANTONA CHAUDHURY:** So I was right in
13 starting this examination with February 9th. Would you agree
14 with that?

15 **MS. JANICE CHARETTE:** I would certainly defer to
16 ---

17 **MS. SHANTONA CHAUDHURY:** Not with what I said,
18 with what Nathalie said.

19 **MS. JANICE CHARETTE:** Maybe both. I would defer
20 to Madam Drouin on the early stages of the public health. That
21 certainly, as it came to be February the 9th and we were looking
22 at what could we do, the potential of the *Emergency Act*, which
23 I'll underline had not been used since 1988 -- also contributed
24 to when I thought about my advice to the prime minister,
25 ministers were actually going to consider options put before
26 them by officials, including the possibility of triggering the
27 *Emergency Act*. That required an Incident Response Group.

28 Now, you would -- I think you've been hearing in

1 the testimony, you know, this is kind of a careful build up of
2 all the deliberations, but when we were starting to talk about
3 this as one of the potentials, I thought that the prime minister
4 and ministers needed to be sitting in a structured Incident
5 Response Group to understand, to be briefed on and to deliberate
6 on that serious a matter.

7 **MS. SHANTONA CHAUDHURY:** Okay. That's helpful.
8 So now I'll just ask you again to walk us through the chronology
9 of the 13th of February.

10 **MS. JANICE CHARETTE:** Okay. So the chronology of
11 the 13th. So there was a lot.

12 **MS. NATHALIE DROUIN:** Keep in mind, it was a
13 Sunday.

14 **MS. JANICE CHARETTE:** It was a Sunday. That's
15 right. Also Day 17, at the end of the third weekend.

16 I think you've heard testimony from other
17 colleagues and others about kind of what was going on in terms
18 of the protests, what was happening at -- we had all been, when
19 we weren't working and on calls, we'd been watching the law
20 enforcement action that had been taking place in Windsor for
21 example. We were watching what was happening on our television
22 screens. But there were calls and meetings that took place that
23 day, which are the focus, I believe, of your question.

24 I don't recall myself participating in a DMOC
25 that day. I may have. I just can't remember, to be honest with
26 you.

27 My focus was really on getting ready for the IRG
28 meeting at that point, just given the escalation that had taken

1 place, the fact that we were in -- we were at -- we were coming
2 to the end of the third weekend. I think the IRG was in the
3 afternoon on the 13th, if I recall correctly. So we were getting
4 ready for that, making sure the materials were ready and so on,
5 collecting up all of the latest inputs.

6 We were at the end of the third weekend. Ottawa
7 was still a significant site of what I think was generally
8 considered at that point to be an illegal protest.

9 There -- make no mistake, there were people who
10 were there for a lawful protest, but at that point, the totality
11 of the situation in Ottawa was an illegal protest, an illegal
12 blockade. And what was going on in Windsor.

13 And we saw the size of the effort that was
14 required to bring Windsor under control and the duration of the
15 effort. That took days to de-escalate and to eliminate -- to
16 get to a point where that situation was settled and the port of
17 entry was able to open, but we didn't know how long it was going
18 to be sustained.

19 So all to say, it was a series set of
20 circumstances. Other ports of entry were kind of on and off.
21 The situation was quite volatile. So at any point in time,
22 there were lots of different inputs.

23 We went into the Incident Response Group in the
24 afternoon of the 13th of February and through conversations that
25 we had had internally, my -- the proposed agenda for the IRG was
26 a bit different than it was on the 10th or the 12th. And if you
27 look carefully at it, you'll see that we have switched the order
28 of items.

1 The first item is not what you would normally
2 expect as a situational overview and update. Ministers and the
3 Prime Minister had been meeting on the 12th, they'd been meeting
4 on the 10th, they'd been getting this constant feed of
5 information.

6 So the advice of the Prime Minister was to turn,
7 at that point, immediately to -- given we were at the end of the
8 third weekend, we still had a very challenging and I believe the
9 conclusions we had were a dangerous situation, a complex,
10 volatile situation. What were the options. What were the
11 decisions available to Ministers? And then after a long series
12 of deliberations, then there was, is there anything new to add?
13 And so an upside-down flip of the traditional agenda.

14 And the conclusion coming out of that Incident
15 Response Group was the Prime Minister was convening the Cabinet
16 on the evening of the 13th of February, a virtual Cabinet call,
17 luckily we had that secure video capacity to do that, to consult
18 with his Cabinet on the overall response. And at that point, I
19 think I'm allowed to say, of course, including the invocation of
20 the *Emergency Act* as one of the decisions, the potential
21 decisions to be considered by Cabinet.

22 **MS. SHANTONA CHAUDHURY:** Okay. So the outcome of
23 the IRG in the afternoon was it's time to convene Cabinet to
24 consider options, including potentially invoking the *Emergencies*
25 *Act*?

26 **MS. JANICE CHARETTE:** That's correct.

27 **MS. SHANTONA CHAUDHURY:** Okay. And then that
28 evening is when that Cabinet meeting took place?

1 MS. JANICE CHARETTE: That's correct.

2 MS. SHANTONA CHAUDHURY: There's a few questions
3 we want to ask you about what information Cabinet had at hand in
4 that -- at the end of that day, if I can put it that way.

5 So there's some specific questions, and we'll
6 just go through them one at a time. They're items that have
7 come up in the last two weeks of hearings, or the last maybe
8 more than two weeks of hearings.

9 Mr. Clerk, can you pull up OPS00014566?

10 So to situate you a little bit while this is
11 coming up, this is about the law enforcement plan in the City of
12 Ottawa. So the Commission has heard a lot of evidence about the
13 plan for resolving the Ottawa situation, or lack there of, from
14 the moment the convoy arrived to where we are in time right now,
15 which is around February 13th.

16 And the question we have, if you can just scroll
17 down, Mr. Clerk, to where you see, "Lucki did not get prime
18 minister"? It's on page 2. There we go.

19 Lucki, so that would be Commissioner Lucki, did
20 not -- and these are notes, by the way, I think on the 14th? Is
21 that correct? Okay. So this is a meeting between Commissioner
22 Lucki, Commissioner Carrique, and what it says there is:

23 "Lucki did not get prime minister briefed
24 [...] on the plan. Prime minister will be
25 enacting the emergenc[ies] [...] act.
26 Advised her legal to review what the
27 measures are, what's the procees [sic]..."

28 MS. JANICE CHARETTE: Can you tell me who has

1 written this or who is supposedly speaking at this? Like,
2 what's at the top of that?

3 **MS. SHANTONA CHAUDHURY:** Sure.

4 **MS. JANICE CHARETTE:** Ten (10:00) o'clock
5 meeting.

6 **MS. SHANTONA CHAUDHURY:** Ten (10:00) o'clock
7 meeting with Commissioners Carrique and Commissioner Lucki. My
8 guess is that these are scribe notes.

9 **MS. JANICE CHARETTE:** From? Chief Sloyly or from?

10 **MS. SHANTONA CHAUDHURY:** OPS. So we got the
11 document from the Ottawa Police Service.

12 **MS. JANICE CHARETTE:** So OPS. Thank you.

13 **MS. SHANTONA CHAUDHURY:** Yeah.

14 **MS. JANICE CHARETTE:** So OPS meeting with the OPP
15 Commissioner and the RCMP Commissioner?

16 **MS. SHANTONA CHAUDHURY:** That's right.

17 **MS. JANICE CHARETTE:** That's what it looks like.
18 Okay. Thank you.

19 **MS. SHANTONA CHAUDHURY:** So the statement there
20 is:

21 "Lucki did not get prime minister briefed
22 [...] on the plan. Prime minister will be
23 enacting the emergenc[ies] [...] act. [And
24 then] [a]dvised her legal to review what
25 the measures are, what the procees [sic]..."

26 So the question we have for you is, coming out of
27 the 13th of February between the IRG and the Cabinet, was the
28 Prime Minister -- was Cabinet/the Prime Minister briefed on the

1 state of the plan for law enforcement in Ottawa, and
2 specifically that there was a plan coming together?

3 **MS. JANICE CHARETTE:** So I wasn't at this
4 meeting. I don't know how accurate ---

5 **MS. SHANTONA CHAUDHURY:** Absolutely fair.

6 **MS. JANICE CHARETTE:** --- these notes are. And I
7 will tell you for a fact that one of the things that's written
8 here is not accurate, because at 10:00 o'clock in the morning on
9 the 14th, no decision had been taken about enacting the *Emergency*
10 *Measures Act*, which is not the name of the legislation anyways.

11 So with that out of the way, what happened at the
12 IRG and the Cabinet meeting in terms of the materials, the
13 inputs to the deliberations before the Prime Minister and the
14 Cabinet, I think is the essence of your question.

15 And so I would differentiate between how IRGs
16 work and Cabinet. I think I said this a bit earlier. An IRG
17 meeting, it's really kind of everybody around the table trying
18 to provide a contribution with the Prime Minister in the chair
19 kind of deciding who gets to speak what and running the meeting,
20 as you would expect.

21 And so that's a bit more of an opportunity for
22 senior officials, including the RCMP Commissioner, to
23 contribute.

24 Whereas Cabinet is a different kind of a meeting.
25 It's a more structured formal meeting. The Prime Minister runs
26 it. It's tradition that Ministers speak and officials only
27 speak if they're called on by the Prime Minister.

28 So a couple of things about this. Commissioner

1 Lucki was a participant in the IRG and she was an attendee, I
2 would say, at Cabinet. She was a participant, as I was a
3 participant, at the IRG. And then an attendee and a secretary
4 at the Cabinet meeting.

5 I think it's fair to say on the evening of the
6 13th when these two meetings took place that we had been hearing
7 various versions of the evolution of a plan for the situation in
8 Ottawa, as we had been hearing about law -- at a very high
9 level, not at a detailed tactical or operational level, about
10 the planning around what to do about Coutts, what to do about
11 the situation at Emerson, what to do about the situation at
12 Windsor. And so we'd been hearing about the evolution of the
13 Ottawa plan. We'd been hearing about the conversation around
14 the setting up of an Integrated Command Centre, so that RCMP and
15 OPP resources, along with OPS resources, could be organized and
16 share information and so on.

17 But we'd heard a lot -- we'd heard often about a
18 plan. What we hadn't seen at the end of the third weekend was
19 anything happening on the plan.

20 And so the plan, which there had been various
21 conversations about the Ottawa plan, there was no -- to the best
22 of my recollection, the Commissioner or did not speak in detail
23 at the IRG about the operational plan, but there were
24 conversations about the fact that police were working together
25 to have a plan, to resolve the situation in Ottawa, as you would
26 expect them to. We had a horrific situation in Ottawa going on.
27 You would expect that law enforcement at all levels were trying
28 to figure out what to do about it.

1 When it came to Cabinet, as I said, it's a
2 different structure. The National Security and Intelligence
3 Advisor provided an integrated brief to the Cabinet, which takes
4 as inputs information that is provided through the colleagues
5 who would be represented, for example, on the DMOC. And that
6 would include the information that would have been fed in by the
7 RCMP, by Transport, by CBSA, by CSIS, by PCO, by Global Affairs
8 across -- again, and then the National Security Intelligence
9 Advisor would provide that integrated view.

10 The RCMP Commissioner, as any agency had a Deputy
11 Minister, as a Minister who's also a member of the Cabinet, and
12 we have obligations as Deputies to make sure when our Ministers
13 are going to a Cabinet meeting, they're briefed, and they have
14 our perspectives. And so my expectation would have been she
15 would have also been briefing her Minister, Minister Mendicino,
16 if she had things that she thought were relevant to the
17 conversation. And so there was no explicit conversation either
18 at the IRG, to the best of my memory, in detail about the plan
19 but there had been many conversations leading up to that, as
20 well as at the Cabinet meeting would have been the integrated
21 view from the National Security Advisor, which has been the
22 practice, I would say, without getting beyond the Cabinet
23 confidence waiver that you have from the Prime Minister. It's
24 fair to say that that has been the practice on other issues on
25 which the Cabinet has been confronted. Situation in Ukraine,
26 for example, the NSIA, the National Security Intelligence
27 Advisor provides an integrated brief to the Cabinet pulling
28 together all the information, so part of it's time management

1 and one integrated brief.

2 I guess the last thing I would say is that
3 Commissioner Lucki, as the head of the RCMP, I recognized as the
4 Clerk of the Privy Council that as the person who was in charge
5 of the RCMP, there might be times when the RCMP Commissioner may
6 have information that she did not want to provide in front of a
7 large room of people, whether that's Ministers or officials, for
8 whatever reason. There's sensitive information. And so I think
9 it's part of my responsibility to make sure the RCMP
10 Commissioner knows that if there's anything that she thinks that
11 I need to know, that she has an open door to me. And also, that
12 if she thought the Prime Minister needed information, that I
13 would facilitate that. And I don't know whether there -- you
14 know, I don't think there's any case in which the RCMP
15 Commissioner has reached out to me to provide information that I
16 have not had a chance to have that engagement with her.

17 So we'll come to the conversation about what
18 would have changed, if anything, if we'd known about it, in my
19 view, just to give you the kind of the Cole's notes version of
20 where we're going, it was one factor, one site, one moment in a
21 complex situation.

22 **MS. SHANTONA CHAUDHURY:** Okay. That's helpful.
23 So if I can -- and just sort of a -- because you may summarize,
24 Cabinet's state of knowledge as to what was going on in Ottawa,
25 it would have been at the end of the day on the 13th. There is
26 some sort of plan being developed but nothing particular earth
27 shattering about what stage that plan was at?

28 **MS. JANICE CHARETTE:** I'm not sure I would say

1 earth shattering, but that there had been evolutions of the plan
2 with law enforcement with OPP and the RCMP working together with
3 the OPS, but I didn't have a detailed level of -- Cabinet was
4 not provided with any detailed level of knowledge about the
5 contents of that plan, how it was going to work, when it was
6 going to work.

7 **MS. SHANTONA CHAUDHURY:** Okay. So no detailed
8 knowledge about the timing of it or the intention at that point?

9 **MS. JANICE CHARETTE:** Or how, or what the plan
10 exactly was.

11 **MS. SHANTONA CHAUDHURY:** Okay. So the second
12 question I want to ask about is also to do with the RCMP.

13 PB.NSC.CAN.00003256, please, Mr. Clerk.

14 So to situate you, this is an email from
15 Commissioner Lucki to Mike Jones, Chief of Staff of Minister
16 Public Safety. The timestamp on it is, it's the Greenwich Mean
17 Time thing, so it's midnight minus 5 hours, so 7:47 ---

18 **MS. JANICE CHARETTE:** Seven ---

19 **MS. SHANTONA CHAUDHURY:** --- shortly before the
20 Cabinet meeting that took place, I think at 8 o'clock or 8:30 on
21 the evening of the 13th, 8:30 I believe.

22 Okay. And if we just scroll down, so she's
23 putting together what she -- what's called her EM list,
24 emergency measures list. And then if we scroll down to the very
25 end of the email ---

26 **MS. JANICE CHARETTE:** Can you back up for just
27 one moment, please?

28 **MS. SHANTONA CHAUDHURY:** Yeah, of course.

1 **MS. JANICE CHARETTE:** Sorry, just to remember --
2 I want to remember something. Okay. Thank you.

3 **MS. SHANTONA CHAUDHURY:** Okay. We scroll down to
4 the very end of it. Yeah, sorry, just there, Mr. Clerk. This
5 said,

6 "...I am of the view that we have not
7 yet exhausted all available tools that
8 are already available through the
9 existing legislation."

10 And then she says,

11 "There are instances where charges
12 could be laid under existing
13 authorities..."

14 And then, "The Ontario Provincial Emergencies Act
15 just enacted..."

16 I think that had been enacted on...

17 **MS. JANICE CHARETTE:** Friday.

18 **MS. SHANTONA CHAUDHURY:** --- the 11th.

19 **MS. JANICE CHARETTE:** Yeah.

20 **MS. SHANTONA CHAUDHURY:** Right.

21 "...will also help in providing
22 additional deterrent tools to our
23 existing toolbox."

24 So my question for you is, was that something
25 that was conveyed at either the IRG or more importantly the
26 Cabinet meeting that evening, that the RCMP had flagged that
27 their -- in their view, in Commissioner Lucki's view, there were
28 still available tools?

1 **MS. JANICE CHARETTE:** I think in the conversation
2 around the management of the situation including the invocation
3 of the *Emergency Act*, it's fair to say that Cabinet was briefed
4 that there were tools and authorities in many organizations that
5 had not been fully deployed, including in the RCMP.

6 Think about the situation facing law enforcement
7 on this third weekend. You know, they'd just been through the
8 situation in the RCMP, along with OPP and Windsor Police
9 Service, managing a significant situation in Windsor. They had
10 this very difficult situation in front of them in Ottawa. RCMP
11 was managing Coutts. There was a lot on the plate of law
12 enforcement. It's a very difficult job at the best of times and
13 these were not the best of times and very difficult conditions.
14 And so that our police said that there were existing authorities
15 -- we knew that there were existing authorities that hadn't been
16 fully used. There were trucks parked on Wellington Street. You
17 don't get to park on Wellington Street. So there were
18 authorities that had not been fully deployed. There -- from
19 municipal all the way through to *Criminal Code*, as the
20 Commissioner indicates here. You would expect that the police
21 were continuing to look at every available tool that they had to
22 be able to deal with the situation.

23 And so I can tell you that, to the best of my
24 memory and my recollection, Cabinet were informed that, yes,
25 there were tools and authorities. Track 1, go back to the
26 tracker, there were Track 1 that hadn't been fully deployed, but
27 the question was whether or not they were going to be adequate
28 to be able to deal with the totality of the situation. That I

1 think was the matter before Ministers.

2 **MS. NATHALIE DROUIN:** Can I add something on
3 this? As the Clerk said, yes, some tools were used
4 unsuccessfully, unfortunately. Some haven't been tried, but the
5 situation was still there. At the same time, I think it's, in a
6 way, reassuring that a Commissioner, head of the biggest law
7 enforcement agency is still wanting, you know, to use the tools,
8 you still have confidence in her teams to do something. Can you
9 imagine if we have waited for the Commissioner to say, "I'm
10 overwhelmed. It's over. I can't do that." So we wouldn't have
11 been in a situation of threat. We would have been in a
12 situation where the threat would have materialized.

13 **MS. SHANTONA CHAUDHURY:** That's helpful, and I
14 think that will come up a little bit later on when we discuss
15 the eventual decision that was made. So, Ms. Charette, you
16 pointed out that at the end of the 13th, the decision -- no
17 decision had been made, you said, to invoke the *Emergencies Act*.

18 **MS. JANICE CHARETTE:** That is correct. A
19 decision was for the Prime Minister to convene a First
20 Minister's Meetings to consult the provinces and territories on
21 the situation to brief them and to discuss with them the
22 possible invocation of the *Emergency Act*.

23 **MS. SHANTONA CHAUDHURY:** Okay.

24 There are actually two more bits of information
25 that I want to ask you about first briefly, but I think they
26 will go pretty quickly and there may be others who take up these
27 points as well.

28 But the first one is -- I don't think I need a

1 reference for this one. But was Cabinet aware that CSIS had
2 assessed that there was no threat to the security of Canada
3 under section 2 of the *CSIS Act* coming out of the protests?

4 **MS. JANICE CHARETTE:** Let me make sure I've got
5 this straight, how I explain this.

6 Cabinet was aware that CSIS had not assessed a
7 threat to the security of Canada necessary to trigger their
8 authorities under the *CSIS Act*. To the best of my knowledge to
9 this day there was no CSIS investigation of the protest, which is
10 what section 2 of the *CSIS Act* is about. It is about triggering
11 CSIS to use their authorities. They see a threat to national
12 security by a person or a group that would cause them to seek a
13 mandate to actually launch intelligence gathering activities.

14 **MS. SHANTONA CHAUDHURY:** Okay. That's ---

15 **MS. JANICE CHARETTE:** That was not the case.

16 **MS. SHANTONA CHAUDHURY:** Okay. And we'll come
17 back to that in some detail. Again, I just wanted to make sure
18 that Vigneault had expressed that view that you just articulated
19 was before Cabinet.

20 **MS. JANICE CHARETTE:** The CSIS assessment and
21 that legal assessment was before Cabinet.

22 **MS. SHANTONA CHAUDHURY:** Okay.

23 **MS. NATHALIE DROUIN:** And then maybe just to add,
24 the CSIS assessment in order to trigger powers under the *CSIS*
25 *Act* -- so their assessment for the purpose of *CSIS Act*, not
26 their assessment for the purpose of the *Emergency Act*.

27 **MS. SHANTONA CHAUDHURY:** Yes, okay. That's fair,
28 and we'll come to that.

1 And then the last piece of information is we'd
2 heard from some of the deputy ministers and CSIS, I believe, and
3 the RCMP that there were concerns being expressed that invoking
4 the Emergencies Act could make things worse, not better, in the
5 sense that it could inflame tensions. I believe one of the
6 lines used by Deputy Minister Keenan was "it could backfire" --
7 so either Deputy Minister Stewart or Deputy Minister Keenan.

8 So was that sort of hesitancy or reluctance then
9 put before Cabinet?

10 **MS. JANICE CHARETTE:** I can tell you absolutely
11 that that was put before Cabinet.

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

13 **MS. JANICE CHARETTE:** And that was discussed.

14 In all of these matters it was a balance, you
15 know? When was the right time to act? What was the right thing
16 to do? Was it too early? Was it too late? Was it too little?
17 Was it too much?

18 And so one of the things that Cabinet had to
19 debate was amongst all of the actions to be taken, what was the
20 possibility that there was going to be a reaction on the part of
21 those who were engaged in the protest activity who were not
22 there for legal purposes, who were not there for peaceful
23 protests, who had other motives?

24 So Cabinet very much had to be briefed and they
25 were briefed by, and they had access to the information from
26 CSIS from us.

27 **MS. SHANTONA CHAUDHURY:** Okay. So that brings us
28 to the end of the meeting, and as you say, a decision was made

1 to convene a First Ministers' meeting the following day.

2 How was that convened?

3 **MS. JANICE CHARETTE:** So I believe there may have
4 been other conversations that happened that night between the
5 Prime Minister and his Parliamentary caucus, but we, the public
6 service is not part of that.

7 So there we go. Sometime between the evening of
8 the 6th and the morning of the 7th my colleagues in the
9 Intergovernmental Affairs team and the Privy Council Office
10 which is led by Deputy Minister Michael Vandergrift would have
11 sent a message out to the offices of provincial and territorial
12 leaders that the Prime Minister was convening a teleconference
13 of provincial and territorial leaders. I think it was taking
14 place at 10 o'clock in the morning which is a little bit early
15 if you're in British Columbia, I suspect. But the objective was
16 -- I'm not even sure that the subject matter was communicated.
17 I think it was an FPT conference call.

18 I don't actually remember whether that happened
19 late in the night of the 13th or whether that happened in the
20 morning of the 14th, but sometime between those things. As well,
21 I have come to understand as a result of reading the
22 institutional report of the Prime Minister's Office, there was
23 other conversations going on between the Prime Minister's Office
24 and the office of other premiers across the country.

25 So it could have been, but they got a heads up
26 earlier. I don't know the answer to that. But the official
27 communication around convening this call happened sometime
28 between when Cabinet concluded on the 13th, and 10 o'clock the

1 next morning. I don't think it was a lot of notice, that's fair
2 to say.

3 **MS. SHANTONA CHAUDHURY:** Okay. And I saw, Mme.
4 Drouin, you were shaking your head at it, so the subject matter
5 was not conveyed to the premiers that evening; is that correct?

6 **MS. NATHALIE DROUIN:** That's correct.

7 **MS. SHANTONA CHAUDHURY:** So the First Ministers'
8 meeting was called but the premiers weren't advised that this is
9 about potentially invoking the *Federal Emergencies Act*.

10 **MS. NATHALIE DROUIN:** That was not mentioned ---

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

12 **MS. NATHALIE DROUIN:** --- in the invite.

13 **MS. JANICE CHARETTE:** It's fair to say there had
14 been a lot of FPT leaders' meetings, First Ministers meetings,
15 going on through COVID, unprecedented. I would argue a number
16 of FMM meetings had been going on since the beginning of COVID.
17 But this was not of the same ilk.

18 **MS. SHANTONA CHAUDHURY:** Okay. And you mentioned
19 there may have been some conversations happening at the
20 political level that evening that we may get into next week ---

21 **MS. JANICE CHARETTE:** Perhaps.

22 **MS. SHANTONA CHAUDHURY:** --- when we hear from
23 the ministers. We may or may not. We also did hear some
24 evidence from Deputy Minister Stewart that he had a call with
25 Deputy Solicitor General di Tomaso the evening of the 13th and it
26 was mentioned on that call that the Emergencies Act was being
27 considered.

28 To your knowledge, was there any other

1 communication at the officials level?

2 **MS. NATHALIE DROUIN:** So to my knowledge, no.
3 Have to take that with Deputy Minister Michael Vandergrift. And
4 to our knowledge, no. What I can add though is if you look at
5 that Sunday, Mr. Blair did a lot of media relations where he
6 said everything was upon the table including the *Emergency Act*.

7 So the reality is that provinces, when we started
8 the conversation on the 14th, they were not surprised that the
9 conversation was about a consultation under the *Emergency Act*.

10 **MS. SHANTONA CHAUDHURY:** Okay. So that takes us
11 right to the events of the 14th. So the First Ministers meeting
12 is convened, at what time? Do you recall when it took place?

13 **MS. JANICE CHARETTE:** I believe it was 10 o'clock
14 in the morning.

15 **MS. SHANTONA CHAUDHURY:** Okay. And we'll hear
16 some detail when I get to the next part about what occurred at
17 that meeting. Maybe I'll just ask you to walk us through the
18 chronology of what happened on the 14th from your recollection.

19 **MS. JANICE CHARETTE:** Okay. Another action-
20 packed day.

21 So my notes remind me that there was the First
22 Ministers meeting. There was an Incident Response Group
23 meeting, again on the 14th. The Privy Council Office was busy
24 working, following the First Ministers meeting to pull together
25 a decision note for the Prime Minister in terms of whether or
26 not to actually proceed to invoke the *Emergency Act*.

27 That all culminated in the mid-afternoon sometime
28 after three o'clock, so collecting up inputs to be able to pull

1 that together. And then the Prime Minister and I believe other
2 ministers together made a public announcement that they were
3 proceeding to invoke the *Emergency Act*.

4 Meanwhile, kind of in the situation that was
5 still evolving, that morning we had seen the RCMP taking action
6 in Coutts, Alberta, the port of entry at the southern of
7 Alberta. Coutts has never been so famous.

8 We had been advised by the Commissioner of the
9 RCMP at IRG meetings previous to that that without getting into
10 detail, there was reason to believe that there were weapons at
11 Coutts. But when -- after the First Ministers meeting and
12 before the invocation, my decision note to the Prime Minister
13 were finalized.

14 Actually, it might have been even before the IRG,
15 before the FMM. We were seeing the results of the law
16 enforcement activity and what was happening at Coutts and we
17 were seeing the size of the stash of firearms and ammunition
18 that were found in Coutts amongst the protesters.

19 So this was new and I would say relevant
20 information in terms of just the nature of the threat that we
21 were worried about in terms of the risk for serious violence.

22 So FMM, IRG, the invocation decision, I signed
23 the notes to the prime minister representing the culmination of
24 the advice to the prime minister. That was communicated to him.

25 He responded to me and indicated that he was
26 approving the invocation and the news conference was held. The
27 prime minister made that announcement publicly and, at the same
28 time, kind of behind the scenes, I think it's fair to say, you

1 would have seen kind of gears shifting. The public service was
2 trying to be ready without getting ahead of the prime minister,
3 the cabinet, or the Governor in Council because if we were going
4 to -- if the Governor in Council was going to choose to invoke
5 the *Emergencies Act*, there was need to be able to move quickly.

6 So we were moving from -- like, this is a matter
7 of days. The 10th and the 12th, we were still in Track 1/Track 2
8 option, this option that, "Could we find tow-truck driver in the
9 public service?" to, you know, the evening of the 13th, "We might
10 be invoking the -- the Governor in Council might be invoking the
11 *Emergencies Act*. Who's going to do what? What's it going to
12 mean?"

13 And so we were starting to shift those gears
14 while not, as I said, getting ahead of the Governor in Council,
15 so that if the decision was taken, all of the organizations
16 would understand, okay, what would it mean for them? And I
17 think if you -- as an example, if you look in the notes that we
18 saw from Commission Lucki earlier, you'll see that she was
19 feeding into, "Okay, if the *Emergencies Act* is invoked, here are
20 some of the things that could be done as a result of that."

21 So the public service behind the scenes -- the
22 agencies, the departments -- were trying to be ready in the
23 event that it was invoked because we knew we wanted to be able
24 to move quickly. This was a crisis. This was an urgent
25 situation -- to be able to use whatever powers and authorities
26 were going to be given through the Act and the orders pursuant
27 to the invocation of the Act because we knew were in a -- it was
28 urgent. We had time-limited, targeted powers here; how do you

1 move very quickly? And so that was kind of going on behind the
2 scenes. So as the prime minister then made the public
3 announcement, I would say the public service shifted to, "Okay,
4 so now we're in the business of invoking the Act and here's what
5 we have to do to make that happen."

6 At the same time, we talked about -- a little bit
7 about the FMM. I suspect you may want to come back to that; I
8 don't know. But officials continued to talk to their provincial
9 and territorial counterparts including the Deputy Minister of
10 Intergovernmental Affairs with his colleagues. Madam Drouin, I
11 think participated in some of those calls. It was happening by
12 what I would describe as "sector deputies" kind of talking to
13 their counterparts, "Here's what this is going to mean. Here's
14 what" -- and to maintain that kind of open back-and-forth
15 communication as the invocation was being announced and we were
16 moving into kind of that new phase of -- with the *Emergency Act*.

17 **MS. SHANTONA CHAUDHURY:** Okay, so just to get the
18 chronology straight, then, that day, First Ministers' Meeting
19 happens. I think you said an IRG happened. But is it possible
20 that that's misremembering?

21 **MS. JANICE CHARETTE:** Yes.

22 **MS. SHANTONA CHAUDHURY:** Okay.

23 **MS. JANICE CHARETTE:** It's quite possible.

24 **MS. SHANTONA CHAUDHURY:** Okay.

25 **MS. JANICE CHARETTE:** Or miswriting down on my
26 little calendar here. It may be that there's no 14th and we may
27 have gone from 13th pre-cabinet to the 15th because the 14th was
28 decision day. That's quite possible.

1 MS. SHANTONA CHAUDHURY: That's right. There ---

2 MS. JANICE CHARETTE: Sorry.

3 MS. SHANTONA CHAUDHURY: We know that there was
4 an IRG -- or there was a cabinet meeting on the 15th, I believe.

5 MS. JANICE CHARETTE: That's correct, yes.

6 MS. SHANTONA CHAUDHURY: Yeah. Okay, so ---

7 MS. NATHALIE DROUIN: A regular cabinet.

8 MS. JANICE CHARETTE: A regular cabinet.

9 MS. SHANTONA CHAUDHURY: --- a First Ministers'
10 Meeting. Following the First Ministers' Meeting, you provide
11 advice to the prime minister ---

12 MS. JANICE CHARETTE: Correct.

13 MS. SHANTONA CHAUDHURY: --- and you advise --
14 and we're going look at this in some detail in a moment. You
15 advise that the time has come to invoke the *Emergencies Act*?

16 MS. JANICE CHARETTE: M'hm.

17 MS. SHANTONA CHAUDHURY: Okay. And then the
18 public announcement happens?

19 MS. JANICE CHARETTE: That's correct.

20 MS. SHANTONA CHAUDHURY: Okay. So let's ---

21 MS. JANICE CHARETTE: Sorry, I advise, the prime
22 minister decides, and then the Act is invoked.

23 MS. SHANTONA CHAUDHURY: I forget that step,
24 yeah. The prime minister ---

25 MS. JANICE CHARETTE: I'm kind of fussy about
26 that stuff, so.

27 MS. SHANTONA CHAUDHURY: Okay. So can pull up
28 the "Invocation Memo", as it's known, SSM.NSC.CAN00003224?

1 So the first question, Ms. Charette, is, when was
2 this memo prepared?

3 **MS. JANICE CHARETTE:** I signed this memo some
4 time, as I said, after three o'clock in the afternoon of the
5 14th. I remember that because we had been -- there was some --
6 there was some importance to try and get this moving. Once it
7 looked like that's the direction things were going to be moving
8 in, we wanted to be able to move quickly. And the prime
9 minister -- he will tell you his own story about this -- he was
10 eager to make the decision and to move forward. So we were --
11 were moving on. We were trying to move quickly.

12 The actual memorandum, which goes to many pages
13 and has tabs associated with it, was being worked on and pieces
14 were being pulled together even as we came out of cabinet the
15 night of the 13th and through the day on the 14th, and pieces
16 being added to it. The -- kind of the conclusions of the FMM,
17 for example, there's a paragraph in this decision note. This is
18 the kind of decision note we would send to the prime minister --
19 I would send to the prime minister kind of capturing all that we
20 thought was necessary, pulling it all together in one spot, the
21 culmination, as I would describe it, of the public service
22 advice to the prime minister on the decision as to whether or
23 not to invoke this legislation.

24 And so just around -- some time after three
25 o'clock in the afternoon -- I think there's a timestamp
26 somewhere about when my office would have sent it to the prime
27 minister. And then we got a sign, which is how the prime
28 minister indicates his decision. We got a -- an initialed copy

1 back with an "okay" and, following that, the press conference
2 started.

3 **MS. SHANTONA CHAUDHURY:** Okay. And just for a
4 moment, Mr. Clerk, can we pull up SSM.NSC.CAN00003218?

5 **MS. JANICE CHARETTE:** There we go.

6 **MS. SHANTONA CHAUDHURY:** Okay, so this would be -
7 - this email is from someone at PMO, Jeremy Adler, to a host of
8 people at PMO:

9 "Please find attached a PM note for
10 decision on invoking the *Emergencies*
11 *Act* and..."

12 So it's the Invocation Memo and the timestamp on
13 it is 8:41 p.m. GMT, so that's ---

14 **MS. JANICE CHARETTE:** Minus ---

15 **MS. SHANTONA CHAUDHURY:** --- minus five, so
16 that's ---

17 **MS. JANICE CHARETTE:** So 3:41.

18 **MS. SHANTONA CHAUDHURY:** --- 3:41 p.m.

19 **MS. JANICE CHARETTE:** So Jeremy Adler was my
20 chief of staff. The address is ---

21 **MS. SHANTONA CHAUDHURY:** Oh, I'm sorry.

22 **MS. JANICE CHARETTE:** --- PCO-PMO. So Jeremy, as
23 part of his role at the time, was responsible for, when a
24 decision note finalized, he would transmit that to the Prime
25 Minister's Office and then the -- kind of the catcher's mitt on
26 the other side is a combination of officials in the Prime
27 Minister's Office, including his -- I see there his -- the head
28 of his executive office, somebody from the policy team, two

1 members of the office of the chief of staff, and the head of the
2 policy team.

3 **MS. SHANTONA CHAUDHURY:** Okay. So the important
4 part, which I missed, is that it's actually from PCO ---

5 **MS. JANICE CHARETTE:** Yeah, it's from my ---

6 **MS. SHANTONA CHAUDHURY:** --- your chief of staff

7 ---

8 **MS. JANICE CHARETTE:** That's correct.

9 **MS. SHANTONA CHAUDHURY:** --- to PMO?

10 **MS. JANICE CHARETTE:** That's right.

11 **MS. SHANTONA CHAUDHURY:** Okay, thank you. Mr.

12 Clerk, you can take that down and pull up the Invocation Memo

13 again, SSM.NSC.CAN00003224.

14 **MS. JANICE CHARETTE:** We were operating virtually
15 at this time. Today, it would be a paper version of that note
16 which I would physically sign, and then my chief of staff would
17 transmit that.

18 **MS. SHANTONA CHAUDHURY:** Okay. So there's a lot
19 to unpack in the Invocation Memo. I see it's three o'clock. I
20 may have to borrow back those five minutes with interest that I
21 gave up this morning, Mr. Commissioner.

22 **COMMISSIONER ROULEAU:** There's too much trading
23 going on.

24 **MS. SHANTONA CHAUDHURY:** Let's see how far we can
25 get.

26 **COMMISSIONER ROULEAU:** I think it's worthwhile
27 spending the time, I think.

28 **MS. SHANTONA CHAUDHURY:** I think so, too. So the

1 summary here -- the overview of this memo essentially gives a
2 wrap-up of what happens next. So ---

3 **MS. JANICE CHARETTE:** We call that "the decision
4 box", so.

5 **MS. SHANTONA CHAUDHURY:** "The decision box",
6 thank you.

7 "The *Emergencies Act* came into force in
8 1988 and is meant to be used as a
9 measure of last resort."

10 And then we'll see you go through the four
11 different types of emergencies, or that there are four different
12 types of emergencies. Go down a little bit.

13 "All measures taken under the Act must
14 be exercised in accordance with the
15 Canadian Charter of Rights and Freedoms
16 and should be carefully circumscribed..."

17 Then you go through a little bit of the history
18 of the IRGs. Scrolling down to the next page, this summarizes a
19 bit of what has happened and who attended. Then getting down to
20 a slightly more pertinent part here:

21 "While the demonstrations started out
22 relatively peaceful, they have grown
23 more complex and expanded into multiple
24 locations in the country. The movement
25 is considered to be highly organized,
26 well financed, and is feeding a general
27 sense of public unrest that could
28 continue to escalate with sever risks

1 to public security, economic stability,
2 and international relations. The
3 economic impact to date is estimated at
4 approximately 0.1 percent of Canada's
5 GDP per week, however the impact on
6 important trade corridors and the risk
7 to the reputation of Canada as a
8 stable, predictable and reliable
9 location for investment may be
10 jeopardized if this continues."

11 Just stopping there. So that's essentially a
12 summary of much of the evidence that we've heard coming from the
13 Deputy Ministers this week before the Commission.

14 One thing I want to ask you about, and it goes
15 back to something that you mentioned a bit earlier, and I
16 realize that when you say while the demonstrations started
17 relatively peaceful, they've grown more complex, you're talking
18 about everything that was going on in the country?

19 **MS. JANICE CHARETTE:** That's correct. A kind of
20 totality.

21 **MS. SHANTONA CHAUDHURY:** A little earlier, you
22 mentioned that at some point, the Ottawa protest in particular
23 had become illegal, had become unlawful. I'm wondering whether
24 there's -- you could put a timestamp on that?

25 **MS. JANICE CHARETTE:** I am not a lawyer.

26 **MS. SHANTONA CHAUDHURY:** No, fair enough.

27 **MS. JANICE CHARETTE:** So I will give you my
28 laymen's interpretation. But Wellington Street is a main

1 thoroughfare. It happens to be right outside my office. Large
2 trucks being parked on Wellington Street over protracted periods
3 of time, I think, you know, Ottawa's a -- I think it's been
4 described as a protest city. Protests happen in Ottawa. It is
5 the seat of government. People come to Ottawa if they want to
6 lawfully protest.

7 And so I think there was -- you know, there was -
8 - we don't manage those kinds of regular protests, lawful
9 protests. Those are local authorities that do that.

10 By the time we had gotten to Sunday night and it
11 was very clear, the RCMP gave us advice at that point in time
12 that the best of her information, at a minimum, the protestors
13 weren't going anywhere that week, although numbers did go up and
14 down a little bit.

15 Even if you could kind of ignore the fact that
16 there were, from the minute those trucks parked in the middle of
17 Wellington Street, let's say they were allowed to do that, let's
18 say that they were sent there, or allowed to park there, there's
19 a point at which the protracted existence or parking of those
20 trucks and the activities going on in those trucks represented
21 illegal activity. And I think as we got to the end of the first
22 weekend, a reasonable person would say that we had entered -- we
23 had gone beyond a legal protest and we were into an illegal
24 protest, which isn't to say that everybody involved was involved
25 in an illegal activity. There was illegal activity, including
26 things like by-law violations. There may still well have been
27 people who were there to peacefully protest. But there was a
28 level of illegal activity going on in Ottawa, I would say,

1 laymen's view, at a minimum, some would say from the get go, but
2 I would say at th end of the first weekend it's reasonable. My
3 assessment would have been it had become an illegal protest, an
4 occupation almost. That's what it felt like and was being
5 described by the citizens of Ottawa.

6 **MS. SHANTONA CHAUDHURY:** We had some discussions
7 yesterday with the NSIA about that line between lawful and
8 unlawful protests not necessarily being particularly clear or
9 particularly evident to everyone in these positions. And I
10 understand there's some work being done by her, or her office,
11 looking into that question.

12 So taking us back to now the invocation memo, the
13 next line in it:

14 "A more detailed threat assessment is
15 being provided under separate cover."

16 **MS. JANICE CHARETTE:** Right.

17 **MS. SHANTONA CHAUDHURY:** Can you tell us about
18 that threat assessment?

19 **MS. JANICE CHARETTE:** So I think you've heard
20 others in the Privy Council Office describe us as kind of the
21 place that brings all of the information together, and I think
22 you will have -- there was a discussion yesterday with the
23 National Security Intelligence Advisor about, "I need
24 information for Janice."

25 So this memo was being pulled together for me to
26 give my final advice to the Prime Minister about the decision to
27 invoke the Act, and there were inputs coming over -- coming from
28 all different parts of PCO reaching out to their networks.

1 And so when we got to this point, it would have
2 been, I think, reasonable to expect that we would have been able
3 to include, as part of the package going to the Prime Minister,
4 here's a threat and risk assessment that was not able to be --
5 that was not ready by the time that this memo was being sent.
6 And so the line:

7 "A more detailed threat assessment is
8 being provided under separate cover."

9 We have looked to see whether or not -- we've
10 done -- gone back and search all our records, was this provided
11 under separate cover, did it follow? We've not been able to
12 find that. To the best of my knowledge, there was no written
13 detailed threat assessment provided under separate cover.

14 I can tell you that at every IRG meeting that
15 followed, including starting the 15th of February, threat
16 assessments were being provided to the Prime Minister and
17 Ministers as regular part of the IRG proceedings. So there's no
18 missing note, to the best of my knowledge.

19 **MS. SHANTONA CHAUDHURY:** Okay. This is not
20 actually a threat assessment that was ever produced. It was an
21 aspirational threat assessment. One that was supposed to be
22 produced, but wasn't in the end. Is that ---

23 **MS. JANICE CHARETTE:** I think we hoped for it,
24 but it was not -- to the best of my knowledge, the best of our
25 records, we don't have a detailed threat assessment written that
26 was provided to the Prime Minister under separate cover.

27 **MS. SHANTONA CHAUDHURY:** Okay.

28 **MS. NATHALIE DROUIN:** Maybe just to add on this,

1 and you saw Jody Thomas' request on the 14th regarding that.

2 The idea was not to have a new threat assessment.

3 **MS. SHANTONA CHAUDHURY:** Right.

4 **MS. NATHALIE DROUIN:** The idea was really to
5 collect, in an integrative way, everything we have heard,
6 whether it's from GAC, whether it's from Transport, CBSA, all
7 those departments that reported what they were seeing on the
8 ground.

9 But the idea was, instead of having a lot of
10 different inputs, and often verbally, to have -- to try to have
11 something in written. So that was really the purpose. Not to
12 develop a new assessment.

13 **MS. SHANTONA CHAUDHURY:** Okay. So it was
14 supposed to be a collation, essentially, of existing
15 information?

16 **MS. NATHALIE DROUIN:** Exactly.

17 **MS. SHANTONA CHAUDHURY:** Okay. just moving on
18 then, talks about invoking the legislation, taking a
19 proportional approach with time-limited measures, "these would
20 not displace or replace their authorities," they wouldn't
21 "derogate [from the] provinces and territories".

22 "Rather, these measures would aim to
23 assist in bringing an end to the illegal
24 activities observed across the country."

25 Scrolling down now, Mr. Clerk.

26 "On February 14[th], [that day,] you
27 convened a First Ministers Meeting to
28 discuss with Premiers and seek their views

1 on this scenario and the measures being
2 explored. The Premiers expressed a
3 variety of views - those closest to the
4 situation (e.g., the Premier of Ontario)
5 were completely supportive of invoking the
6 [*Emergencies Act*] and moving forward with
7 robust measures. A large number of other
8 Premiers expressed concern about the need
9 to act carefully to avoid enflaming the
10 underlying sentiment they considered to
11 lie behind the protest..."

12 Okay. And just stopping there. So we didn't go
13 through the First Ministers Meeting in any detail today for
14 reasons of time. We will go through it in more detail next
15 week. But coming out of that meeting, there was a lot of
16 opposition from the Premiers to the idea of invoking the
17 *Emergencies Act*. The Premier of Ontario was fully supportive,
18 as was recorded here, and I believe the other -- you can correct
19 me if my recollection is faulty, the Premier of Newfoundland
20 expressed support?

21 **MS. JANICE CHARETTE:** So I guess there's two
22 parts, I would say, to this.

23 First is there was an assurance of
24 confidentiality in the conversation that happened at the First
25 Ministers Meeting. A number of Provincial Premiers and/or
26 political leaders made public statements afterwards as to their
27 position.

28 So to be honest with you, I can't remember who

1 was public and who was not. So I'm just -- I don't want to go
2 too too far in terms of saying who said what around the table.
3 It's fair to say the Premier of Ontario was public. Other
4 premiers were public in terms of their opposition. That's
5 pretty clear. But I just -- Newfoundland and Labrador, British
6 Columbia, I think I know the answer to that, I just don't want
7 to betray any confidences.

8 Maybe Madam Drouin?

9 **MS. NATHALIE DROUIN:** Yeah, I mean it is in the
10 consultation report.

11 **MS. JANICE CHARETTE:** Yeah.

12 **MS. NATHALIE DROUIN:** But I put the provinces and
13 territories in three baskets. So you have the supporters,
14 strongly or maybe, lukewarm, and that's Newfoundland, that's
15 Ontario, and that's B.C.

16 And then you have provinces that, especially the
17 ones from the Maritimes, who have expressed, you know, concerns.
18 And the same concerns as we've heard from some of our
19 intelligence agencies, that there is a risk that invoking the
20 *Emergency Act* can inflamate [sic] the situation.

21 And then you have provinces that were very
22 against. And those are the prairies and Quebec.

23 **MS. SHANTONA CHAUDHURY:** Okay. Thank you.
24 That's helpful.

25 So the only thing I wanted to sort of -- sorry,
26 if we could scroll back up, Mr. Clerk? I don't know if quibble
27 with, but raise, is the wording here:

28 "...those closest to the situation (e.g.,

1 the Premier of Ontario) were completely
2 supportive."

3 So if we're talking about support from Ontario,
4 then from Newfoundland and potentially BC, neither Newfoundland
5 nor BC were particularly close to the situation at all. It was
6 really just Ontario that was supportive because they were close?

7 **MS. JANICE CHARETTE:** Yeah. I think hindsight is
8 20/20. The prime minister had been leading the First Minister's
9 conversation that morning. I had been participating and others
10 had been participating, and I may not have spent enough time
11 focused on these words myself to make sure they were perfect.
12 There was a lot going on in a short period of time. We were
13 working virtually, and so this is on me if it's not sufficiently
14 clear.

15 **MS. SHANTONA CHAUDHURY:** Can we just scroll down
16 again to the next page?

17 **MS. JANICE CHARETTE:** It's true though, the
18 premier of Ontario, when we think about it through the lens of
19 sheer numbers, probably the biggest impact was the combination
20 of what was happening in Windsor and Ottawa, Blue Water, Sarnia,
21 all those ports of entry, slow rolls in and around Pearson, Risk
22 the Rail. Like, that was a very big hotspot. It is also fair
23 to say that Newfoundland and Labrador probably didn't feel the
24 same way. You're absolutely correct.

25 **MS. NATHALIE DROUIN:** Just to add thought that BC
26 was facing volatile situation in Surrey, however.

27 **MS. SHANTONA CHAUDHURY:** Yes, that's right.
28 There was the developing Pacific Rim blockade, sorry. Yes,

1 that's fair.

2 Okay. The next -- the sentence I want to point
3 out here is after describing the First Minister's meeting, you
4 advise, Ms. Charette:

5 "This First Minister's meeting will
6 meet the requirements for consultation
7 with the provinces under the
8 Emergencies Act."

9 How did you come to that conclusion? What was
10 that based on?

11 **MS. JANICE CHARETTE:** So I have a -- looking at
12 the *Emergency Act*, and I had received a range of advice in terms
13 of the conduct of the First Minister's meeting and what the
14 threshold was.

15 The requirement in the *Emergency Act* is for
16 consultation, and there had been a consultation with the
17 provincial and territorial leaders through this First Minister's
18 meeting, and that, in my view, met the requirement for
19 consultation.

20 **MS. SHANTONA CHAUDHURY:** So it was the First
21 Minister's meeting specifically, not any of the engagement that
22 happened before that?

23 **MS. JANICE CHARETTE:** This sentence does not
24 encompass all of the activity that had been going on, and so
25 read on its face, my advice here was the FMM met the requirement
26 for consultation. It does not reflect the fact that there had
27 been a lot of consultation going on between officials, between
28 ministers, and given to understand between political officials.

1 I'm not sure it's fair to say though that all of
2 that consultation through all of this was focused on the
3 invocation of the *Emergency Act*. The First Minister's meeting
4 when the prime minister spoke to the leaders of the provinces
5 and territories and talked to them about the situation, the
6 considerations around the invocation, that for me was the
7 culmination of the consultation with provinces and territories
8 on the invocation of the Act.

9 **MS. SHANTONA CHAUDHURY:** That's exactly what I
10 was trying to nail down. That's helpful.

11 **MS. JANICE CHARETTE:** Also, it's fair to say,
12 which is not -- and you go on to read here -- that it wasn't the
13 end. The prime minister committed to sending a letter out to
14 first ministers which would set out in writing more clearly the
15 assessment of the underlying risks and the measures to be taken
16 to respond, and he left the door open, both to himself, to his
17 minister of intergovernmental affairs, as well as to his
18 officials or any other minister who wanted to engage, who
19 premiers may have wanted to engage with in terms of input around
20 the evolving situation.

21 **MS. SHANTONA CHAUDHURY:** So that was further
22 outreach being done, but that wouldn't affect the conclusion of
23 whether or not the consultation requirement was met?

24 **MS. JANICE CHARETTE:** That's right. But it does
25 speak to, I think, recognizing that that culmination of the -- I
26 mean, the decision to move to the First Minister's meeting to
27 consult an invocation had only happened the night before, so
28 nothing that happened before that really was about the

1 invocation of the Act.

2 The call was about the invocation of the Act and
3 therefore, if there were questions, I mean, it was not a lot of
4 notice, the topic wasn't clear, left the door open if there were
5 further views.

6 **MS. SHANTONA CHAUDHURY:** So then we go to your
7 recommendation. We see PCO recommends you approve declaring a
8 Public Order Emergency under the *Emergencies Act*.

9 That one's self-explanatory.

10 Okay. We have a lot to unpack in the remainder
11 of this document, so I'm just going to pull out some of the
12 highlights.

13 On the following page, go down to:

14 "Earlier today, RCMP had made 11
15 arrests related to the protest at the
16 border in Coutts, Alberta ---"

17 **MS. JANICE CHARETTE:** Where are you? Yeah, I see
18 it now.

19 **MS. SHANTONA CHAUDHURY:** I'm sorry. It's sort of
20 mid-page there.

21 **MS. JANICE CHARETTE:** I see it now, yeah.

22 **MS. SHANTONA CHAUDHURY:** And then the conclusion
23 of that sentence is:

24 "--- indicating that there are
25 definitely elements within this
26 movement that have intentions to engage
27 in violence."

28 So this brings us back to something you had

1 raised a little bit earlier, which is that the enforcement
2 action in Coutts had happened early that morning and it was
3 revealed to you then that there was this cache of weapons.

4 And I'm just wondering if you can tell us what
5 effect, if any, that really had on your views that day?

6 And the second part of it is, what you've put in
7 the invocation memo is that indicates there are definitely
8 elements within this movement that have intentions to engage in
9 violence. And I'm wondering if that -- when you say "this
10 movement", are you looking at this as a sort of a homogenous
11 movement across the country as in there's a relationship between
12 what's going on in Coutts and what's going on in Ottawa and
13 what's going on everywhere else?

14 **MS. JANICE CHARETTE:** So maybe I'll try and take
15 that in pieces, and if I miss any, come back to me.

16 So I think I mentioned earlier that IRG meetings
17 on the -- now I'm getting confused in my dates -- the 10th and
18 the 12th, the RCMP commissioner had mentioned in her situational
19 update when she touched on activities across the country, she
20 mentioned that there was the possibility of there were weapons
21 at Coutts. And she certainly left us with the impression both
22 in the IRGs but as well in the parallel meetings that are going
23 on with deputies that the situation at Coutts was more complex,
24 so why couldn't we solve Coutts, why couldn't we solve Coutts?

25 It looked like it was getting fixed, then it was
26 not getting fixed; looked like it was getting fixed, then it was
27 not getting fixed; looked like it was getting fixed, not.

28 And so earlier in the day, we had seen in the

1 media the RCMP having made these arrests, 11 people, and there
2 being weapons in the protest, I can only speak for myself in
3 terms of what my expectations were. The quantity of weapons and
4 ammunition that was discovered by the RCMP in conducting that
5 law enforcement activity was more than I would have expected.

6 So that, to me, indicated a seriousness and a
7 scale of the illegal activity that was either contemplated at
8 Coutts or people were ready to engage in at Coutts or ready to
9 do at Coutts that was beyond what my prior expectations, based
10 on not a lot of information other than there were weapons.

11 I think the second part of your question, if I
12 remember correctly, is related to the movement, the comment
13 about a movement.

14 I think that what we knew at the time, what we
15 suspected at the time was that there was some degree of
16 organization and coordination going on between what I would
17 describe as kind of cells of protest activity going on across
18 the country, but it did not look like a homogeneous, this was
19 one central plan or anything like that.

20 It did look like there was communication. We
21 could see it happening, even to the extent that we could follow
22 it in the social media and in some of the open source -- open
23 media commentary that was going on. It looked like there were
24 connections between the individuals that were involved, but I
25 wouldn't say that this movement, beyond what's described here in
26 terms of what was happening in Coutts, was one holistic
27 everybody in the country all joined together in one big thing.

28 **MS. SHANTONA CHAUDHURY:** And so that would then

1 apply also to the next sentence, which says:

2 "The movement has moved beyond a
3 peaceful protest and there is
4 significant evidence of illegal
5 activity underway."

6 **MS. JANICE CHARETTE:** Yeah.

7 **MS. SHANTONA CHAUDHURY:** So cells, sort of
8 disparate cells as opposed to one organized movement?

9 **MS. JANICE CHARETTE:** And there did seem to be
10 different objectives or maybe I could use the term motivations.
11 Maybe that's not the right word, but different objectives. Some
12 people were coming to protest because they were opposed to the
13 public health measures, which governments at many levels had put
14 into place, vaccination mandates, masking mandates, social
15 restrictions.

16 There were some that were coming to protest
17 because they had more -- they had different objectives. There
18 was talk about overthrowing the government and installing a
19 different government with a governor general and that this new
20 government would pass different rules in terms of public health
21 or other rules.

22 So there was definitely an anti-public health
23 measures, there was some people who just came because there was
24 a protest and they wanted to join and they wanted to say they
25 were opposed to things the government was doing, but there was
26 this other element, and we couldn't just write it off. We had
27 to take that seriously as well.

28 **MS. SHANTONA CHAUDHURY:** Okay. We're going to

1 flip through pretty quickly the next part, so the memo, so this
2 is just summarizing municipal and provincial responses. Keep
3 scrolling down, please, Mr. Clerk, until you see -- actually,
4 keep going. Mentions no involvement of the Canadian Armed
5 Forces. And here we get to the crux of, in a sense, the memo.
6 "Test for declaring a Public Order Emergency." You'll see
7 there, we'll just read it out,

8 "In order to declare a Public Order
9 Emergency, the [*Emergencies Act*]
10 requires that there be an emergency
11 that arises from threats to the
12 security of Canada that is so serious
13 as to be a national emergency.

14 Threats to the security of Canada
15 does not include lawful advocacy,
16 protest or dissent, unless carried out
17 in conjunction with any of the
18 following activities."

19 And am I right that the following four bullet
20 points are pulled from Section 2 of the *CSIS Act*?

21 **MS. JANICE CHARETTE:** I believe that's true.

22 **MS. SHANTONA CHAUDHURY:** Okay. And then we'll
23 just scroll down a little bit again, so those are outlined
24 there.

25 **MS. JANICE CHARETTE:** Incorporated by reference
26 from the *Emergency Act*, which cross-references to the *CSIS Act*.
27 Those four bullets are, I believe, in Section 2 of the *CSIS Act*.

28 **MS. SHANTONA CHAUDHURY:** That's right. So

1 Section 16, which defines Public Order Emergency, refers to
2 Section 2 of the *CSIS Act*, threats to the security of Canada has
3 the meaning ---

4 **MS. JANICE CHARETTE:** Right.

5 **MS. SHANTONA CHAUDHURY:** --- in Section 2 of the
6 *CSIS Act*. So the next bullet there, a national -- sorry,

7 "A national emergency is an urgent,
8 temporary and critical situation that
9 seriously endangers the health and
10 safety of Canadians that cannot be
11 effectively dealt with uniquely by the
12 provinces or territories, or that
13 seriously threatens the ability of the
14 Government of Canada to preserve the
15 sovereignty, security and territorial
16 integrity of Canada. It must be a
17 situation that cannot be effectively
18 dealt with by any other law of Canada."

19 So that's essentially just language lifted from
20 the *Emergencies Act* itself. Scrolling down,

21 "PCO is of the view that the examples
22 of evidence collected to date support a
23 determination that the two criteria
24 required to declare a public order
25 emergency pursuant to the EA have been
26 met."

27 Scrolling down again.

28 "Specifically, PCO is of the view that

1 while municipal and provincial
2 authorities have taken decisive action
3 in key affected areas, such as law
4 enforcement at the Ambassador Bridge
5 [...], considerable effort was
6 necessary to restore access to the site
7 and will be required to maintain
8 access. The situation across the
9 country remains concerning, volatile
10 and unpredictable. While there is no
11 current evidence of significant
12 implications by extremist groups or
13 international sponsors, PCO notes that
14 the disturbance and public unrest is
15 being felt across the country and
16 beyond Canadian borders, which may
17 provide further momentum to the
18 movement and lead to irremediable harms
19 -- including to social cohesion,
20 national unity and Canada's
21 international reputation. In PCO's
22 view, this fits within the statutory
23 parameters defining threats to the
24 security of Canada, though this
25 conclusion may be vulnerable to
26 challenge."

27 Can you explain to us what you meant by the last
28 part of that sentence there? So you explain the threat as you

1 see it, and then you say, "In our view, this fits within the
2 statutory parameters of the *Emergencies Act*, but this conclusion
3 may be vulnerable to challenge."

4 **MS. JANICE CHARETTE:** So the *Emergency Act* had
5 not been used in the 34 years since it had been promulgated, and
6 so we were using it for the first time in the case of a public
7 order emergency situation across the country. You see the kind
8 of deductive reasoning. I think we go on to explain a bit more
9 of the rationale and the evidence that I relied upon to provide
10 my advice to the Prime Minister. But the conclusion may be
11 vulnerable to challenge, i.e., we could face legal action,
12 judicial review and other challenges by those who don't agree
13 with our interpretation of the statute, and we have since see
14 litigation coming on exactly this matter.

15 **MS. SHANTONA CHAUDHURY:** Okay. So it's
16 essentially expressing some ---

17 **MS. JANICE CHARETTE:** My view was that it met the
18 tests. Others may not share my view.

19 **MS. SHANTONA CHAUDHURY:** Okay. So some
20 uncertainty, let's put it that way, as to whether that ---

21 **MS. JANICE CHARETTE:** Not by me.

22 **MS. SHANTONA CHAUDHURY:** --- would be a
23 universally accepted ---

24 **MS. JANICE CHARETTE:** Not by me.

25 **MS. SHANTONA CHAUDHURY:** Not by you, not by you,
26 but the Act had never been invoked before. There was no ---

27 **MS. JANICE CHARETTE:** Right.

28 **MS. SHANTONA CHAUDHURY:** --- sort of case law

1 saying this is what this means, so ---

2 MS. JANICE CHARETTE: That's a good way to put
3 it.

4 MS. SHANTONA CHAUDHURY: --- some uncertainty.

5 MS. JANICE CHARETTE: Yeah, that's a good way to
6 put it.

7 MS. SHANTONA CHAUDHURY: Is that a fair way to
8 put it?

9 MS. JANICE CHARETTE: Yeah.

10 MS. SHANTONA CHAUDHURY: Okay.

11 MS. JANICE CHARETTE: Uncertainty that others
12 will share my view.

13 MS. SHANTONA CHAUDHURY: Pardon me?

14 MS. JANICE CHARETTE: There may be uncertainty
15 that others will share that view.

16 MS. SHANTONA CHAUDHURY: Okay. So your view is
17 firm.

18 MS. JANICE CHARETTE: Yeah.

19 MS. SHANTONA CHAUDHURY: There may be some
20 uncertainty as to whether everyone agrees with it.

21 MS. JANICE CHARETTE: M'hm.

22 MS. SHANTONA CHAUDHURY: Fair enough.

23 "In addition, PCO is of the view [--
24 just continuing --] that this is a
25 national emergency situation that is
26 urgent, critical, temporary and
27 seriously endangers the health and
28 safety of Canadians that cannot be

1 effectively dealt with uniquely by the
2 provinces or territories."

3 So some of the evidence that we've heard before
4 the Commission is that there were tools that provinces could
5 have used. There was an Alberta *Critical Infrastructure Act* and
6 *Emergency Management Act* in Alberta that could have allowed for
7 some of the things that ended up happening under the Federal
8 *Emergencies Act*. For instance, the compelling tow trucks.

9 Given the -- and as you mentioned, even
10 Commissioner Lucki was expressing that the tools she had
11 available to her had not yet been exhausted. So can you just
12 square that circle for us in the sense of measure of last
13 resort, cannot be dealt with uniquely by provinces or
14 territories, but there are all of these tools available.

15 **MS. JANICE CHARETTE:** Right. So we had seen, as
16 you indicated, the Alberta legislation, we had seen the state of
17 emergency locally in Ottawa and Windsor. The province of
18 Ontario had moved forward with emergency legislation of its own.
19 And we had -- if you remember back to the long time ago, the
20 Track 1 work, the Sectoral Deputies were trying to work with
21 their provincial and territorial colleagues to see whether or
22 not if we saw some power that was possible under some provincial
23 legislation, could other provinces or territories pick that up
24 and use that in their jurisdiction.

25 By the time this memo was written on the 14th of
26 February, the view that I came to was that whether there were
27 still authorities that had not been fully used, that the
28 situation overall was a national emergency, it was urgent, it

1 was critical. There was the threat of serious violence that put
2 at risk the lives, the health and safety, the security of
3 Canadians, our economic fortunes. And that taken together, that
4 was beyond the capacity of any individual province or territory
5 to deal with. We were seeing this on a national scale and
6 breakouts or incidents from coast to coast to coast, including,
7 you know, cross-border traffic even between I think it was
8 Alberta and one of the territories. This was a situation which
9 had been escalating. I think we were on day 18 of what was
10 happening in Ottawa. This was a scale, this was an escalation,
11 this was a series of volatility. It didn't seem that there was
12 any province or territory that had the power to deal with this
13 uniquely on their own. That there may have been individual
14 agencies that could have dealt with a piece of it. There were
15 individual sites that could have been dealt with through
16 specific tools. There were -- potentially there were individual
17 threats that could have been dealt with by one agency or actor
18 or another. But if you look at the totality of it all, that's
19 what lies behind this advice.

20 **MS. SHANTONA CHAUDHURY:** Okay. So just asking
21 you back to the statutory parameters for a minute, Ms. Charette.
22 You're very firm in your view that the statutory parameters were
23 met.

24 **MS. JANICE CHARETTE:** I am.

25 **MS. SHANTONA CHAUDHURY:** Okay. Are you able to
26 articulate how they were met, in the sense that -- and I'll just
27 put it out. There's a bit of an apparent contradiction with
28 Section 16 referring to Section 2, threat to the security of

1 Canada. We have evidence saying that Ms. Vigneault on behalf of
2 CSIS assesses that the protests do not constitute a threat to
3 the security of Canada under Section 2 of the *CSIS Act*. So how
4 do you come to the conclusion then that the statutory parameter
5 is met?

6 **MS. JANICE CHARETTE:** So I'm going to give you
7 the layman's interpretation ---

8 **MS. SHANTONA CHAUDHURY:** Absolutely.

9 **MS. JANICE CHARETTE:** --- and my colleague may
10 have things to add, being more skilled in the dark arts of the
11 law.

12 Section 2 of the *CSIS Act* is about CSIS being
13 able to exercise its authorities to launch intelligence
14 gathering activities against a person or group because they
15 represent a threat to the security of Canada. The decision
16 maker there is CSIS. They judge the nature of the threat and
17 they recommend the activity be taken.

18 Now let's go over to the *Emergency Act*. The
19 decision maker in the *Emergency Act* is not CSIS. There's
20 nothing in section 16 which says the Governor in Council, who is
21 the decisionmaker who's being asked to make the decision, has to
22 ask CSIS if it's okay.

23 The Governor in Council is asked to assess
24 whether, on reasonable grounds, there is a -- I want to make
25 sure I've got my words right here. That there are reasonable
26 grounds to think there is an urgent, critical national situation
27 where the health, safety of Canadians, their lives, their
28 livelihoods, the national security of the country is at threat

1 of serious violence. That goes back to the CSIS definition, the
2 threat to the security of Canada.

3 Look under, I think it is -- this is dangerous --
4 at 2(c) of the CSIS Act we rely on. It is either serious
5 violence or the threat of serious violence.

6 And so the Governor in Council is asked to see if
7 they have reasonable grounds to believe that there is all of the
8 other criteria, urgent, critical, national beyond the scope of
9 an individual province or territory to deal with that is of a
10 nature that would be a threat to national security, which is the
11 threat or existence of serious violence.

12 So the Governor in Council's asked to make that
13 and, in my view, given the totality of the evidence that we'd
14 seen about the fact that we had protests happening Ottawa,
15 Windsor, Coutts, Emerson, Manitoba. We talked about we had
16 probably a dozen of other ports of entry.

17 We'd had risks of -- and threats of blockades of
18 railways, of slow rolls around airports disturbing that and
19 other critical infrastructure. We had the nature of activity
20 including we had had reported to us that there were IMVE,
21 Ideologically Motivated Violent Extremists, individuals who were
22 seen amongst the protest activities, that there was the risk
23 that they or lone actors inspired by them could -- there was the
24 threat from them that they could move to serious violence.

25 We had evidence through both what was being said
26 and in online of incredibly violent rhetoric, of hate speech,
27 antisemitic, anti-gay, transphobia, misogynistic, death threats.
28 Death threats to elected officials, to senior officials, some of

1 which we didn't even know at the time. We found out afterwards
2 were even worse than we had known at the time of this note being
3 written.

4 We had the threat of weapons, which we had heard
5 about before the 14th and then we'd seen at Coutts and the size
6 of that cache of weapons and ammunition. We'd heard that there
7 were kids and vulnerable people in the -- in some of the trucks
8 that perhaps were being used to try and keep law enforcement
9 away.

10 All of that and we had a sense that this wasn't a
11 single headed hydra. This was a -- there was a sense that there
12 was organization, there was coordination, there was a degree of
13 coordination, I think, amongst this set of activities that was
14 very well financed. And so not only did we have what we had,
15 but we had the risk of -- and we'd seen this kind of. It would
16 peter out and then it would escalate and peter out and escalate.
17 But if you look over the trend, since the beginning of the
18 protests arriving on that beautiful day on Ottawa on the 28th of
19 January, we had seen a trend of it getting worse and escalating
20 and escalating.

21 Taking together the culmination of all of that,
22 it was my -- it was my view that we met the test of the
23 definition in the *CSIS Act* that was -- that was to be put before
24 the Governor in Council to make a decision on reasonable grounds
25 as to whether or not there was a national emergency that met the
26 threat of -- threat to the security of Canada involving the risk
27 -- a threat of serious violence to people's lives, to their
28 health and safety, to their security.

1 **MS. SHANTONA CHAUDHURY:** Mme Drouin, I don't know
2 if you have anything to add to that from the perspective of, as
3 your colleague put it, the dark arts of the law.

4 **MS. NATHALIE DROUIN:** I think the Clerk got it
5 very well, but just to summarize.

6 It's not because CSIS concludes that within the
7 convoy, however, we know that within the convoy they had
8 individual of interest for them and they have also seen some
9 IMVE that they were following.

10 It's not because they conclude that not -- no
11 other individuals or groups met the trigger that the convoy as a
12 whole doesn't represent a serious threat to Canada. So I think
13 we really have to make the difference.

14 They do their assessment to determine under the
15 Act, the purpose of the Act, whether or not some individual or
16 groups represent that.

17 We did an assessment based on what CSIS was
18 telling us in terms of the presence and all the other examples
19 what Finance was telling us, what CBSA -- sorry for all the
20 acronym, but I think you got used to them.

21 And so we made the recommendation and the
22 government made its decision based on the cumulative effect, if
23 I may say.

24 **MS. SHANTONA CHAUDHURY:** Okay. So I'm going to
25 try and articulate this and correct me if I'm wrong as I'm
26 attempting to wrap my mind around this. But would it be fair to
27 say that we know that there was no specific threat of serious
28 violence identified by CSIS as in there was no bomb plot. There

1 was nothing -- there was no bomb -- plot to bomb Parliament Hill
2 or there was no specific January 6th insurrection planned. But
3 is the position that you're articulating essentially that there
4 can be a threat of serious violence without a specific
5 identified threat having been identified?

6 **MS. JANICE CHARETTE:** The word "threats" -- the
7 word "threat" here, I think, is used in many different ways.

8 There was no specific site. There's no specific
9 event. There's no specific actor, as you said, a bomb threat,
10 an event like, God help us, January 6th kind of an event.

11 There was a series of indicators which, in our
12 view, were the threats of serious violence for all the reasons
13 that I think Mme Drouin and I have tried to explain, individual
14 IMVE extremists who were seen in the crowd, targets, subjects of
15 interest to agencies.

16 So it's the combination of all of these things
17 and the escalation of all these things which, taken together,
18 were enough for me in my advice to the Prime Minister relying,
19 as I do, in everything I do, on the inputs from the community of
20 Deputy Ministers, the product of my interactions with my PCO
21 colleagues and almost 40 years of experience now as a public
22 servant, that, together, represented my list.

23 **MS. NATHALIE DROUIN:** Maybe another way to
24 articulate it or maybe to frame an example, not all potential
25 criminal offences will be followed by CSIS. So let's say we are
26 in face of potential family violence. This is serious violence,
27 but that doesn't mean that it is a threshold for CSIS to
28 investigate.

1 So we were in face of a lot of potential criminal
2 offences, but that doesn't mean that one individual or a group
3 of individuals were giving -- were, you know, meeting the
4 threshold of CSIS.

5 **MS. SHANTONA CHAUDHURY:** Okay.

6 **MS. JANICE CHARETTE:** Can I try the inverse of
7 that?

8 CSIS does use section 2 of the *CSIS Act* to
9 trigger the gathering of intelligence about a person or group of
10 people that they think are national security risk. We don't
11 trigger the *Emergency Act* every time CSIS triggers section 2 of
12 the *CSIS Act*. So there's a definition in the *CSIS Act*. It
13 isn't necessarily the fact that -- CSIS is not the decisionmaker
14 in the invocation of the *Emergency Act*. That's a separate
15 process by the Governor in Council which relies on the
16 definition that has a different construct.

17 That's the total layman's attempt.

18 **MS. SHANTONA CHAUDHURY:** Okay. Well, that's was
19 a helpful layman's attempt, certainly.

20 From there, I just want to bring in another piece
21 of what was relied on in the sense to invoke the Act. So we're
22 skipping ahead now, leaving the invocation memo and going to --
23 and I'm just going to -- I don't now that we need to turn it up.

24 But this eventually results in, once the decision
25 is made, what we've come to know as the section 58 report. So
26 this is the report to Parliament explaining the justification
27 for having invoked the *Emergencies Act*, made the declaration of
28 a Public Order Emergency.

1 And I understand that that report was prepared by
2 PCO in conjunction with the Department of Justice and a few
3 others; is that right?

4 **MS. NATHALIE DROUIN:** It was a collective.

5 **MS. JANICE CHARETTE:** It was a collective effort.

6 **MS. SHANTONA CHAUDHURY:** A collective effort.

7 **MS. JANICE CHARETTE:** Right. There was not a lot
8 of time between -- I think we had seven days on the legislation
9 to actual produce and table this document, and it was tabled two
10 days after the invocation because we were trying to move it as
11 expeditiously as possible. So it was a team product. But
12 ultimately I think it's fair to say PCO would have been involved
13 as the pen holder.

14 **MS. SHANTONA CHAUDHURY:** You will be relieved to
15 know I'm not going to any specifics ---

16 **MS. JANICE CHARETTE:** Thank you.

17 **MS. SHANTONA CHAUDHURY:** --- unless you want ---

18 **MS. JANICE CHARETTE:** For correction of our
19 grammar or ---

20 **MS. SHANTONA CHAUDHURY:** Yeah, no typos. Not
21 picking on typos.

22 What I do want to raise is that a large parge of
23 that section 58 explanation relies on something other than
24 serious violence. It talks about the threat to Canada's
25 economic security and I think there are at least three or four
26 points and we can bring it up if you'd like to see it in front
27 of you.

28 But they talk about the threat to economic --

1 Canada's economic security which has arisen as a result of these
2 various border blockades and everything that we've been talking
3 about over the last couple of weeks, everything Mr. Sabia was --
4 and his colleagues were discussing with us yesterday.

5 So how does that factor in in this sense?
6 Economic security is again not something that is articulated
7 within the section 2 CSIS Act definition that is the trigger of
8 a public order emergency. So how does that work?

9 **MS. JANICE CHARETTE:** So in my -- to my way of
10 thinking about this, here was the -- what was necessary to meet
11 the threshold. There were other considerations. The term
12 "national interest" for me takes a step back and says, "Okay, so
13 what is in the national interest of the country?"

14 So safety, security, ability to protect lives.
15 That's core to national interest. But also what's core to
16 national interest is economic viability, the ability to maintain
17 an economy, to have jobs, to have businesses operating so that
18 people have a livelihood so they can earn an income to support
19 themselves and their families.

20 So the economic risk, particularly at a time --
21 and I think I tried to set the seed for this when I was talking
22 about the fact that we were just starting budget deliberations
23 as this was all happening. I think Mr. Sabia spoke of other
24 relevant considerations related to the United States potential
25 legislation that was being deliberated at the time which had big
26 impacts on Canada and our competitiveness, our ability to
27 continue to attract investment.

28 So when I think about national interest, our

1 economic security is actually part of that. And that is about
2 the ability to maintain and operate secure borders to see to the
3 free movement of people, goods, and services, across our
4 borders. We do \$2 billion of trade a day between Canada and the
5 United States, the single most integrated, I think, economy in
6 the world. And that was being put at risk. You know, foods,
7 medicines, fuel, supplies, at a time when supply chains were
8 already pretty fragile as a result of two plus years of --
9 almost two years of COVID. So we were kind of shaky. And this
10 was putting that at risk with big border points.

11 If you look at the Ambassador Bridge, Emerson,
12 and Coutts, just those three, that adds up to about \$500 million
13 a day and we do about \$2 billion a day in trade between the two
14 countries. So it's a big number. It's about a quarter of the
15 trade that was impacted, just those three sites.

16 So economic security in terms of being able to
17 access those things, our ability to be a trusted trading
18 partner. So as I said, we were an export -- we are -- Canada is
19 an export dependent economy and we are in the business of trying
20 to attract investment to be able to open new businesses, expand
21 businesses here.

22 There was lots of conversations going on about
23 trying to attract big company names to locate in Canada. That's
24 about jobs; that's an important part of our national interest is
25 being able to do that. And investors don't like uncertainty.
26 They don't like volatility. They like the rule of law. They
27 like stability. They like predictability and this whole
28 situation was putting that at risk.

1 And I guess finally -- which is a little less on
2 the economic but I think also reflected in this section 58 piece
3 that was put before Parliament, is -- are Canada's international
4 reputation -- we are a G-7 country. We are committed to the
5 rule of law. And what was being seen in some other parts of the
6 world were protests. I think we saw them at a minimum in
7 France, in the Netherlands, in New Zealand if I remember my
8 media coverage right, with trucks with Canadian flags on them.
9 The Prime Minister was getting questions from international
10 leaders about just what was going on in Canada.

11 So the culmination of all of things are about our
12 national interest. And so in pulling together the section 58,
13 it was about a threshold but it was also about the other factors
14 that went into the deliberations around the invocation of the
15 Act.

16 And if I could, while I'm talking about section
17 58, just for a minute -- I mean, part of -- because we kind of
18 got out of the invocation memo. Part of what I relied upon in
19 my advice around the -- the advice to invoke the Act, was the
20 nature of the *Emergency Act* itself, temporarily time limited
21 targeted measures that would supplement provincial and
22 territorial and not displace, that were compliant with the
23 Charter.

24 So it was not just about invoking the Act. It was
25 what Act was allowing governments to authorize to have happen.
26 So it was about the nature of those measures but also the
27 accountability framework that it built into the *Emergency Act*
28 that had not been used before, including things like tabling

1 before Parliament, a justification on why the Act was invoked,
2 an explanation about the consultation with provinces and
3 territories, a requirement for a vote to be held in the House of
4 Commons to approve -- and the Senate. We know the Senate vote
5 didn't happen because the Act was revoked. But the House of
6 Commons approved the invocation of the *Emergency Act*. There was
7 a process to establish a joint House Senate committee. There's
8 this process, a commission of inquiry around what happened, and
9 transparency around what happened.

10 There's a very robust accountability framework.
11 So the test was met. Here's my -- I had a level of comfort in
12 terms of the nature of the measures, as extraordinary as they
13 were, as last resort as they were; and an accountability just to
14 complete the pod.

15 **MS. SHANTONA CHAUDHURY:** So if I understand
16 correction then, the economic security piece is less a sort of -
17 - less related to the actual threshold in terms of section 2 of
18 the *CSIS Act*, and more the threshold of -- the aspect of the
19 threshold or the aspect of the *Emergencies Act* that goes to this
20 is in the national interest. It is in the national interest to
21 invoke the *Emergencies Act* here because Canada's economic
22 security has been threatened.

23 **MS. NATHALIE DROUIN:** I'll say both, really. I
24 mean, when we talk about the threat to economy, the way we
25 measure economy, you know, is one thing but the impact is on
26 workers, is on jobs, is on day to day lives of people. I didn't
27 say that at the beginning about my credentials but my background
28 is really on enforcement and white collar crime enforcement.

1 I can tell you that when people are facing
2 financial issues, this is a lot of stress. And this is violent
3 in terms of stress. So I think our point here was when we were
4 receiving calls from unions, receiving calls from auto plants,
5 receiving calls from trade partners, the impact on the economy
6 was the impact on people.

7 Like, we talked those days about food security;
8 economic security is also an important component.

9 **MS. JANICE CHARETTE:** Well, I think you heard
10 about this from the National Security and Intelligence Advisor
11 yesterday. There's a legal threshold but there's also a policy
12 context within which the *Emergency Act* was existing. So we were
13 looking at a range of factors including trust and confidence in
14 our institutions, institutions like law enforcement,
15 institutions like government to actually be able to resolve the
16 situation.

17 And we were seeing a level of public unrest in
18 the country where citizens were thinking about taking matters
19 into their own hands. People were doing counter protests. They
20 were going to the Billings Bridge infamous counter protest to
21 try and show that they were not supportive. This is a pretty
22 risky -- this is a volatile risky situation.

23 So I think there's a legal threshold with all of
24 the additions that Mme Drouin made, brought our police context
25 around all of this.

26 **MS. SHANTONA CHAUDHURY:** Is there anything else
27 you'd like to add on that point, or should we leave invocation
28 and leave the threshold and very very briefly -- I am way out of

1 time. The last area that I would just ask you to address briefly
2 if we have nothing else to say on invocation, is revocation.

3 And I know that there was a lengthy memo you
4 prepared; the flip side of the invocation memo is the revocation
5 memo. In the interest of time I don't think we have time to go
6 through it in any detail. But can you explain the thinking
7 around when the *Emergencies Act* was revoked, why you advised
8 when you did that now is the time?

9 **MS. JANICE CHARETTE:** So the discussion about
10 when was the to revoke the *Emergency Act* started relatively
11 quickly after it had been invoked. The threshold was was it
12 necessary to deal with the situation, the totality of the
13 situation facing us?

14 We started to see the impact. We saw Windsor
15 holding, Coutts was holding. Now, we started to see popups in
16 other parts of the country, but one of the biggest situations we
17 were looking at was the situation in Ottawa. We were going into
18 the fourth weekend.

19 There were daily IRGs happening, starting on the
20 15th, thank you for correcting me about the 14th, starting on
21 the 15th, where there was a daily sense of what's happening,
22 what measures are being used? What else -- it wasn't just like
23 the *Emergency Act* was invoked and then everything else went out
24 the window. What else can and should we be doing to try to help
25 to address and resolve the situation.

26 And day-by-day ministers and officials were
27 looking at whether or not the situation that -- the sum total of
28 the situation still was of a size and a criticality that we

1 needed to continue.

2 Now, the early days, it's fair to say, we were
3 mostly focussed on implementation of the Act after invocation
4 and who was doing what and how -- what affect it was having.
5 But I would say as we saw the law enforcement activity really
6 starting to take hold in Ottawa on the fourth weekend, the days
7 of the 18th, 19th, more pointy questions were coming back from
8 the Prime Minister and from ministers, "How much longer do we
9 need the *Emergency Act*?" It had been made -- I think the view
10 with the invocation is no longer than necessary, and if we could
11 get -- move out of is as quickly as possible.

12 And so we started to work on, okay, so what were
13 the criteria for invocation, what are the criteria for
14 revocation. I believe you had some discussion with
15 Mr. Hutchinson, in particular, about that earlier in the day,
16 maybe with Ms. Bogden as well, but there started to be
17 deliberate conversations at the Incident Response Group around
18 were we in a position to revoke, were we in a position to
19 revoke, and finally, that culminated in a discussion that took
20 place on the 23rd of February at the Incident Response Group in
21 which the Prime Minister asked everyone in attendance were you
22 ready to revoke the Act.

23 And following that, I -- he had taken his counsel
24 from his ministers and officials. Again, the group production
25 of a note was done. That was provided to the Prime Minister.
26 He chose at that point -- the decision was to proceed to a
27 revocation, and that was advanced on the 23rd.

28 **MS. SHANTONA CHAUDHURY:** Okay. So just to close

1 the loop on that, I'll bring it up very briefly to situate
2 everyone in what that looked like, the revocation memo.

3 It's SSM.NSC.CAN.00003227.

4 Okay. So there we go:

5 "Overall the situation has evolved
6 significantly since February 14...and
7 is no longer considered urgent and
8 critical, or a threat to the security
9 of Canada..."

10 If we just flip down, Mr. Clerk, until page 7.

11 Unsure if that's right. No, I'm sorry, page 6.

12 Okay. So there's a section here starting:

13 "Since the EA was invoked, the
14 regulations resulted in..."

15 And it proceeds to list a number of factors, or a
16 number of occurrences, let's say, "rapidly assembly" ---

17 **MS. JANICE CHARETTE:** Indicators.

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

19 **MS. JANICE CHARETTE:** Indicators.

20 **MS. SHANTONA CHAUDHURY:** Indicators. Okay:

21 "[R]apid assembly of large police
22 presence....Signaling to protesters
23 that trucks...would no longer be
24 treated as violations of parking
25 bylaws, but would [actually be treated
26 as] potentially serious penalties..."

27 They say there's been:

28 "A significant decrease in the number

1 of minors..."

2 And it goes on. We don't have time to review
3 them in detail. But essentially, there's a link being drawn
4 here between these indicators that have occurred and the
5 invocation of the Act. So since the Act was invoked,
6 regulations resulted, or in any event, these things have
7 happened.

8 And then if we go on to the next page 7, that
9 describes the operational status. And so as we see:

10 "All the [Ports of Entry] are currently
11 open...operating normally.

12 Movement of truck convoys continues to
13 be monitored..."

14 Just scrolling down a little bit there,

15 Mr. Clerk:

16 "...an operational plan [is in place]
17 has been established to maintain
18 security in Ottawa."

19 Then it says:

20 "To date, approximately 30
21 individuals...attempted to enter Canada
22 for the purpose of participating in
23 illegal protests and blockades."

24 And I think we know now from, it says there, from
25 Mr. Sofsky (ph), two individuals were turned back using the
26 *Emergencies Act* authorities, the remainder were turned back
27 because they didn't meet entry requirements one way or the
28 other, vaccination requirements that are under the *Quarantine*

1 Act.

2 It then refers to "an unknown number of
3 protesters remaining in Ottawa." It's difficult to assess the
4 potential of that group to engage in illegal protests, but then
5 it refers also to:

6 "Since the end of the
7 occupation...small numbers..."

8 And it says here:

9 "... (20-30) have gathered at the War
10 Museum to protest. So far, these
11 gatherings have been orderly,
12 non-violent and legal."

13 So there was some lawful protest continuing at
14 least at the War Museum. Going on:

15 "...freezing of accounts has been
16 assessed as having had a deterrent
17 effect..."

18 And I'm losing my own place now. Okay, and then
19 we go down a little bit more.

20 Let's go to page 10.

21 This all culminates in PCO Comment:

22 "PCO is of the view that the public
23 emergency order pursuant to the
24 EA...invoked on February 14...is no
25 longer required..."

26 And so you advised the Prime Minister that the
27 time has come, then, to revoke the *Emergencies Act*?

28 **MS. JANICE CHARETTE:** Correct.

1 MS. SHANTONA CHAUDHURY: Okay.

2 MS. JANICE CHARETTE: I did.

3 MS. SHANTONA CHAUDHURY: That brings us to way
4 past the time that we were supposed to go. But I will ask
5 before I sit down and turn this over is there anything else
6 that, any key points that haven't been raised today that you
7 want to raise?

8 MS. JANICE CHARETTE: No, I don't think so.

9 MS. NATHALIE DROUIN: I just wonder if you have
10 covered the fact that we considered trust in the institution as
11 one of our criteria as part of the threat, and what can be the
12 consequences if, you know, a population is really losing
13 confidence in our public institution.

14 So you can do it or?

15 So one of the reason why it was an important
16 factor, so first of all, we were seeing citizens, you know,
17 doing some counterprotests, asking the court for an injunction.
18 So when you see the population trying to se rendre justice
19 because they are not comfortable that law enforcement or
20 government will do, that is for us like a beginning of a symptom
21 that something worse can happen.

22 We know what's going on in countries when the
23 populations do not have confidence in our public institutions,
24 that's brings some energy and a lot of instabilities, so this is
25 why it was an important element for us, the taking into account
26 the erosion in public institutions and making sure that we can
27 address that as soon as possible to avoid the worse, if I may
28 say.

1 **MS. JANICE CHARETTE:** Can I go back to revocation
2 for just a moment, then?

3 **MS. SHANTONA CHAUDHURY:** Yes.

4 **MS. JANICE CHARETTE:** I think when we arrived at
5 the 23rd of February, it wasn't like it was peace and calm
6 across the land, totally, but the assessment, which is
7 represented in this note, is that we had arrived at a point
8 where the *Emergency Act* was no longer necessary. It was extra
9 extraordinary powers that came with the *Emergency Act* were no
10 longer necessary, that we could rely on the existing tools,
11 resources and authorities to be able to deal with to the degree
12 that there was any illegal activity going on.

13 But also, we knew, as the protest was being taken
14 down, the blockade was being taken down, occupation in Ottawa,
15 that some trucks were going to other sites. They were going to
16 Vankleek Hill, amongst other places. And maybe there was other
17 activity going on, but it wasn't of a scale, of an intensity,
18 with the threat of serious violence that we faced at the time of
19 the invocation of the *Act*.

20 So it's not like everything was "unicorns and
21 rainbows" is my expression, but probably not appropriate here.
22 We had not arrived at -- we -- there were still -- there was
23 still a level of activity, including some lawful protest
24 activity, which is reflected in this note, there was still some
25 level of illegality going that we were confident at that point
26 that could be dealt with through -- without the extraordinary
27 measures of the *Emergency Act*.

28 **MS. SHANTONA CHAUDHURY:** Mr. Commissioner, those

1 are my questions.

2 **COMMISSIONER ROULEAU:** Okay, well, the schedule
3 has gone out the window, which is probably bad news for our
4 panel. We're used to staying late. I'm sure you're also used
5 to working late. But what I'm going to do is take the afternoon
6 for 15 minutes and, given the time, I -- we'll come back and
7 I'll be a little more flexible with the questioning in cross-
8 examination because we have a rule here, what goes in direct,
9 goes in cross, so I think we have to be fair. But I will be
10 reasonably only modest, not the degree requested by some.

11 **MR. BRENDAN MILLER:** I'm sure, sir, you're not
12 talking about little old me.

13 **COMMISSIONER ROULEAU:** No, no, I wouldn't want to
14 single anyone out.

15 So I'll take the break for the afternoon, 15
16 minutes, please.

17 **THE REGISTRAR:** The Commission is in recess for
18 15 minutes. La Commission est levée pour 15 minutes.

19 --- Upon recessing at 4:13 p.m.

20 --- Upon resuming at 4:28 p.m.

21 **THE REGISTRAR:** The Commission is reconvened. La
22 Commission reprend.

23 **COMMISSIONER ROULEAU:** Okay, so we're ready to
24 proceed? Okay. The Convoy Organizers, please.

25 --- CROSS-EXAMINATION BY MR. BRENDAN MILLER:

26 **MR. BRENDAN MILLER:** Good afternoon, and soon to
27 be good evening. My name's Brendan Miller and I am legal
28 counsel to Freedom Corp, which is the entity that represents the

1 protesters that were in Ottawa in January and February 2022. I
2 have 20 minutes to question you, so that would bring us to 4:48
3 when I'm done, and hopefully I don't have to ask for a little
4 more time.

5 So I'm going to begin with yourself, Assistant
6 Deputy Clerk, Ms. Drouin, and I'd better -- if you'd like to
7 answer in French, I can get one of the things from my friend,
8 but I'll ask these and, if you're going to answer in French,
9 please let me know and I will put on the translation equipment
10 because, unfortunately, I am sans bilingual at this time, but
11 I'm working on it.

12 **MS. NATHALIE DROUIN:** Thank you.

13 **MR. BRENDAN MILLER:** So, Mr. Drouin, prior to
14 becoming the Deputy Clerk of the Privy Council, you were the
15 Deputy Minister of Justice and the Deputy Attorney General of
16 Canada; is that correct?

17 **MS. NATHALIE DROUIN:** Correct.

18 **MR. BRENDAN MILLER:** And you're a lawyer?

19 **MS. NATHALIE DROUIN:** Yes.

20 **MR. BRENDAN MILLER:** And you've been a member of
21 the Quebec Bar since 1992?

22 **MS. NATHALIE DROUIN:** That's correct.

23 **MR. BRENDAN MILLER:** And in fact, would you
24 agree, you're an award-winning lawyer?

25 **MS. NATHALIE DROUIN:** Well, I won a prize, yes.

26 **MR. BRENDAN MILLER:** Yeah.

27 **MS. NATHALIE DROUIN:** L'avocat d'entreprise de
28 l'année, yeah.

1 **MR. BRENDAN MILLER:** Right. And so I'm not --
2 I'm not trying to pump your ego but in 2009 you were named the
3 Business Legal Advisor of the Year by La Monde Juridique; is
4 that correct?

5 **MS. NATHALIE DROUIN:** That's correct.

6 **MR. BRENDAN MILLER:** And did I pronounce it
7 correctly?

8 **MS. NATHALIE DROUIN:** C'est parfait, oui.

9 **MR. BRENDAN MILLER:** Okay, good. And in 2012, I
10 understand you were awarded the Lawyer Erasmus, which is
11 hyphenated Ad.E by the Quebec Bar, right?

12 **MS. NATHALIE DROUIN:** Yeah, that's the Advocatus
13 Emeritus.

14 **MR. BRENDAN MILLER:** Right. And from 2012 to
15 2016, you were the Deputy Minister of Justice and Deputy
16 Attorney General for the Government of Quebec?

17 **MS. NATHALIE DROUIN:** That's right.

18 **MR. BRENDAN MILLER:** And then from 2016 to 2017,
19 you were the Senior Associate Deputy Minister of Justice for the
20 Government of Canada?

21 **MS. NATHALIE DROUIN:** That's correct.

22 **MR. BRENDAN MILLER:** And then, from 2017 to 2021,
23 you were the Deputy Minister of Justice and Deputy Attorney of
24 Canada, so for four years?

25 **MS. NATHALIE DROUIN:** That's correct.

26 **MR. BRENDAN MILLER:** And you can agree with me
27 that that position, the Deputy Minister of Justice and Deputy
28 Attorney General of Canada, is the highest-ranking position

1 within the Department of Justice?

2 **MS. NATHALIE DROUIN:** Within the Department of
3 Justice, yes.

4 **MR. BRENDAN MILLER:** Right. You answer to the
5 Attorney General of Canada?

6 **MS. NATHALIE DROUIN:** I answer -- or I serve the
7 Attorney General. I also responds to the Clerk of the time, and
8 to the prime minister.

9 **MR. BRENDAN MILLER:** Thank you. And now, while
10 you were in that office, you probably described your role of the
11 Deputy Minister of Justice and Deputy Attorney General of Canada
12 as follows. And I just want to know if you agree with this.

13 "I'd like to begin by describing my
14 dual role as the Deputy Minister of
15 Justice and Deputy Attorney General of
16 Canada. I've been in this position
17 since June 2017. In both these roles,
18 I support the Minister of Justice and
19 Attorney General of Canada in
20 fulfilling his or her responsibilities.
21 My duties include giving legal advice
22 and coordinating the legal advice given
23 by the Department of Justice and
24 supporting the development of
25 legislation." (As read).

26 **MS. NATHALIE DROUIN:** That's true. There's also
27 the part of managing litigations, yeah.

28 **MR. BRENDAN MILLER:** Right. So in your role as

1 the Deputy Minister of Justice and Deputy Attorney General of
2 Canada, you advised on how to draft legislation for four years?

3 **MS. NATHALIE DROUIN:** That's correct.

4 **MR. BRENDAN MILLER:** Right. And you know from
5 that former role that when you're drafting definition in
6 legislation, they're very important?

7 **MS. NATHALIE DROUIN:** That's correct.

8 **MR. BRENDAN MILLER:** Okay. And would agree with
9 the following statement, which, full disclosure, I took from the
10 drafting policy from DOJ.

11 "Delimiting definition: A
12 delimiting definition is exhaustive.
13 It is intended to set limits on
14 otherwise ordinary meanings of terms.
15 These definitions normally begin with
16 the word "means"."

17 Would you agree with that?

18 **MS. NATHALIE DROUIN:** I agree with that. I just
19 want to say that there is different drafting procedures, if I
20 may say, or techniques. And for example, when I was head of the
21 Justice Department in Quebec, we had eliminated definition. So
22 just to say that there is different ways of drafting
23 legislations.

24 **MR. BRENDAN MILLER:** Right. But you can agree
25 with me that in legislative drafting, that where there's a
26 definition and that definition states "this means" and then is
27 followed by a set of factors or what it includes, you're aware
28 that that is intended to be exhaustive? That's Parliament's

1 intention? You know that?

2 **MS. NATHALIE DROUIN:** I know that. If I may,
3 just for the benefit of this Commission, we also use a lot in
4 federal legislation, the technique of incorporating by
5 reference.

6 **MR. BRENDAN MILLER:** Right.

7 **MS. NATHALIE DROUIN:** So we do that a lot. When
8 I was a Justice, we did a report on how many times we used that
9 technique, and I must say that it's, you know, numbers, numbers
10 of times.

11 We also know that when we put the definition
12 within a legislation, it has to be read in the context of this
13 legislation.

14 **MR. BRENDAN MILLER:** M'hm.

15 **MS. NATHALIE DROUIN:** So and for the purpose of
16 the legislation that we're talking about.

17 So I'm just saying that because meaning can have
18 different meanings at the end, ---

19 **MR. BRENDAN MILLER:** M'hm.

20 **MS. NATHALIE DROUIN:** --- depending in the
21 context in which you are looking at the words.

22 **MR. BRENDAN MILLER:** Right. But you know, and
23 you can agree, that the purpose when you're drafting is to try
24 and carry out the intent of Parliament?

25 **MS. NATHALIE DROUIN:** That's the objective of
26 drafting, yes.

27 **MR. BRENDAN MILLER:** Okay. And you know that
28 section 2 of the *CSIS Act*, prior to listing what constitutes a

1 threat to the security of Canada, states "Threats to the
2 security of Canada means..." and is then followed by the four
3 threats? Fair? You know that?

4 **MS. NATHALIE DROUIN:** Yeah.

5 **MR. BRENDAN MILLER:** And you know that under
6 section 12 of the *CSIS Act*, that in order for CSIS to open an
7 investigation, CSIS has to conclude reasonable grounds to
8 suspect that a person or group is carrying out activities
9 constituting a threat to the security of Canada, as defined in
10 section 2?

11 **MS. NATHALIE DROUIN:** That's how the *CSIS Act* ---

12 **MR. BRENDAN MILLER:** Yeah.

13 **MS. NATHALIE DROUIN:** --- operates, yeah.

14 **MR. BRENDAN MILLER:** All right. And you know,
15 and we talked about this, that the *Emergencies Act*, it states
16 that threats to the security of Canada has the meaning assigned
17 by section 2 of the *Canadian Security Intelligence Service Act*;
18 right? You know that?

19 **MS. NATHALIE DROUIN:** That's in the -- yeah.

20 **MR. BRENDAN MILLER:** And you know that under the
21 doctrine of consistent expression, that where there is an
22 adoption by reference, it's to mean the same thing as the
23 primary legislation? You know that?

24 **MS. NATHALIE DROUIN:** I think what I've said is
25 that when we're incorporating by reference, you'll remember, I
26 guess, when you did your bar, you were always talking about
27 *mutatis mutandis*; eh?

28 **MR. BRENDAN MILLER:** M'hm.

1 **MS. NATHALIE DROUIN:** And that was -- the idea
2 was to make sure that we interpret, avec les adaptations
3 nécessaires, the incorporation by reference.

4 **MR. BRENDAN MILLER:** Yes.

5 **MS. NATHALIE DROUIN:** So the idea here, and as I
6 said before, is really to interpret, within the context, the
7 purpose, also the decision maker that has to look at similar
8 words.

9 **MR. BRENDAN MILLER:** Okay. And to your
10 knowledge, from what you know, what do you know about
11 Parliament's intention for a threat to the security of Canada in
12 the *Emergencies Act* to mean something different from a threat to
13 the security of Canada as defined in the *CSIS Act*?

14 **MS. NATHALIE DROUIN:** I guess what I'm saying
15 here is when the Legislator adopted the *Emergency Act* versus
16 when the Legislator adopted *CSIS Act*, it was for different
17 purposes. The purpose of doing an investigation under the *CSIS*
18 *Act* is not the same purpose of triggering or invoking the
19 *Emergency Act* for public order emergency.

20 **MR. BRENDAN MILLER:** And I understand. But you
21 are aware that both the *CSIS Act*, as well as the *Emergencies*
22 *Act*, were passed within just a few years of one another in the
23 80s?

24 **MS. NATHALIE DROUIN:** Well I'm pleased to be
25 corrected. I -- yeah, maybe four years. I thought the *CSIS* was
26 1984, ---

27 **MR. BRENDAN MILLER:** M'hm.

28 **MS. NATHALIE DROUIN:** --- if I'm not ---

1 **MR. BRENDAN MILLER:** And you know that ---

2 **MS. NATHALIE DROUIN:** If I'm not mistaken.

3 **MR. BRENDAN MILLER:** And I take it that you know
4 that one of the reasons that they adopted section 2 of the *CSIS*
5 *Act*, Parliament did, was to limit the Executive Branch of
6 Government from declaring public order emergencies? You're
7 aware of that?

8 **MS. NATHALIE DROUIN:** I wouldn't use "limit". I
9 think that the *Emergency Act* was crafted to make sure that
10 there's a lot of safeguards in terms of how we invoke the role
11 of Parliament to confirm or deny the invocation of the
12 *Emergencies Act*, the role of the Joint Committee to supervise
13 the implementation of the measures, and the role of an inquiry
14 like this one.

15 **MR. BRENDAN MILLER:** Okay.

16 **MS. NATHALIE DROUIN:** And if I can add, a very
17 important component is making sure that doing so, I mean
18 invoking the *Emergency Act*, was compliant with the *Charter*,
19 which was a new instrument ---

20 **MR. BRENDAN MILLER:** Right.

21 **MS. NATHALIE DROUIN:** --- following, you know,
22 the previous Act.

23 **MR. BRENDAN MILLER:** And in the *Emergencies Act*,
24 it requires the Governor in Council to have reasonable grounds,
25 you know this, that there is a public order emergency? Is that
26 right?

27 **MS. NATHALIE DROUIN:** Sorry, I missed your
28 question.

1 **MR. BRENDAN MILLER:** So you know that in the
2 *Emergencies Act*, it actually states that a public order
3 emergency arises from a threat to the security of Canada that is
4 so serious as to be a national emergency? You know that?

5 **MS. NATHALIE DROUIN:** I agree with that.

6 **MR. BRENDAN MILLER:** And so you also know that in
7 order to invoke the Act, there has to be reasonable grounds, and
8 that includes a threat to the security of Canada; right?

9 **MS. NATHALIE DROUIN:** Right.

10 **MR. BRENDAN MILLER:** And that threat to the security
11 of Canada is as defined in section 2 of the *CSIS Act*; right?

12 **MS. NATHALIE DROUIN:** Right.

13 **MR. BRENDAN MILLER:** Okay. So let's talk about
14 that. Can you agree with me that there was not reasonable
15 grounds of a threat to the security of Canada as defined in the
16 *CSIS Act* and adopted by reference to the *Emergencies Act*?

17 **MS. NATHALIE DROUIN:** I don't agree with that.

18 **MR. BRENDAN MILLER:** Okay. So let's go through
19 those grounds; okay? So ---

20 **MS. NATHALIE DROUIN:** I can help. I know your
21 time is ---

22 **MR. BRENDAN MILLER:** Yes, and let me ---

23 **MS. NATHALIE DROUIN:** It's really -- what we use
24 is really 2(c).

25 **MR. BRENDAN MILLER:** Right. So then we can throw
26 out any other grounds, it's fair to say, ---

27 **MS. NATHALIE DROUIN:** Yeah.

28 **MR. BRENDAN MILLER:** --- other than 2(c)?

1 **MS. NATHALIE DROUIN:** The main -- like, the real
2 ground was 2(c).

3 **MR. BRENDAN MILLER:** All right. So foreign -- or
4 sorry, apologies:

5 "activities within or relating to Canada
6 directed toward or in support of the
7 threat or use of acts of serious violence
8 against persons or property for the
9 purpose of achieving a political,
10 religious [and] ideological objective
11 within Canada or a foreign state..."

12 So that is the ground. And that is the single
13 ground, from your understanding, of why the *Emergencies Act* was
14 invoked?

15 **MS. NATHALIE DROUIN:** That's the main ground.
16 Some can say that there's other ones, but that's the main ground
17 we used.

18 **MR. BRENDAN MILLER:** Okay. So let's talk about
19 threats of acts of serious violence -- and acts of serious
20 violence.

21 Can you summarize for me the threats of acts of
22 serious violence that the invocation was based upon?

23 **MS. NATHALIE DROUIN:** I'll do that. I think the
24 Clerk will probably add.

25 So if you just look at what you went through this
26 week, who you heard. So we heard from -- not CSIS but we've
27 heard from some players, for example, that IMVE were present in
28 some of the protests. We've heard also that ex-militaries and

1 ex-law police agents were present. We heard the presence of
2 firearms. We heard also a threat to our economy, threat to and
3 impacts on workers. We just talked about that before. We heard
4 impacts on our trade relationship and from GAC. We've heard
5 from CBSA that our port of entry was affected, disrupted, and
6 other port of entries, even, you know, after the main were
7 clear.

8 **MR. BRENDAN MILLER:** Okay.

9 **MS. NATHALIE DROUIN:** So we heard from Transport
10 also that some rails can be affected by blockades.

11 So we've heard from not only -- I mean, you're
12 going to hear from CSIS Monday -- but -- and you know, when you
13 look at the composition of DMOC, you've heard about that many,
14 many times ---

15 **MR. BRENDAN MILLER:** Yes.

16 **MS. NATHALIE DROUIN:** --- over the week. Many
17 departments are part of that DM's committee. Why? Because
18 national security is not the result of the assessment of one
19 agency, but the result of, as Janice said ---

20 **MR. BRENDAN MILLER:** And I ---

21 **MS. NATHALIE DROUIN:** --- before the town ---

22 **MR. BRENDAN MILLER:** I don't mean to interrupt.
23 I just -- I only have so much time left.

24 **MS. NATHALIE DROUIN:** Sorry about that.

25 **MR. BRENDAN MILLER:** Yeah. So I just want to
26 talk to you about first, you had mentioned the IMVEs, right?

27 **MS. NATHALIE DROUIN:** Yeah.

28 **MR. BRENDAN MILLER:** And you can agree with me

1 that an IMVE, it's not just somebody who's radical or whatever;
2 there has to be an element of violence?

3 **MS. NATHALIE DROUIN:** So a couple of things here.
4 And when you look at (C), you know, we want to talk about that,
5 careful about its threat or serious violence.

6 **MR. BRENDAN MILLER:** Okay.

7 **MS. NATHALIE DROUIN:** Yes, the "or" can be an end
8 also.

9 **MR. BRENDAN MILLER:** It's a threat of or ---

10 **MS. NATHALIE DROUIN:** Yes.

11 **MR. BRENDAN MILLER:** --- because -- and I
12 understand.

13 So these IMVEs that the government went on about,
14 first, we've already established that the government wasn't
15 aware of the individuals in Coutts at the time of the invocation
16 that were arrested by the local police department?

17 **MS. NATHALIE DROUIN:** I think what we were aware
18 in Coutts was first of all, they were about to do enforcement
19 and then I think it was around the 10th or the 11th of February
20 we heard that they were slowing down enforcement because of the
21 presence of risk of violence and guns. That's the only thing we
22 ---

23 **MR. BRENDAN MILLER:** Right.

24 **MS. NATHALIE DROUIN:** --- knew at -- you know, at
25 our level because we're not privy to all the operational risk.
26 So that's what we knew at Coutts.

27 **MR. BRENDAN MILLER:** Right. But of course,
28 Commissioner Lucki and her people, they were aware of what was

1 going on, they just couldn't tell you?

2 **MS. NATHALIE DROUIN:** Exact.

3 **MR. BRENDAN MILLER:** Right. And you're now aware
4 -- I'm sure you've heard the evidence that they, in fact, as of
5 the February 9th, had two undercover officers embedded with
6 these gentlemen. Are you aware of that?

7 **MS. NATHALIE DROUIN:** I was not aware at that
8 time.

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

10 **MS. NATHALIE DROUIN:** You know, when they do
11 undercover operation, this is -- we don't know those things.

12 **MR. BRENDAN MILLER:** Yeah, and these gentlemen
13 that they were going after, they were actually local to the
14 Coutts area. You know that?

15 **MS. NATHALIE DROUIN:** I can't say. I didn't know
16 at that time, no.

17 **MR. BRENDAN MILLER:** Can you agree with me that
18 the facts of that was that that issue was dealt with locally by
19 police under provincial mandate via the agreement that Alberta
20 has with the RCMP?

21 **MS. NATHALIE DROUIN:** You mean the contractual
22 policing arrangement?

23 **MR. BRENDAN MILLER:** Correct. It was carried out
24 under that, right?

25 **MS. NATHALIE DROUIN:** Yeah.

26 **MR. BRENDAN MILLER:** Yeah. So it was
27 provincially dealt with? You agree it was dealt with well?

28 **MS. NATHALIE DROUIN:** So I don't know at the end

1 when, you know, they put an end to the blockade, who was doing
2 what, you know, and whether -- you know, I'm sure you have heard
3 about that, that the police of jurisdiction can ask more
4 resources from the centre using the section 9.2 of their
5 arrangement. So I don't know.

6 **MR. BRENDAN MILLER:** Okay. And so let's move to
7 Ottawa. Ottawa, IMVEs in Ottawa.

8 I understand that CSIS advised that they had no
9 concern with IMVEs in Ottawa, and that's what's in evidence. Is
10 that correct?

11 **MS. NATHALIE DROUIN:** Well, this is not how I
12 portray that. I understood and I've heard that some IMVE and
13 subject of interest for -- of CSIS were present. What I
14 understand from their assessment is that they didn't conclude
15 that they need or they have to open new investigations.

16 **MR. BRENDAN MILLER:** Right. And so CSIS did a
17 threat assessment of the convoy, and we saw it yesterday, and I
18 ---

19 **MS. NATHALIE DROUIN:** They did.

20 **MR. BRENDAN MILLER:** I'm going to ---

21 **MS. NATHALIE DROUIN:** Not of the convoy as a
22 whole, again, so ---

23 **MR. BRENDAN MILLER:** Of Ottawa, of Ottawa. And
24 let me bring that up. And it is the document ending -- or it's
25 TS.NSC.CAN.001.00000159_REL_0001.

26 Now -- and we've all reviewed this. I've put it
27 to folks and I don't want to have to read it to you. But in
28 this assessment and also in the statement from Director

1 Vigneault, they concluded there was no CSIS threat, reasonable
2 suspicion of a CSIS threat in downtown Ottawa. Is that fair?

3 **MS. NATHALIE DROUIN:** They concluded, looking at
4 who was there, that they didn't have enough to open
5 investigations on specific individuals or groups.

6 **MR. BRENDAN MILLER:** Right. And you know that
7 CSIS only needs to have a suspicion, a reasonable suspicion, to
8 open an investigation?

9 **MS. NATHALIE DROUIN:** Well, I think the test is
10 reasonable grounds, yeah.

11 **MR. BRENDAN MILLER:** Reasonable grounds to
12 suspect? Reasonable grounds to suspect; that's what it says.
13 You know that?

14 **MS. NATHALIE DROUIN:** Yeah.

15 **MR. BRENDAN MILLER:** And the difference between
16 that and the grounds to invoke a national emergency is that you
17 know under the *Emergencies Act*, it requires reasonable grounds.
18 You know that?

19 **MS. NATHALIE DROUIN:** That a Public Order
20 Emergency ---

21 **MR. BRENDAN MILLER:** Right.

22 **MS. NATHALIE DROUIN:** --- exists.

23 **MR. BRENDAN MILLER:** And you know, as the former
24 highest-ranking lawyer and legal officer within the Government
25 of Canada, that reasonable grounds to suspect is a lesser
26 threshold than reasonable grounds or referred to as reasonable
27 and probable grounds. You are aware of that?

28 **MS. NATHALIE DROUIN:** Again, you -- I'm sorry. I

1 think we are mixing here. Reasonable grounds to suspect what,
2 and this is the purpose of CSIS Act.

3 **MR. BRENDAN MILLER:** Right, so ---

4 **MS. NATHALIE DROUIN:** So a movement, a movement
5 can represent threat to security to Canada.

6 **MR. BRENDAN MILLER:** Right.

7 **MS. NATHALIE DROUIN:** A movement, a situation.

8 **MR. BRENDAN MILLER:** An activity.

9 **MS. NATHALIE DROUIN:** An activity.

10 **MR. BRENDAN MILLER:** That's an activity.

11 **MS. NATHALIE DROUIN:** Without having individuals
12 or groups into it that do meet the threshold of CSIS. So I
13 think we really need to make the difference between what the
14 movement represented at that time for Canada versus the
15 composition of the movement, whether or not we had individuals
16 that -- so there's ---

17 **MR. BRENDAN MILLER:** Madam, I understand what
18 you're saying, but you're saying that you want to look at the
19 group as a whole? All right. And so I've asked you about
20 Coutts. That was taken care of. I've asked you about Ottawa,
21 all right? You knew that the group, the assessment was that it
22 did not meet that.

23 Now Windsor. Can you agree with me that there
24 was no section 2 CSIS Act threat with respect to Windsor?

25 **MS. DONNAREE NYGARD:** Excuse me. You've
26 mischaracterized the witness' evidence. She didn't agree with
27 you that CSIS had assessed the group, the entire group in
28 Ottawa.

1 **MR. BRENDAN MILLER:** Right. So let me just move
2 over to Windsor.

3 Can you agree with me that you are aware of no
4 section 2 CSIS Act threat with respect to Windsor?

5 **MS. NATHALIE DROUIN:** I think I can go again
6 through everything we have heard from all departments, and that
7 the clerk, with my advice in particular, considered to determine
8 whether or not we believe that the threat -- the test under the
9 *Emergency Act* was met.

10 **MR. BRENDAN MILLER:** Let me try and rephrase it
11 this way. What evidence and what information of violence at
12 Windsor were you aware of when the Act was invoked?

13 **MS. NATHALIE DROUIN:** I think it could have been
14 a mistake to do assessment site by site while we were facing a
15 national movement and situation.

16 **MR. BRENDAN MILLER:** Thank you for answering my
17 questions.

18 **COMMISSIONER ROULEAU:** Thank you.

19 Next, I'd like to call on the Province of
20 Saskatchewan, please.

21 **MR. MITCH McADAM:** Good afternoon Commissioner
22 I'm trying to get my camera operating. Thank you.

23 **COMMISSIONER ROULEAU:** We won't deduct the time.

24 **MR. MITCH McADAM:** Thank you.

25 **--- CROSS-EXAMINATION BY MR. MITCH McADAM:**

26 **MR. MITCH McADAM:** Good afternoon. I'm Mitch
27 McAdam; I'm one of the lawyers for the Government of
28 Saskatchewan, and I have a few questions this afternoon for you,

1 Madam Charette.

2 To start with, I understand that one of your
3 responsibilities is that you are the Secretary to the Cabinet,
4 right?

5 **MS. JANICE CHARETTE:** That is correct.

6 **MR. MITCH McADAM:** And that one of your
7 responsibilities as the Secretary is to control the flow of
8 paper to Cabinet?

9 **MR. MITCH McADAM:** I manage the flow of paper
10 into the Cabinet, that's right.

11 **MR. MITCH McADAM:** Okay. So all of the paper
12 that goes to Cabinet has to go through your office?

13 **MS. JANICE CHARETTE:** No, that's not the case.
14 The -- it goes through the Privy Council Office ---

15 **MR. MITCH McADAM:** Okay.

16 **MS. JANICE CHARETTE:** --- before it will be put
17 in front of a Cabinet Minister.

18 **MR. MITCH McADAM:** Okay.

19 **MS. JANICE CHARETTE:** Not my office -- not the
20 Clerk's office necessarily, the totality of the Privy Council
21 Office. We have a Cabinet Paper's Unit, that in particular
22 deals with documentation.

23 **MR. MITCH McADAM:** Okay. So it has to go through
24 the Privy Council Office?

25 **MS. JANICE CHARETTE:** That's correct, sir.

26 **MR. MITCH McADAM:** Yeah. And you're also
27 responsible, I believe you said this morning, for recording the
28 decisions made by Cabinet?

1 **MS. JANICE CHARETTE:** That is correct.

2 **MR. MITCH McADAM:** I have a few questions for you
3 about the Cabinet meeting that happened on the evening of
4 February 13th, where the *Emergencies Act* was considered.

5 First, can you confirm for me that there were no
6 papers or documents that were provided to Cabinet Ministers in
7 connection with that meeting?

8 **MS. JANICE CHARETTE:** That is not correct.

9 **MR. MITCH McADAM:** Okay. There was paper
10 provided to them?

11 **MS. JANICE CHARETTE:** There was a document made
12 available to Ministers, I believe I referred to it earlier,
13 which had to do with an input, I believe I can say this, I'm
14 making sure I can say this. It was an assessment from the --
15 from CSIS which related to considerations on invoking the
16 *Emergency Act*. But there was no -- in the usual course of
17 decision-making by Cabinet, we would -- Ministers would be
18 considering a memorandum to Cabinet, which would frame a
19 decision for them, there was no such memorandum to Cabinet.

20 **MR. MITCH McADAM:** Yeah. So ---

21 **MS. JANICE CHARETTE:** Does that help?

22 **MR. MITCH McADAM:** Yes, it does. So there was no
23 memorandum to Cabinet, and that was an unusual situation.

24 **MS. JANICE CHARETTE:** That is correct.

25 **MR. MITCH McADAM:** Not the usual course.

26 **MS. JANICE CHARETTE:** That is correct.

27 **MR. MITCH McADAM:** Thank you.

28 **MS. JANICE CHARETTE:** It was an unusual Cabinet,

1 an extraordinary Cabinet called on the evening of the 13th of
2 February.

3 **MR. MITCH McADAM:** Okay. And I understand you
4 attended that Cabinet meeting; correct?

5 **MS. JANICE CHARETTE:** I did, sir.

6 **MR. MITCH McADAM:** Okay. And I'm not going to
7 ask you about what was -- what the deliberations were at that
8 meeting, but you said a moment ago that one of your
9 responsibilities was to record the decisions made by Cabinet.

10 And can tell me exactly what the decision was
11 made at Cabinet that evening? I think you said earlier that the
12 decision was to direct the Prime Minister to have a First
13 Ministers meeting, or to have a First Ministers meeting the
14 following day. But I just want to make clear in my mind that I
15 understand exactly what was decided that evening.

16 **MS. JANICE CHARETTE:** The decision was that the
17 Prime Minister would convene a meeting with First Ministers to
18 consider the invocation of the *Emergency Act*, and to brief them
19 on the situation, and consider any other measures necessary to
20 deal with the totality of the situation facing the country.

21 **MR. MITCH McADAM:** Okay. Thank you.

22 Next, I'd like to turn to the events on February
23 the 14th.

24 **MS. JANICE CHARETTE:** Sure.

25 **MR. MITCH McADAM:** And you would agree with me
26 that the invitation for the First Ministers meeting -- I think
27 we talked about it a little bit earlier today, or you talked
28 about it a little bit earlier today -- it went out on Sunday

1 evening after the Cabinet meeting; correct?

2 **MS. JANICE CHARETTE:** Yeah, I -- as I said
3 earlier, Mr. McAdam, I wasn't totally sure, I can check and be
4 happy to, ---

5 **MR. MITCH McADAM:** Yeah.

6 **MS. JANICE CHARETTE:** --- whether it went out
7 Sunday evening or fairly early Monday morning. I think we
8 would've endeavoured to try and get it out as soon as possible,
9 after Cabinet, so that would've been -- Cabinet was at 8:30, you
10 know, we would've been into probably 10 o'clock Ottawa time,
11 which is still pretty early in Saskatchewan.

12 **MR. MITCH McADAM:** Yeah. And I believe that you
13 indicated earlier today that it was a meeting called on short
14 notice, right?

15 **MS. JANICE CHARETTE:** Correct.

16 **MR. MITCH McADAM:** And my understanding, from
17 your testimony earlier today, is that the invitation didn't
18 indicate what that meeting was all about, did it?

19 **MS. JANICE CHARETTE:** I believe between Madame
20 Drouin and myself, that was the information that we provided
21 earlier, yes sir.

22 **MR. MITCH McADAM:** Okay. And you also indicated
23 that at that meeting a number of the Premiers voiced objections
24 to invoking the Act?

25 **MS. JANICE CHARETTE:** What I said was a number of
26 Premiers shared their responses. I wasn't in a position to tell
27 you because the deliberations were to be confidential, but we
28 saw subsequently a number of Premiers making public comments

1 that they had made at the First Ministers meeting.

2 Yes, it's fair to say, I believe Madame Drouin
3 said, there were kind of three groups -- three kind of general
4 groups of Premiers' reactions, including some that did raise
5 objections.

6 **MR. MITCH McADAM:** Okay. And I understand that
7 that meeting lasted about an hour; is that correct?

8 **MS. JANICE CHARETTE:** I think that's -- plus or
9 minus, yes, I think that's probably correct, sir.

10 **MR. MITCH McADAM:** Okay. So it would've ended
11 about ---

12 **MS. NATHALIE DROUIN:** If I may -- if I may, sir?
13 When we develop the FMM, one of the advice that
14 we gave to the Prime Minister was to make sure that the timeline
15 was not the issue, in terms of the duration of the meeting. So
16 the Prime Minister let all Premiers to express themselves, and
17 didn't check the clock, making sure that they will have all the
18 time they needed to make their point.

19 **MR. MITCH McADAM:** M'hm.

20 **MS. JANICE CHARETTE:** And then if I could add to
21 that? Because of the fact that there was no -- you know, this
22 was called at the -- at quite the last minute, there was -- part
23 of the meeting was briefing. So the Prime Minister was -- it
24 was suggested to him, and he certainly accepted, that the
25 meeting would go as long as the meeting wanted, depending on the
26 wishes of Premiers -- Premiers and territorial leaders.

27 **MR. MITCH McADAM:** Clerk, can I ask you to call
28 up document PB.NSC.CAN00008485, please? And Clerk, if you could

1 scroll to the very end of that document?

2 You'll see Madam Charette, this is an email from
3 Jody Thomson, [sic] on February 14th at 11:44 a.m., and she says:

4 "I need an assessment for Janice about
5 the threat of these blockades...."

6 And when she's referring to Janice, that's you;
7 correct?

8 **MS. JANICE CHARETTE:** I believe so, yes.

9 **MR. MITCH McADAM:** And yesterday when she
10 testified, Ms. Thomas indicated that this was something that was
11 needed for the invocation package, and that's the memorandum
12 that you prepared for the Prime Minister, right?

13 **MS. JANICE CHARETTE:** I'm -- I don't know that I
14 caught every moment of her testimony, so whether exactly that's
15 what she said or not I wouldn't want to say, but I do believe
16 that she was, like many across the Privy Council Office, working
17 to gather inputs for the invocation note.

18 **MR. MITCH McADAM:** Okay. And I just want to make
19 sure I have my timeframe correct here. So the First Ministers
20 meeting would've ended by 11:15, and then by 11:44 Ms. Thomas is
21 writing asking for this threat assessment.

22 So am I right that in that half an hour, the
23 Prime Minister would have come to you and said, "Let's proceed
24 with the invocation package," and then you contacted Ms. Thomas
25 and asked about the threat assessment?

26 **MS. JANICE CHARETTE:** No, Mr. McAdam, that would
27 not be an accurate description. I would ---

28 **MR. MITCH McADAM:** Okay.

1 **MS. JANICE CHARETTE:** --- say to you, sir, that
2 part of our job in the Public Service, and people who work for
3 me, is to get ready. And so I can tell you that I turned my
4 mind -- and I was the advisor here -- to the advice to the Prime
5 Minister as to whether or not invoke, not at 11:44. There were
6 a number of people, including Ms. Thomas, and others in the
7 Privy Council Office, who were contributing to this decision
8 note, which came to me for my consideration. And as you saw, I
9 signed off on my advice -- I believe we talked about it earlier
10 -- sometime about 3 o'clock in the afternoon.

11 So, yes, work was underway, but I had not turned
12 my mind to the conclusion of my advice.

13 **MR. MITCH McADAM:** Okay. So had the Prime
14 Minister -- did he come to you after the First Ministers
15 meeting, and before you completed your memorandum, and ask you
16 to go ahead and prepare that memorandum?

17 **MS. JANICE CHARETTE:** No, sir.

18 **MR. MITCH McADAM:** No. So you were doing this
19 based on your understanding of what he wanted.

20 **MS. JANICE CHARETTE:** My understanding of what
21 was required in the situation. That's my job.

22 **MR. MITCH McADAM:** Okay. And you knew that a
23 press conference had been called for 4:30 that afternoon, didn't
24 you?

25 **MS. JANICE CHARETTE:** I knew that there was a
26 possibility of a media availability in the afternoon.

27 **MR. MITCH McADAM:** Okay. And I think you
28 indicated that you gave the document to the Prime Minister at

1 3:41 in the afternoon, and then I think you said this morning
2 that he would sign that document to indicate his approval, but I
3 don't believe that you testified about when you would have got
4 that document back from him.

5 **MS. JANICE CHARETTE:** I can't remember the exact
6 time, Mr. McAdam. I apologize. But it was before the media
7 avail.

8 **MR. MITCH McADAM:** So between 3:41 and 4:30?

9 **MS. JANICE CHARETTE:** Okay, that's fair. I don't
10 know exactly what time the media avail started. There may have
11 been a scheduling -- it may have been a notice that there was
12 going to be an availability. But I don't know actually what
13 time it started. I'm sure the records would indicate that. But
14 they don't always run 100 percent on time.

15 **MR. MITCH McADAM:** Okay. And at the media
16 availability it was announced that the *Emergencies Act* had been
17 involved?

18 **MS. JANICE CHARETTE:** Was being invoked.

19 **MR. MITCH McADAM:** Was being invoked.

20 **MS. JANICE CHARETTE:** Correct.

21 **MR. MITCH McADAM:** And so what does "was being
22 invoked" mean? When exactly did it come into force?

23 **MS. JANICE CHARETTE:** When the Governor-in-
24 Council approved the proclamation ---

25 **MR. MITCH McADAM:** And so that wasn't until ---

26 **MS. JANICE CHARETTE:** --- which was ---

27 **MR. MITCH McADAM:** --- the next day?

28 **MS. JANICE CHARETTE:** No, no, no. It was on the

1 14th. And you'll see that in the Canada Gazette, the 14th of
2 February.

3 **MR. MITCH McADAM:** Okay. And so did -- was there
4 another Cabinet meeting on the 14th for Cabinet to consider this?

5 **MS. JANICE CHARETTE:** No, sir.

6 **MR. MITCH McADAM:** So Cabinet was never advised
7 of the outcome of the meeting with the First Ministers?

8 **MS. JANICE CHARETTE:** There was not a loop back
9 to Cabinet in an official Cabinet meeting.

10 **MR. MITCH McADAM:** Okay.

11 **MS. JANICE CHARETTE:** But -- do you want to say
12 something, sir?

13 **MR. MITCH McADAM:** Yeah, I'm confused because I
14 think you said earlier today that under the *Emergencies Act* it's
15 the Governor-in-Council that invokes the Act.

16 **MS. JANICE CHARETTE:** Yeah.

17 **MR. MITCH McADAM:** So if the Cabinet didn't meet
18 again, how did the Act get invoked? Was the power to do so
19 delegated to the Prime Minister? Or just how did that happen?

20 **MS. JANICE CHARETTE:** Yeah. The decision in
21 terms of invocation was left with the -- was left *ad referendum*
22 to the decision of the Prime Minister following his consultation
23 with the leaders of the provinces and territories amongst other
24 deliberations that he might undertake.

25 **MR. MITCH McADAM:** Okay. Commissioner, I have a
26 couple of questions about the memorandum that was prepared for
27 the Prime Minister that afternoon. So I wonder if I might have
28 your indulgence to take a few extra minutes to ask those

1 questions?

2 **COMMISSIONER ROULEAU:** Sure, go ahead, a couple
3 of minutes but don't abuse.

4 **MR. MITCH McADAM:** Thank you.

5 Clerk, could you please call up Document
6 SSM.NSC.CAN00003224 and that's the memorandum to Cabinet.

7 And you'll be glad to know I'm not going to go
8 through in detail and talk about the test for declaring a public
9 order emergency. But if the clerk ---

10 **MS. JANICE CHARETTE:** I don't know, I was kind of
11 looking forward to that again.

12 **COMMISSIONER ROULEAU:** Are you conceding it?

13 **MR. MITCH McADAM:** No, no, not at all. But I'll
14 leave those arguments for another time.

15 **MS. JANICE CHARETTE:** Mr. McAdam, can I just
16 correct you? This is not a memorandum to Cabinet. This is a
17 decision note to the Prime Minister, just to be clear, sir.

18 **MR. MITCH McADAM:** Thank you for the correction.

19 Clerk, if you could go to page 8 of that document
20 and part way through, just a little bit farther, that's good.

21 It says this a couple of times in the document.

22 I'll read hose words at the top. It says:

23 "In addition, PCO is of the view that this is a national
24 emergency situation that is urgent, critical, temporary, and
25 seriously endangers the health and safety of Canadians, and
26 cannot be effectively dealt with uniquely by the provinces or
27 territories."

28 And I wondered what you meant by the word

1 "uniquely" in that sentence. And I know that you had indicated
2 earlier today that there was some concern that provinces were
3 not fully using the powers and authorities that they had. And
4 is that what you were getting at with that word "uniquely"?

5 **MS. JANICE CHARETTE:** I wouldn't say that there
6 was a concern that provinces and territories were not using all
7 of the authorities available to them. I think it was an
8 observation going back earlier in the deliberations around
9 whether or not there was still some scope to work with provinces
10 and territories using their existing authorities to do more to
11 deal with the protest, separate, aside.

12 In terms of the language here, I believe --
13 again, my layman's interpretation -- is that the -- what we're
14 trying to get at in the invocation of the *Emergency Act* is tht
15 the powers in the *Emergency Act* are put in place to dela with
16 the situation which is a threat of serious violence, all of
17 those other criteria that you see there, that can't be dealt
18 with by any province or territory acting individually, uniquely,
19 perhaps properly worded.

20 **MS. NATHALIE DROUIN:** I can maybe add, if you
21 allow me, that the proposed measures here were not trumping any
22 provincial or territorial jurisdiction so why we were adding
23 measures and authorities, we were not displacing provincial
24 jurisdictions. So they were able as also law enforcement to
25 continue to exercise their respective authorities.

26 But we came to the view that separately they were
27 not able to deal with the national situation.

28 **MR. MITCH McADAM:** Okay. So I'm still a bit

1 confused about the word "uniquely" and I just want to clarify.
2 Were you suggesting that the provinces could effectively deal
3 with the situation but there's something unique about what was
4 happening in February that justified invoking the *Emergencies*
5 *Act*?

6 **MS. JANICE CHARETTE:** No. I think -- sorry, Mr.
7 McAdam, I don't believe that was the intention of this language.
8 It was meant to say that the provinces and territories could not
9 deal with the situation on their own, and that is why the
10 Governor-in-Council would invoke the *Emergency Act* to deal with
11 the situation which provides extraordinary powers which
12 supplement those powers and authorities of provinces and
13 territories to deal with the situation which we, as you see
14 here, we think, met the test of a national emergency.

15 **MR. MITCH McADAM:** Okay. And one final matter.
16 Clerk, if I could get you to go back to page 4 of
17 that document near the top.

18 And on that page you indicate that the First
19 Ministers meeting will meet the requirements for consultation
20 with the provinces under the *Emergencies Act*. So I take it it
21 wasn't your position that it was necessary to get the consent of
22 the provinces before invoking the Act, was it?

23 **MS. JANICE CHARETTE:** I do not believe that that
24 is the requirement in the *Emergency Act*.

25 **MR. MITCH McADAM:** And it wasn't even necessary
26 to get the support of the majority of the provinces, was it?

27 **MS. JANICE CHARETTE:** That is not, I believe, the
28 requirement in the *Emergency Act*.

1 **MR. MITCH McADAM:** And so really, in order to
2 fulfill that consultation requirement in the *Emergencies Act*,
3 all you needed to do was meet with the provinces. It didn't
4 really matter what their views are or what they had to say about
5 the matter, did it?

6 **MS. JANICE CHARETTE:** I don't believe that is a
7 fair representation, Mr. McAdam. I think it's fair to say that
8 there was a First Ministers meeting in which the Prime Minister
9 and his ministers -- there are a number of them who were in
10 attendance -- set out the situation, set out the proposed course
11 of action, listened and asked questions of provincial and
12 territorial leaders about whether they had plans, intentions,
13 ideas, suggestions, proposals, about other things that could be
14 done to address the situation. So it's not -- I think you're
15 mischaracterizing it, sir.

16 **MR. MITCH McADAM:** But you agree that there was a
17 lot of opposition from -- I believe you said earlier or perhaps
18 it was Ms. Drouin -- the prairie provinces, the Maritimes, there
19 was a lot of concerns being raised, right?

20 **MS. JANICE CHARETTE:** I believe Mme Drouin said
21 the prairie provinces and the Province of Quebec, sir.

22 **MR. MITCH McADAM:** And the Government of Canada
23 decided to go ahead anyway, correct?

24 **MS. JANICE CHARETTE:** The Governor-in-Council,
25 the Government of Canada chose to invoke the Act. That is
26 correct.

27 **MR. MITCH McADAM:** Thank you.

28 **COMMISSIONER ROULEAU:** I think you're now out of

1 time.

2 **MR. MITCH McADAM:** That's a perfect place to end,
3 Commissioner. Thank you very much. Those are all my questions.

4 **COMMISSIONER ROULEAU:** Okay. Next I'd like to
5 call on the CCF, please.

6 **--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:**

7 **MR. SUJIT CHOUDHRY:** Ms. Charette, Ms. Drouin, my
8 name is Sujit Choudhry. I'm counsel for the CCF. I know it's
9 been a long day so I just have a few questions for you.

10 **COMMISSIONER ROULEAU:** The Canadian Constitution
11 Foundation.

12 **MR. SUJIT CHOUDHRY:** Yes, that's for the record.

13 **MS. JANICE CHARETTE:** Thank you, sir.

14 **MR. SUJIT CHOUDHRY:** Sorry. So, Ms. Charette,
15 you said in your testimony today that one of your roles is to
16 service as the secretary to cabinet.

17 **MS. JANICE CHARETTE:** That is correct.

18 **MR. SUJIT CHOUDHRY:** And that in that role, you
19 set -- or you participate in the setting of agendas for cabinet
20 meetings. You said you determine attendance, and that
21 attendance includes, as we've seen in the cabinet's minutes put
22 into evidence, not just cabinet ministers but many senior
23 officials.

24 **MS. JANICE CHARETTE:** I oversee that process.

25 **MR. SUJIT CHOUDHRY:** You oversee that process.

26 **MS. JANICE CHARETTE:** I don't personally,
27 necessarily, arrange every single meeting, every single agenda.
28 I have a team that works with me on these things. But yes, you

1 are correct to say agendas and attendance. The agenda, I would
2 say, just -- I should clarify in case I wasn't clear, Mr.
3 Choudhry, that the agendas are proposed to the chair and
4 approved by the chair, so we then issue the agenda ---

5 **MR. SUJIT CHOUDHRY:** Of course.

6 **MS. JANICE CHARETTE:** --- to ministers, who then
7 arrive with agenda.

8 **MR. SUJIT CHOUDHRY:** Understood. And you attend
9 those meetings yourself as secretary to the cabinet and, as you
10 said, you have a responsibility to ensure that if cabinet is to
11 deliberate or make a decision, that it has all the correct
12 information before it?

13 **MS. JANICE CHARETTE:** That is correct, sir.

14 **MR. SUJIT CHOUDHRY:** And you also said that they
15 are -- unlike cabinet committee meetings, you said they're run
16 in a very structured fashion where the prime minister chairs and
17 officials speak if they're called upon?

18 **MS. JANICE CHARETTE:** That is what I said, sir.

19 **MR. SUJIT CHOUDHRY:** Okay. So I'd like to take
20 you to the cabinet meeting of February 13th. So I take it that
21 given the importance of that meeting, you were centrally
22 involved in setting the agenda?

23 **MS. JANICE CHARETTE:** I was advising the prime
24 minister on the setting ---

25 **MR. SUJIT CHOUDHRY:** Yeah.

26 **MS. JANICE CHARETTE:** --- of the agenda for that
27 extraordinary cabinet meeting. It was not a regularly scheduled
28 cabinet meeting.

1 **M. SUJIT CHOUDHRY:** And you also, then, were
2 centrally involved in determining the attendance at that
3 meeting? And in particular, you were involved in ensuring that
4 Commissioner Lucki, Deputy Minister Stewart, and Me Vigneault
5 were at that meeting?

6 **MS. JANICE CHARETTE:** I would say that, given the
7 topic, I would have expected those deputies to be invited to
8 support their -- and the agency heads to support their minister.
9 I can't -- I'm just trying to remember whether I actually looked
10 at the attendance list, but I would have expected and I would
11 asked that they be in attendance, yes, sir.

12 **MR. SUJIT CHOUDHRY:** And so -- and the invitation
13 would have come from the Privy Council Office; correct?

14 **MS. JANICE CHARETTE:** That is correct.

15 **MR. SUJIT CHOUDHRY:** If not from you directly,
16 then certainly by your ministry?

17 **MS. JANICE CHARETTE:** I have a team that
18 organizes cabinet meeting, that's correct.

19 **MR. SUJIT CHOUDHRY:** And so we've had testimony -
20 - sorry, did you want to ---

21 **MS. JANICE CHARETTE:** Excuse me just for a
22 second. We're going to ---

23 **MR. SUJIT CHOUDHRY:** Please, please.

24 **MS. JANICE CHARETTE:** Oh, yeah, my colleague,
25 Madam Drouin, is just correcting me that because of the fact we
26 were dealing with virtual meetings as opposed to -- it's a
27 technicality but, you know, I've got to be clear -- important --
28 that because we were dealing with the virtual meeting as opposed

1 to an in-person meeting, it is possible that the invitation may
2 have come through a different channel than our normal Cabinet
3 Papers Unit that sends out invitations and organizes meetings.
4 It may have come through a virtual meeting organizer which we
5 euphemistically refer to as "the Maple Leaf".

6 **MR. SUJIT CHOUDHRY:** And is the Maple Leaf lodged
7 institutionally in the Privy Council Office? For cabinet
8 meeting, I would think so.

9 **MS. JANICE CHARETTE:** I believe it's between the
10 Privy Council Office and the Prime Minister's Office.

11 **MR. SUJIT CHOUDHRY:** Okay, fair enough, but at
12 the centre?

13 **MS. JANICE CHARETTE:** Yes, sir.

14 **MR. SUJIT CHOUDHRY:** At the centre, okay. And so
15 we've evidence put to us this week -- put to the Commission as
16 follows. And have you read the CSIS Interview Panel Interview
17 Summary?

18 **MS. JANICE CHARETTE:** I have not ---

19 **MR. SUJIT CHOUDHRY:** And so ---

20 **MS. JANICE CHARETTE:** --- had a chance to do ---

21 **MR. SUJIT CHOUDHRY:** Well, with your permission -
22 - or with the Commissioner's permission, I should say, I'd like
23 to put on the screen, if we could, Witness -- WTS, many zeros,
24 60.

25 **COMMISSIONER ROULEAU:** This is the CSIS ---

26 **MR. SUJIT CHOUDHRY:** This is the CSIS -- it's Me
27 Vigneault's evidence, and it's been referred to many times this
28 week.

1 **MS. JANICE CHARETTE:** In the interview summary as
2 opposed to his in-camera evidence.

3 **COMMISSIONER ROULEAU:** Yeah, it's -- I take it
4 there's no objection?

5 **MR. SUJIT CHOUDHRY:** Yeah.

6 **COMMISSIONER ROULEAU:** Okay.

7 **MS. DONNAREE NYGARD:** No objection.

8 **COMMISSIONER ROULEAU:** Okay, go ahead.

9 **MR. SUJIT CHOUDHRY:** So if we could pull it up,
10 please.

11 **COMMISSIONER ROULEAU:** And this is -- just so
12 it's -- it's the public version?

13 **MR. SUJIT CHOUDHRY:** Yeah, this is the
14 unclassified version.

15 **COMMISSIONER ROULEAU:** Unclassified version.

16 **MR. SUJIT CHOUDHRY:** Yes. And so if we could
17 just go to page 8 and could scroll down to "Recommendation to
18 Cabinet". Okay, let's stop there, please. Thank you, Mr.
19 Clerk. So just if you could -- I'm just going to read this into
20 the record, and if you could read along with me, please.

21 **MS. JANICE CHARETTE:** M'hm.

22 **MR. SUJIT CHOUDHRY:** It's:

23 "Me Vigneault learned that the
24 *Emergencies Act* referenced the threat
25 definitions set out in Section 2 of the
26 CSIS Act once the federal government
27 began to seriously consider invoking
28 the EA between February 10th and 13th.

1 He requested that the Service prepare a
2 threat assessment on the risks
3 associated with the invocation of the
4 *Emergencies Act*. He felt an obligation
5 to clearly convey the Services position
6 that there did not exist a threat to
7 the security of Canada as defined in
8 the Services legal mandate." (As
9 read).

10 And then, further on, in the bottom paragraph --
11 so pardon me, yes, the paragraph that begins, "Me Vigneault
12 discussed...", he said he:

13 "...discussed the threat assessment at
14 the IRG on February 13th..." (As read).

15 And then he says the document was also available
16 for distribution for the cabinet meeting but he does not know if
17 it was distributed by the PCO. So can you please answer, was
18 this threat assessment distributed to the cabinet, yes or no?

19 **MS. JANICE CHARETTE:** I believe I've said earlier
20 that it was.

21 **MR. SUJIT CHOUDHRY:** It was. And -- but -- and
22 this was the only threat assessment provided to the cabinet or
23 the prime minister prior to the decision to invoke the
24 *Emergencies Act*?

25 **MS. JANICE CHARETTE:** Can I just take you to the
26 paragraph preceding that, Mr. Choudhry?

27 **MR. SUJIT CHOUDHRY:** Yes.

28 **MS. JANICE CHARETTE:** The threat assessment was

1 with respect to the invocation of the *Emergency Act* legislation.
2 And I believe that I have given testimony already that indicates
3 that the invocation of the *Emergency Act*, as in many things, is
4 a balancing act between "Are you acting too early, too late,
5 doing too much, too little?" and the threat assessment prepared
6 by the Service, which was discussed at the IRG, as Mr. Vigneault
7 indicates, and which was available to ministers, was assessing
8 what the risk was of the invocation of the emergency
9 legislation.

10 ` And the CSIS assessment was that there was a
11 risk, that the invocation of the *Emergency Act* risked further
12 enflaming IMV rhetoric and individuals holding -- and you can
13 read the rest, "holding acceleration as to anti-government
14 views". As we had -- we came to see the next day -- or am I
15 getting this right? No, I'm going to stop there.

16 **MR. SUJIT CHOUDHRY:** So -- but, Ms. Charette, was
17 the Service's assessment that the required -- that there was no
18 threat to national security, was that shared with the cabinet?

19 **MS. JANICE CHARETTE:** That was the nature of the
20 threat assessment prepared by the Service, as indicated by Mr.
21 Vigneault in this statement.

22 **MR. SUJIT CHOUDHRY:** Well ---

23 **MS. JANICE CHARETTE:** The threat assessment
24 prepared by the Service was

25 "The invocation of emergency
26 legislation risked further enflaming
27 the rhetoric and individuals holding
28 acceleration as to anti-government..."

1 (As read).

2 **MR. SUJIT CHOUDHRY:** Well, Ms. ---

3 **MS. NATHALIE DROUIN:** If I may add ---

4 **MR. SUJIT CHOUDHRY:** Yes.

5 **MS. NATHALIE DROUIN:** --- what I said earlier is
6 that we knew that CSIS' assessment for the purpose of the
7 application of *CSIS Act* ---

8 **MR. SUJIT CHOUDHRY:** Right.

9 **MS. NATHALIE DROUIN:** --- was done, and that CSIS
10 concluded that, for the purpose of their Act, the level of
11 threat was not met.

12 **MR. SUJIT CHOUDHRY:** And was that view shared
13 with the cabinet, yes or no?

14 **MS. NATHALIE DROUIN:** I mean I can say that I
15 knew. I think it was shared in previous IRGs but that was not
16 news for us when we gave the advice.

17 **MR. SUJIT CHOUDHRY:** But -- I'm sorry, just a
18 simple question. Was that assessment shared with the cabinet,
19 yes or no?

20 **MS. JANICE CHARETTE:** With the full cabinet as
21 opposed to the ---

22 **MR. SUJIT CHOUDHRY:** Yes, at the February 13th
23 meeting, was that assessment shared with the cabinet, yes or no?

24 **MS. JANICE CHARETTE:** The fact that CSIS didn't
25 feel that there was a national security -- that there was a
26 threat to Canada ---

27 **MR. SUJIT CHOUDHRY:** Yes.

28 **MS. JANICE CHARETTE:** --- required to invoke the

1 CSIS powers and authorities.

2 **MR. SUJIT CHOUDHRY:** Was that shared with the
3 cabinet, yes or no, or do you not know?

4 **MS. JANICE CHARETTE:** I'm just testing my memory,
5 sir, to make sure I'm giving you the very best information. I
6 believe the -- Mr. Vigneault did not speak at the cabinet.

7 **MS. NATHALIE DROUIN:** I mean, and here, as I
8 said, we knew that it was shared in previous IRG and, you know,
9 some of the Cabinet members were not members of the IRG. So I
10 don't know if that element of CSIS was clearly said during full
11 Cabinet, but for sure some Ministers and the Prime Minister was
12 aware of that.

13 **MR. SUJIT CHOUDHRY:** But you're not saying that -
14 - you don't know if that view was shared with the full Cabinet
15 at its meeting on February 13th?

16 **MS. NATHALIE DROUIN:** I cannot confirm that.
17 What I can confirm though, ---

18 **MR. SUJIT CHOUDHRY:** Yes.

19 **MS. NATHALIE DROUIN:** --- is that the threat, as
20 we defined, both the Clerk and myself earlier here this
21 afternoon, in terms of the threat coming from, you know, all the
22 elements there, and I won't go back again, but from Transport,
23 GAC, and others, that was discussed.

24 **MR. SUJIT CHOUDHRY:** Sure.

25 **MS. JANICE CHARETTE:** And can I go on to add one
26 thing, which is in the discussion at Cabinet, I'm going to be
27 careful here, in the deliberations of Cabinet, in terms of the
28 considerations related to the invoking of the Act, it's fair to

1 say that there was a discussion about the nature of the threat
2 environment, the legal threshold, the tests for invoking, and
3 the evidence that the thresholds had been met.

4 **MR. SUJIT CHOUDHRY:** But you don't know if Mr.
5 Vigneault's assessment was shared with the Cabinet?

6 **MS. NATHALIE DROUIN:** So just one thing.

7 **MR. SUJIT CHOUDHRY:** Yeah.

8 **MS. NATHALIE DROUIN:** Mr. Vigneault's assessment
9 on the fact that invoking the *Emergency Act* ---

10 **MR. SUJIT CHOUDHRY:** Sure.

11 **MS. NATHALIE DROUIN:** --- can inflame the
12 situation, that was shared. And we've heard that also from
13 Provinces.

14 **MR. SUJIT CHOUDHRY:** And I'm not asking you about
15 that.

16 **MS. NATHALIE DROUIN:** Yeah.

17 **MR. SUJIT CHOUDHRY:** I'm asking about what he
18 stated in the previous paragraph of his evidence. Do we know if
19 his views ---

20 **MS. NATHALIE DROUIN:** So I think we answered it.
21 We cannot confirm that. I think I share with the best of my
22 knowledge that I'm sure that some Ministers were aware of that.
23 Key Ministers involved in the management of the convoy, the
24 members of the IRG, that the PM, Prime Minister, sorry, was
25 aware, but I cannot confirm whether or not it was discussed --
26 like, you know, that CSIS reports to the Public Safety Minister.
27 What he said, we cannot disclose. And to be honest, I really
28 don't know. So I cannot confirm that.

1 **MR. SUJIT CHOUDHRY:** And so have you had a chance
2 to review Deputy Minister Stewart's testimony from this week?

3 **MS. NATHALIE DROUIN:** Well I've listened ---

4 **MS. JANICE CHARETTE:** To part of it.

5 **MS. NATHALIE DROUIN:** --- to part of it, yeah.

6 **MR. SUJIT CHOUDHRY:** So I'd put to you that under
7 cross-examination this week, Deputy Minister Stewart testified
8 on Monday that CSIS was not asked to provide this assessment to
9 Cabinet. Do you have any reason to disagree with Deputy
10 Minister Stewart's testimony?

11 **MS. JANICE CHARETTE:** I believe I said, Mr.
12 Choudhry, that Mr. Vigneault did not speak at the Cabinet
13 meeting, ---

14 **MR. SUJIT CHOUDHRY:** Thank you.

15 **MS. JANICE CHARETTE:** --- and therefore he was
16 not -- he did not speak -- he did not read that into the record
17 himself.

18 **MR. SUJIT CHOUDHRY:** So I'd now like to turn to
19 the memo, Ms. Charette, that you wrote to the Prime Minister.

20 **COMMISSIONER ROULEAU:** You're going to have to
21 make it very quick.

22 **MR. SUJIT CHOUDHRY:** Sure.

23 **COMMISSIONER ROULEAU:** You're way over time
24 already. And I'm generous, but there are limits.

25 **MR. SUJIT CHOUDHRY:** There are limits. I know,
26 Commission.

27 So in the memo, in which you recommended to the
28 Prime Minister that the *Emergencies Act* be triggered, you were

1 aware of Mr. Vigneault's view, but nonetheless, you determined
2 that there was a threat to national security; correct?

3 **MS. JANICE CHARETTE:** We can go ---

4 **MR. SUJIT CHOUDHRY:** Yeah.

5 **MS. JANICE CHARETTE:** I'm happy to take you
6 through my logic again, if you'd like. I was aware that Mr.
7 Vigneault felt that there was a threshold for CSIS ---

8 **MR. SUJIT CHOUDHRY:** Right.

9 **MS. JANICE CHARETTE:** --- to launch an
10 investigation under the *CSIS Act* was not met.

11 **MR. SUJIT CHOUDHRY:** And you relied on the
12 National Security Intelligence Advisor view, integrated, as she
13 put it in her testimony yesterday, information from across the
14 Federal Government to arrive at her view that there was a threat
15 to national security under the *Emergencies Act*?

16 **MS. JANICE CHARETTE:** She was one of the advisors
17 that I relied on, sir. She was not the only advisor I relied
18 on.

19 **MR. SUJIT CHOUDHRY:** So I would like to put this
20 point to you, ---

21 **MS. JANICE CHARETTE:** Sure.

22 **MR. SUJIT CHOUDHRY:** --- that in a constitutional
23 democracy, to prevent the abuse of executive powers by an
24 elected government, it is imperative that the views of a
25 professional non-partisan and expert security services be front
26 and center and that they not just be a factor, but that they be
27 at the core of whether a government decides to invoke emergency
28 powers?

1 And what you've said today is that you're not
2 sure if Mr. Vigneault's views are before the full Cabinet, they
3 weren't set -- you've distinguished the legal relevance of his
4 views, and you're suggesting that what the Security Secretariat
5 ---

6 **COMMISSIONER ROULEAU:** Are you getting to a
7 question or making a presentation?

8 **MR. SUJIT CHOUDHRY:** Are you suggesting that what
9 the CSIS says isn't at the core of what makes it reasonable to
10 determine if a public order emergency exists?

11 **MS. JANICE CHARETTE:** What makes it reasonable to
12 determine? I don't understand what your question is.

13 **MR. SUJIT CHOUDHRY:** I apologize.

14 **MS. NATHALIE DROUIN:** I think ---

15 **MR. SUJIT CHOUDHRY:** Yeah, please.

16 **MS. NATHALIE DROUIN:** I'm sorry if you didn't
17 have the opportunity to -- you know, the cross-examination that
18 I had with Mr. Miller, but I think that we talked about the
19 difference between who was the decision maker under the
20 *Emergency Act* versus who is the decision maker under the *CSIS*
21 *Act*. And the purpose of those two acts were different and what
22 we were looking at was different.

23 I think that what you said when you talked about
24 Madam Thomas is that she was integrated views, but views were
25 coming from Minister of Transport. Views were coming from
26 Public Safety. We've -- I mean, I can go on and on, as I said
27 before. Like, we saw threats from port of entry, we saw threats
28 in terms of presence of guns. We saw kids, you know, being used

1 as shields. We saw, you know, harassment on the streets. Like,
2 the threats that we were collecting -- we saw impacts on our
3 trades. Like, the threats we were assessing in order to
4 determine was not only coming from CSIS. CSIS is a very
5 important thing and CSIS did -- or made a decision under the Act
6 to determine whether or not they were able to open new
7 investigation.

8 But you will hear from CSIS about the views of
9 the director, and you should ask him that question. What was
10 the views of the director in terms of the risk of the convoy,
11 even if he didn't, you know, open new investigations? As he had
12 to look at, you know, the situation also.

13 So I think we really have to make a difference
14 here between the role of the director in managing his Acts,
15 versus the role of the director in terms of the input and the
16 information he can provide to us.

17 **MR. SUJIT CHOUDHRY:** Commissioner, I think I'm
18 way past my time, so I'll wrap up. Thank you.

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

20 Next is the Democracy Fund and JCCF.

21 **--- CROSS-EXAMINATION BY MR. ALAN HONNER:**

22 **MR. ALAN HONNER:** Good evening. My name is Alan
23 Honner and I am a lawyer of the Democracy Fund. I'm just going
24 to put on my timer to make sure I don't go too long here.

25 My friend from the CCF was just asking you about
26 a threat assessment from CSIS. And I think prior to that, he
27 put a statement to you from CSIS, and it is still up here. And
28 I'll just ask the clerk to leave it up.

1 And it says here:

2 "He requested that the Service prepare a
3 threat assessment on the risks associated
4 with the invocation of the *Emergencies*
5 *Act*. He felt an obligation to clearly
6 convey the Service's position that there
7 did not exist a threat to the security of
8 Canada." (As read)

9 If I can ask the Clerk to please pull up
10 TS.NSC.CAN.001.00000172_Rel.001?

11 I believe my friend Mr. Miller brought this up
12 earlier today.

13 Just while we're waiting for that document, Ms.
14 Drouin, you would agree with me -- okay. Well, let's -- can we
15 just make it a little bit bigger, please, and can we scroll down
16 a little bit?

17 And so in the first paragraph here that's
18 unredacted, we see a reference to the *Emergency Act* and how it
19 might galvanize broader anti-government narratives.

20 Can we scroll down a little bit more?

21 And we see again that it has the potential to
22 similarly radicalize Canadians.

23 **MS. JANICE CHARETTE:** Where? I'm sorry. I'm a
24 bit behind here.

25 **MR. ALAN HONNER:** In the last paragraph that's
26 above us right now, we see that the declaration of an emergency
27 by the Province of Ontario under the *Emergency Management and*
28 *Civil Protections Act* has resulted in a significant increase in

1 violent rhetoric towards the premier of Ontario and other senior
2 elected officials.

3 And if we go down a little bit more -- and what
4 we don't see in this threat assessment is the statement by the
5 CSIS director in which he says that there is no threat to the
6 security of Canada. We don't see that anywhere in this
7 document; is that right?

8 **MS. JANICE CHARETTE:** I haven't read the full
9 document, so I'd have to go back to the top, but I'll ---

10 **MR. ALAN HONNER:** Okay. But I'm going to put it
11 to you that we don't see that because it's redacted.

12 **UNIDENTIFIED SPEAKER:** I'm going to object to
13 that question. It's an ---

14 **MR. ALAN HONNER:** Fine. I'll move on.

15 And this statement was never put by you to the
16 Cabinet?

17 **MS. JANICE CHARETTE:** I did not address the
18 Cabinet at this meeting.

19 **MR. ALAN HONNER:** Okay, thank you.

20 Ms. Drouin, you would agree with me that CSIS
21 does not investigate family violence because family violence
22 does not constitute a threat to the security of Canada, agreed?

23 **MS. NATHALIE DROUIN:** I guess you are referring
24 to my previous response where I ---

25 **MR. ALAN HONNER:** Yes.

26 **MS. NATHALIE DROUIN:** --- wanted to make the
27 difference that potential criminal offences can bring serious
28 violence without triggering the role of CSIS.

1 **MR. ALAN HONNER:** That's fine. I'm not asking
2 for an explanation. I'm just asking you if you agree with that
3 statement?

4 **MS. NATHALIE DROUIN:** Sorry, can you repeat?

5 **MR. ALAN HONNER:** The statement is ---

6 **MS. NATHALIE DROUIN:** And I wanted to give you
7 the context.

8 **MR. ALAN HONNER:** --- CSIS does not investigate
9 family violence because family violence does not constitute a
10 threat to the security of Canada; do you agree?

11 **MS. NATHALIE DROUIN:** I agree.

12 **MR. ALAN HONNER:** Okay. Ms. Charette, you made
13 the point -- and just tell me if I'm repeating it correctly -- I
14 think you made the point that a CSIS investigation under section
15 2 does not always trigger the invocation of the *Emergencies Act*.
16 Am I repeating that correctly?

17 **MS. JANICE CHARETTE:** I believe that's what I
18 said.

19 **MR. ALAN HONNER:** Okay. And you would agree with
20 me ---

21 **MS. JANICE CHARETTE:** Has not ever, given that
22 the *Emergencies Act* had not been invoked until February the 14th
23 ---

24 **MR. ALAN HONNER:** Sure.

25 **MS. JANICE CHARETTE:** --- 2022.

26 **MR. ALAN HONNER:** Sure. And I think you'll agree
27 with me that there are different types of emergencies under the
28 *Emergencies Act*, but let's just stick with the Public Order

1 Emergency.

2 For that type of emergency to exist, there have
3 to be threats to the security of Canada but the emergency also
4 has to be so serious as to constitute a national emergency; do
5 you agree?

6 **MS. JANICE CHARETTE:** Yes.

7 **MR. ALAN HONNER:** And it's possible that there
8 would be threats to the security of Canada that don't rise to
9 the level of a national emergency?

10 **MS. JANICE CHARETTE:** Yes, I would. That's also
11 true.

12 **MR. ALAN HONNER:** And that would explain why the
13 governor of council doesn't invoke the *Emergencies Act* every
14 time there are threats to the security of Canada?

15 Okay. Thank you very much.

16 In your memo to the prime minister -- I won't
17 pull it up -- but on page 11 -- this is the memorandum dated
18 February 14th ---

19 **MS. JANICE CHARETTE:** On invocation then, sir?

20 **MR. ALAN HONNER:** Yeah, I think that the title is
21 "Memo to Canada", but whatever it's called, at paragraph 11, you
22 say, when you're discussing communications, that:

23 "The government could lean on like-
24 minded messaging from external
25 stakeholders and partners to support
26 the need of the measures at this time."

27 What were you referring to? Who are these
28 partners? Who are these stakeholders?

1 **MS. JANICE CHARETTE:** Would you -- I'm sorry, can
2 I ask for you to pull it up?

3 **MR. ALAN HONNER:** Yes, absolutely.

4 **MS. JANICE CHARETTE:** Thank you very much.

5 **COMMISSIONER ROULEAU:** What is it you want? The

6 ---

7 **MS. JANICE CHARETTE:** The invocation memo, page
8 11, I believe.

9 **MR. ALAN HONNER:** The memo, I believe it is
10 SSM.NSC.CAN00003224.

11 **COMMISSIONER ROULEAU:** That's correct.

12 **MR. ALAN HONNER:** And if we can go to page 11,
13 please?

14 **MS. JANICE CHARETTE:** Apologies, Mr. Honner.
15 Just ---

16 **MR. ALAN HONNER:** No, please don't apologize.

17 **MS. JANICE CHARETTE:** Thank you.

18 **MR. ALAN HONNER:** Okay. So right at the bottom
19 here, for public communications:

20 "Further, public communications should
21 emphasize the fair and proportionate
22 action taken by government."

23 And then the last sentence:

24 "The government could also lean on
25 like-minded messaging from external
26 stakeholders and partners to support
27 the need for the measures at this
28 time."

1 Who are those partners? Who are those
2 stakeholders?

3 **MS. JANICE CHARETTE:** I think it's fair to say
4 that we have heard from organizations like the -- some of the
5 business people in Ottawa, as an example. We have heard from --
6 I'm sorry, just give me a minute here to just get my thoughts
7 clear about this.

8 **MR. ALAN HONNER:** Is it a reference to the RCMP?

9 **MS. JANICE CHARETTE:** No, sir.

10 **MR. ALAN HONNER:** Is it a reference to
11 newspapers?

12 **MS. JANICE CHARETTE:** External stakeholders and
13 partners would not include a government organization, and if it
14 meant the media, that would have been said as the media. No.
15 These would be external organizations.

16 I believe we had had an ongoing conversation led
17 by my colleague in the Department of Transport and the Minister
18 of Transport with the trucking association, as an example.

19 **MR. ALAN HONNER:** Okay.

20 **MS. JANICE CHARETTE:** We had business
21 associations across the country that were calling for the --
22 calling on the importance of keeping those ports of entry open.
23 So I think there were a number of stakeholders who were
24 interested in a peaceful resolution of what had become a serious
25 national emergency.

26 **MR. ALAN HONNER:** Understood, thank you.

27 One last question. There was a threat assessment
28 referred to in this memo to the prime minister, and my friend

1 from the Government of Saskatchewan brought up an email from
2 Jody Thomas, and that email says:

3 "I need an assessment for Janice about
4 the threat of these blockades, the
5 characters involved, the weapons, the
6 motivation."

7 You recall that, of course? It was just up
8 before you.

9 **MS. JANICE CHARETTE:** I do, sir.

10 **MR. ALAN HONNER:** Okay. And I'll ask the clerk
11 to please pull up PB.NSC.CAN.00003462_REL0001.

12 And just while we're waiting for the document to
13 come up, I can tell you that it came up in the examination of
14 Commissioner Brenda Lucki and it's correspondence from Mike
15 MacDonald to Adriana Poloz, and Mike MacDonald is from the PCO;
16 is that right?

17 **MS. JANICE CHARETTE:** Yes, he is.

18 **MR. ALAN HONNER:** Okay. And it looks like
19 Adriana Poloz is from the RCMP. And then from Commissioner
20 Lucki's exam, I think we concluded that Jody Thomas' request for
21 a threat assessment was passed down to Ms. Poloz. And if we
22 scroll down a little bit here -- a little bit more, please --
23 just a little bit more -- oh, I'm sorry, just up a little bit.
24 Pardon me. Right there.

25 If we look at this email, we see that she
26 identifies three groups, and the first group is a group called
27 the Three Percenters, the second is called Diagalon -- if you
28 scroll down a little bit -- and the last one is called Canadians

1 First.

2 **MS. JANICE CHARETTE:** Canada First.

3 **MR. ALAN HONNER:** And I put it to you that these
4 are the only IMVE groups that were identified by the RCMP.

5 **MS. JANICE CHARETTE:** Those are the three groups
6 that are in this email that Ms. Poloz sent to the Privy Council
7 office.

8 **MR. ALAN HONNER:** Did the RCMP identify any other
9 IMVE groups to you?

10 **MS. JANICE CHARETTE:** I believe yes.

11 **MR. ALAN HONNER:** Okay. But can you tell us who
12 they are?

13 **MS. JANICE CHARETTE:** Maybe I'll do it the
14 inverse way which is, to be clear, as I said, this is an email
15 between someone in the RCMP and someone in the Privy Council
16 office.

17 This information was not contained in the
18 memorandum that went to the prime minister, the decision note.

19 I'm not sure that I turned my mind to the details
20 of who the IMVE extremists were other than to be reported by the
21 RCMP and other security agencies, but there were known IMVE -- I
22 think they used the word "targets", subjects of interest
23 involved in the protests.

24 **MR. ALAN HONNER:** I'm sorry, can you -- I just
25 didn't hear that last part.

26 **MS. JANICE CHARETTE:** Okay.

27 **MR. ALAN HONNER:** Can -- just the last sentence,
28 please.

1 **MS. JANICE CHARETTE:** That I believe that I was
2 told that there were IMVE extremists by the RCMP and other
3 security agencies, but I can't -- I'm not -- the specific
4 identification of those, I can't give you a comprehensive list.

5 **MR. ALAN HONNER:** Okay. And I'm out of time
6 here, so let me just ask you one last question here. And you
7 would agree with me that in your memo to the Prime Minister,
8 dated February 14th, you told him "There is no current evidence
9 of significant implications by extremist groups or international
10 sponsors"?

11 **MS. JANICE CHARETTE:** I'll take your word for
12 that. Can I suggest as well, as I said, this is an input. The
13 official record that I would commend to you in terms of the
14 evidence upon which the Government based the decision to invoke
15 the *Emergency Act*, as contained in the section 58 justification,
16 which was tabled before the House of Commons, and I think that's
17 the most reliable place to find the evidence that the Government
18 used to rely on to invoke.

19 **MR. ALAN HONNER:** But the memo contains your
20 advice to the Prime Minister.

21 **MS. JANICE CHARETTE:** That is correct, and this
22 is not in my memo, sir. Thank you.

23 **COMMISSIONER ROULEAU:** Okay.

24 Next, is the CCLA, please.

25 **--- CROSS-EXAMINATION BY MS. EWA KRAJEWSKA:**

26 **MS. EWA KRAJEWSKA:** Good evening, Clerk Surette
27 and Madam Drouin. My name is Ewa Krajewska, and I am counsel
28 for the Canadian Civil Liberties Association.

1 So I know we have spent a lot of time on the CSIS
2 part of the thresholds to invoke the *Emergencies Act*, but with
3 respect to section 3 of the *Emergencies Act* itself, there is two
4 categories, 3(a) or 3(b). And 3(a) is that there -- that it's -
5 - there is a:

6 "...national emergency [that] is an
7 urgent and critical...of a temporary
8 nature that...seriously endangers the
9 lives, health or safety of Canadians
10 and is of such proportions or nature as
11 to exceed the capacity or authority of
12 a province to deal with..."

13 And I understand that that is the part the
14 Government relied upon to invoke the *Emergencies Act*; correct?

15 **MS. NATHALIE DROUIN:** Agreed.

16 **MS. EWA KRAJEWSKA:** And those two parts, capacity
17 and authority, I read those as authority, meaning legal
18 authority, and legislative tools that were available to the
19 Government. Would that be a fair reading of that? Is that how
20 you understood that? Yes?

21 **MS. NATHALIE DROUIN:** Yes.

22 **MS. EWA KRAJEWSKA:** And capacity, to me the word
23 capacity connotes an issue of resources; correct?

24 **MS. NATHALIE DROUIN:** Operations, I agree.

25 **MS. EWA KRAJEWSKA:** Operational capacity.

26 And Madam Surette and Madam Drouin, from your
27 witness statement, I understand that leading up to February 9th
28 and February 14th you both expressed frustration, or maybe not

1 frustration, but frustration with the inability of the local
2 police officers in both Ottawa and Windsor of being able to
3 execute on their Operational Plans. Do you recall stating that
4 in your witness statements?

5 **MS. NATHALIE DROUIN:** Sorry, I don't think have
6 used "frustration".

7 **MS. EWA KRAJEWSKA:** No, sorry. I will read you
8 the part that you said. You said, "She", which I think refers
9 to you, Madam Drouin, "She recalled losing hope that local
10 police forces in Ottawa and Windsor were capable of executing on
11 their Operational Plans." Is that fair?

12 **MS. NATHALIE DROUIN:** I think that -- I don't
13 recall talking about losing hope here. I think that what I have
14 said at the beginning of this is we were facing a situation
15 where all of the indicators were towards federal symbols, and
16 that we were being asked to do something, and yet we didn't have
17 jurisdiction to do a lot of things.

18 So we were asking ourselves, and of course, we
19 were getting worried, if I may use that word, especially on
20 Week 2 and Week 3, whether or not we were going to see an
21 outcome or a result or that the situation would be resolved.
22 But I don't think that we lost, you know, I don't think that I
23 have said that we lost hope. We were worried, we were really
24 worried, and we came to the conclusion that maybe the actual
25 resources, tools, and authorities that provinces were having
26 were not being the successes we were looking for, or being used
27 and being inefficient.

28 **MS. EWA KRAJEWSKA:** Okay. And if I can take you

1 to your witness statement, just so that you can recall, because
2 I want to take you to another passage.

3 This is WTS00000074.

4 **MS. NATHALIE DROUIN:** Oh. Okay. Yeah.

5 **MS. EWA KRAJEWSKA:** I think Commissioner Lucki --
6 it says that:

7 "Commissioner Lucki grew frustrated
8 with the lack of action by local police
9 agencies."

10 And then it states...

11 If you can go page 11, please, Mr. Registrar.

12 Thank you:

13 "This frustration was shared by
14 Ms. Drouin and Ms. [Surette] who felt
15 that existing authorities, such as
16 municipal bylaws for instance, were
17 simply not being used to clear the
18 protests in Ottawa."

19 **MS. NATHALIE DROUIN:** I understand the context.

20 Yeah.

21 **MS. EWA KRAJEWSKA:** Yes. And then -- but at the
22 same time, you appreciated that there was need to respect police
23 independence and not -- and that neither the Public Service nor
24 the politicians could direct police officers directly; correct?

25 **MS. NATHALIE DROUIN:** Correct.

26 **MS. EWA KRAJEWSKA:** Correct. And I put that to
27 you in the context that later on, coming up to the IRG meeting
28 of February 13th, you were taken to this earlier, I think the

1 evidence is that by February 13th, the RCMP, the OPS, and the
2 OPP had signed off on a plan to remove the demonstrators from
3 Ottawa, but I think the evidence we heard from
4 Commissioner Lucki is that she did not state -- express that
5 directly to the IRG on February 13th. And I think,
6 Madam Surette, you confirmed this today, that that is not
7 something that you heard at the IRG meeting on February 13th;
8 correct?

9 **MS. JANICE CHARETTE:** I believe we heard there
10 was a plan to deal with the protests in Ottawa. I would not
11 characterise it the way you just did, which is to clear
12 entirely.

13 There was, as always, and I think is implicit in
14 the paragraph that I'm trying to read very quickly, and I think
15 we've talked about this, there were authorities, there were
16 bylaws that were not being fully enforced. That was the
17 decision of law enforcement, local law enforcement, as to
18 whether or not they thought they had the resources to do that
19 safely without impairing officer safety.

20 We saw, for example, that they were trying to
21 enforce restrictions on the movement of fuel in and around the
22 convoy in Ottawa, and we saw cases where police officers who
23 were trying to enforce that were being harassed and intimidated
24 and threatened. We saw protesters filling those cans with water
25 as opposed to gas. So there was lots going on.

26 So when it came to the plan, the plan was about
27 how to, as I understand it, the various iterations of the plan
28 were about two parts of this: One was about how do you try and

1 get the numbers down to the core, and then -- so that whatever
2 law enforcement resources were going to have to be used in terms
3 of actual enforcement, you could kind of get the size of the
4 problem down.

5 And the plan, as I believe we had -- had been
6 explained to us was about two phase, but the details of the plan
7 to clear the occupation in Ottawa was not available to us on the
8 13th of February.

9 **MS. EWA KRAJEWSKA:** Right. The details of the
10 plan were not available to you, but I think I also understood
11 that you may not have known that the RCMP and the OPP had signed
12 off on a plan that they had confidence in could remove the
13 protesters in Ottawa as of February 13th; correct?

14 **MS. JANICE CHARETTE:** We had heard, as I said
15 many times, about plans that didn't get turned into action.

16 **MS. EWA KRAJEWSKA:** Right. So you had -- so --
17 exactly. So you had, over the week leading up to February 13th,
18 you had been briefed on various plans that you also did not
19 actually see come to fruition. So even if you were told about a
20 plan on February 13th, at that point part of you felt like that
21 may -- as you said earlier today, that was one factor, but maybe
22 not a determinative factor in terms of whether to invoke the *EA*
23 or not, just based on what had been happening for that week.

24 **MS. JANICE CHARETTE:** I don't mean to sound
25 dismissive, and so I worry that what I just said sounds
26 dismissive of the very serious efforts of law enforcement at the
27 local level, with the OPP and the RCMP to deal with the various
28 situations. I think they were working as best they could in

1 extraordinary difficult situation to deal with the occupation in
2 Ottawa. And I do believe they gave serious effort to trying to
3 figure out how best to do that.

4 We had heard about this a number of times. The
5 details of any kind of tactical plan would never have been
6 shared with us. I would say that there was no single plan at
7 any single site that would have necessarily changed my advice to
8 the Prime Minister about the totality of the circumstances which
9 led to the invocation of the *Emergency Act*.

10 **MS. EWA KRAJEWSKA:** And I'm not sure, I think you
11 mentioned earlier that -- I think Commissioner Lucki confirmed
12 this, the IRG was a platform where people were at liberty to
13 speak up, they were not -- they did not need to feel called upon
14 before they could share their views with the other members of
15 the IRG? And that's fair?

16 **MS. JANICE CHARETTE:** I believe that is an
17 accurate statement, yes.

18 **MS. EWA KRAJEWSKA:** And Madam Charette, you
19 mentioned earlier in your testimony that you appreciate that
20 there were aspects of the demonstration that were lawful and
21 that there were aspects of the demonstrations that were
22 unlawful, and you were careful to make that distinction?

23 **MS. JANICE CHARETTE:** I think I would -- yes.
24 And I would also say that there were individuals involved who
25 were there for the purpose of peaceful protest. And there were
26 individuals who were a part of the protest who had other
27 motivations, some of which I believe to have been, as I said
28 earlier, around a policy motive, like getting rid of mandates,

1 or a political objective, like overthrowing the government,
2 replacing them with a new form of government.

3 **MS. EWA KRAJEWSKA:** But once the *Emergency Act*
4 was invoked and there were restrictions placed on public
5 assembly, ---

6 **MS. JANICE CHARETTE:** M'hm.

7 **MS. EWA KRAJEWSKA:** --- including geographical
8 restrictions, that demonstration, by definition, became
9 unlawful. Would you agree with that?

10 **MS. JANICE CHARETTE:** I would agree with that.

11 **MS. EWA KRAJEWSKA:** And therefore the ability for
12 those protestors or demonstrators to voice their political views
13 against mandates or other public policy options became much more
14 limited or would have to have been provided in a different
15 locale?

16 **MS. JANICE CHARETTE:** I think that's part of the
17 reason, and I -- we didn't have a chance to look in detail at
18 that communications section, but an important part of the roll
19 out and the implementation of the *Emergency Act* was to make sure
20 that those who were involved in what was becoming covered by the
21 *Emergency Act* knew and knew to go home. They had heard from
22 Ministers and the Prime Minister, they'd heard from the Premier,
23 it was time to go home. And it was clear then that it was
24 important to make clear to people who were participating what
25 the consequences were of staying.

26 **MS. EWA KRAJEWSKA:** And so there was not
27 consideration given to giving them a space to continue to
28 protest at the seat of Parliament in Ottawa?

1 **MS. JANICE CHARETTE:** There was -- there were --
2 there's lots of other places to go and protest in Ottawa during
3 the duration of the occupation, while the *Emergency Act* was
4 being invoked. And we saw people who came back at the end who
5 were protesting at the -- as the Act was being revoked. But
6 while the Act was in place, and in the area that was designated,
7 this was an illegal activity and there were consequences.

8 So they were subject to the discretionary
9 decisions by law enforcement about how to proceed with the
10 implementation of those powers and authorities.

11 **MS. EWA KRAJEWSKA:** And can I -- oh, sorry.

12 **MS. NATHALIE DROUIN:** If I may add also?

13 **MS. EWA KRAJEWSKA:** Sorry, yes.

14 **MS. NATHALIE DROUIN:** This is why when we invoked
15 the *Emergency Act* and the measures we adopted under the
16 *Emergency Act* have to be time limited, and this is why we
17 invested a lot of time to monitor the situation to make sure
18 that we don't keep the *Emergency Act* if it's not necessary. So
19 that is how, you know, we balanced, a little bit, the impact of
20 the *Emergency Act*.

21 **MS. EWA KRAJEWSKA:** Right. Let me -- I have two
22 more questions. One is a bit technical, and I hope you can
23 educate me on this, Madam Charette. Your decision memo to the
24 Prime Minister, does that end up forming part of the record of
25 what goes before the Governor in Council? Does that form part
26 of that record?

27 **MS. JANICE CHARETTE:** No, it does not.

28 **MS. EWA KRAJEWSKA:** It does not. So that is only

1 -- that is a document that only goes to the Prime Minister? It
2 does not go to Cabinet and it does not form part of the record
3 before the Governor in Council?

4 **MS. JANICE CHARETTE:** That is correct.

5 **MS. EWA KRAJEWSKA:** And the last ---

6 **MS. JANICE CHARETTE:** The documents before the
7 Governor in Council are different documents. It was the
8 proposed proclamation and subsequent regulations.

9 The last part is with respect to the definition
10 of the *CSIS Act*. And you were taken to this. And I know that
11 you've disagreed with counsel that who is the decision maker,
12 versus CSIS, versus the Governor in Council. But I think you
13 agree that it's the definition in the *CSIS Act* that applies?
14 It's not a different definition; correct?

15 **MS. NATHALIE DROUIN:** It's the same wording that
16 has to be interpreted within the respective acts. Here we were
17 talking about the *Emergency Act*.

18 **MS. JANICE CHARETTE:** In front of a decision
19 maker.

20 **MS. EWA KRAJEWSKA:** By a different decision
21 maker. Yes. Thank you.

22 And you both mentioned the safe guards that exist
23 within the Act once the *Emergency Act* is invoked, including the
24 Parliamentary process, this Commission, the fact that it has to
25 be time limited. But I think you'd also agree that there are
26 ex-anti thresholds, there are safeguards in the Act that the
27 thresholds that need to be met that are also very important in
28 order to ensure that we only invoke the *Emergencies Act* in

1 exceptional circumstances? You'd agree with that as well?

2 **MS. NATHALIE DROUIN:** I agree with you. And I'll
3 also add that the measures that government adopt have to be
4 *Charter* compliant.

5 **MS. EWA KRAJEWSKA:** Yes.

6 **MS. JANICE CHARETTE:** Which is an important
7 safeguard in terms of the actions that are available to be taken
8 by ---

9 **MS. EWA KRAJEWSKA:** Thank you very much.
10 Thank you, Commissioner.

11 **COMMISSIONER ROULEAU:** Okay. Thank you.
12 Next I'll call on the City of Ottawa.

13 **--- CROSS-EXAMINATION BY MS. ALYSSA TOMKINS:**

14 **MS. ALYSSA TOMKINS:** Good afternoon, almost
15 evening. My name is Alyssa Tomkins. I'm one of the lawyers
16 representing the City of Ottawa. I just have one quick question
17 for you today, and it's to the Clerk.

18 If our Clerk could bring up document SSM. ---

19 **MS. JANICE CHARETTE:** I knew we were going to get
20 in trouble with that at some point.

21 **MS. ALYSSA TOMKINS:** We've had a lot of
22 Commissioners until this point, so now we're getting multiple
23 clerks.

24 So SSM.CAN.00008508. So if we can just scroll
25 down to the bottom of page 2 just so the witness can see what
26 we're talking about?

27 So there's an email from Rob Stewart and it's
28 attaching the engagement proposal, I'm sure you're familiar

1 with.

2 And if we scroll up, we see Ms. Thomas forwards
3 it to you. And then if we keep scrolling, we see an email from
4 you to Katie Telford. And it says:

5 "I would like to green light this today if
6 possible..."

7 So is that -- were you wanting to -- my question
8 is just were you wanting to greenlight it?

9 **MS. JANICE CHARETTE:** I wanted the proposal
10 around engagement ---

11 **MS. ALYSSA TOMKINS:** Yeah.

12 **MS. JANICE CHARETTE:** --- to be considered by the
13 Incident Response Group of Ministers.

14 **MS. ALYSSA TOMKINS:** Okay. So wait, you were
15 neutral as to the engagement proposal yourself?

16 **MS. JANICE CHARETTE:** No, I have a point of view.
17 However, -- I probably did have a point of view at this point of
18 time. This is about the decision to put the engagement proposal
19 before Ministers and the Prime Minister at the Incident Response
20 Group, which happened on the 12th of February.

21 **MS. ALYSSA TOMKINS:** Okay. No, that's the
22 clarification I was looking for, so thank you very much, Clerk,
23 and those are my questions.

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

25 Next is the Ottawa Coalition.

26 **--- CROSS-EXAMINATION BY MS. CHRISTINE JOHNSON:**

27 **MS. CHRISTINE JOHNSON:** Good evening. My name is
28 Christine Johnson and I'm one of the counsel for the Ottawa

1 Coalition of Residents and Businesses.

2 I have some questions for you both, and you can
3 answer whoever feels able to answer, with regards specifically
4 to your assessment of the threat posed by the situation in
5 Ottawa.

6 So I'd like to start off by noting that yesterday
7 we heard Jody Thomas discuss the process of determining the
8 distinction between lawful and unlawful protests and the
9 difficulty, sometimes, in determining when peaceful protests
10 become violent protests.

11 And with regards to determining whether the
12 protest activity involves the threat or use of serious violence,
13 Ms. Thomas stated that:

14 "The only measure can't be violent of a
15 nature of January 6th." (As read)

16 And I understood her statement to mean that it's
17 not only violence that rises to the level of an insurrection.
18 And I would take it from your testimony today that you would
19 agree with that statement?

20 **MS. JANICE CHARETTE:** Do you want to start? No.
21 So can I -- I want to say two things, if I could, Ms. Johnson.
22 The first is that in the note -- the Decision Note that I sent
23 to the prime minister, I did not do a specific assessment of the
24 threat in Ottawa. What I was looking at was the national
25 picture.

26 As for your question about violence, I think was
27 the -- oh, was that the second part of your question, sorry?

28 **MS. CHRISTINE JOHNSON:** M'hm, yes.

1 **MS. JANICE CHARETTE:** I think violence has a lot
2 of different meanings and there's -- I think violence that --
3 you know, a punch in the face is violence. And it could also be
4 violent when you feel threatened or intimidated, when your
5 ability to go about your daily life is being thwarted, your
6 ability to get to a medical appointment, your ability to access
7 911 services, your ability to have an ambulance come to your
8 house if in fact you're in need of medical assistance, if your
9 job is threatened because the supplies don't get to your factory
10 and your shift doesn't go in. There's a number of different
11 manifestations of violence short of the kind of, you know,
12 spectacular -- and I think violence that might have been
13 implicit in something like, I think, the events on January the
14 6th, which I think I can tell you, as a proud Canadian, I hope I
15 never see here.

16 **MS. CHRISTINE JOHNSON:** M'hm. Thank you for that
17 answer. And it feeds into my next question which was, is it
18 correct that, to your knowledge, neither the *Emergencies Act* nor
19 the *CSIS Act* defines the term "serious violence" ---

20 **MS. JANICE CHARETTE:** I ---

21 **MS. CHRISTINE JOHNSON:** --- and in fact -- sorry,
22 I was just continue to say it's in fact open to interpretation,
23 as you suggest?

24 **MS. JANICE CHARETTE:** I believe that to be the
25 case. But I think you have to read the two words together. I
26 certainly, when I put my mind to this, thought about a test of
27 "serious violence".

28 **MS. CHRISTINE JOHNSON:** Right. And you've

1 testified today that you believed that the definition of "a
2 threat of serious of violence" or "act of serious violence"
3 under Section 2(c) of the *CSIS Act*, that definition was met and
4 justified in invocation of the *Emergencies Act*; is that fair?

5 **MS. JANICE CHARETTE:** That was my testimony, yes,
6 Ms. Johnson.

7 **MS. CHRISTINE JOHNSON:** Thank you. And you gave
8 some examples to my friend, Mr. Miller -- and this is for Ms.
9 Drouin. You gave some examples to my friend, Mr. Miller, of the
10 types of things that you consider in looking at -- you know,
11 from all of the inputs you were receiving of what was going on
12 at the ground, the types of serious violence that occurred, and
13 you gave examples of threat to the economy, impact on trade,
14 impacts on workers, disruption at ports of entry, as well as,
15 you know, the on-the-ground harassment, intimidation, these
16 sorts of things, assaultive behaviour. So is it fair to say
17 that your understanding and interpretation of "serious violence"
18 included more than just physical violence but also economic and
19 psychological violence?

20 **MS. NATHALIE DROUIN:** I agree.

21 **MS. CHRISTINE JOHNSON:** Okay. And just -- if I
22 may have just a couple of minutes, Commissioner, just to ask
23 specifically about the situation in Ottawa and how certain
24 things factored into your decision making. We've heard
25 testimony from both residents and law enforcement about people
26 in Ottawa who experienced harassing and assaultive behaviour.
27 We've heard that not all of this was reported to police and, in
28 some circumstances when it was reported to police, it wasn't

1 always followed up on, in part because sometimes the nature of
2 these circumstances were difficult to pinpoint perpetrators and
3 follow-up investigate. Was this something that factored into
4 your consideration of the serious violence that was occurring?

5 **MS. JANICE CHARETTE:** I would say that the total
6 picture, in terms of what was happening in Ottawa, including but
7 certainly not specifically the fact law enforcement resources
8 were extraordinarily taxed to be able to deal with both the
9 occupation as well as the regular, if I could call it that way,
10 policing requirements in Ottawa was a sign of the magnitude of
11 the threat and how the threat had escalated through the peace.
12 And I think that -- both the kind of substance of that as well
13 as the dynamic and the escalation were factors in my
14 consideration.

15 **MS. CHRISTINE JOHNSON:** And would you consider
16 the fact that residents of Ottawa were subjected to the display
17 of hateful symbols and messages -- we've seen flags -- would you
18 accept that people experiencing that kind of conduct, especially
19 and in particular minority communities, would consider that sort
20 of conduct a form of violence towards them?

21 **MS. JANICE CHARETTE:** They may well, yes.

22 **MS. CHRISTINE JOHNSON:** And would you consider
23 that a form of violence?

24 **MS. JANICE CHARETTE:** If I was the subject of it,
25 I may well feel that way, but ---

26 **MS. CHRISTINE JOHNSON:** And with ---

27 **MS. JANICE CHARETTE:** The groups that you're
28 describing, Ms. Johnson, I think it's fair to say, are -- have

1 some form of vulnerability. And so if -- you know, if you're
2 2SLGBTQI+ individual and you are subjected to a threat against
3 your choice of your sexual preference, your sexuality, you may
4 find that quite intimidating. And similarly, misogyny,
5 antisemitism, and so on. So some form of identity being
6 threatened, or intimidated, or criticized, I think can be quite
7 jarring.

8 **MS. CHRISTINE JOHNSON:** And was there
9 consideration, again, in your understanding, of whether there
10 was serious violence involved in these protests -- what about
11 the situation of swarms of maskless protesters entering into
12 stores and restaurant, you know, posing serious risk,
13 potentially, of illness to employees, business owners, other
14 patrons, would that be a form of violence that you consider?

15 **MS. JANICE CHARETTE:** I think, in my earlier
16 explanation, I indicated kind of public unrest, including the
17 kinds of behaviour you describe, with or without the Public
18 Health dimension, would be a manifestation of a situation which
19 would be part of that broad threat and risk environment.

20 **COMMISSIONER ROULEAU:** You're well over your
21 time, so if you could wrap up, please.

22 **MS. CHRISTINE JOHNSON:** I'll leave it there.
23 That's fine, Commissioner. Thank you very much, Panel, for
24 answering my questions.

25 **COMMISSIONER ROULEAU:** Okay, thank you. Next is
26 the OPP.

27 **--- CROSS-EXAMINATION BY MS. JINAN KUBURSI:**

28 **MS. JINAN KUBURSI:** Good afternoon. Thank you,

1 Commissioner. And good afternoon to you both. My name is Jinan
2 Kubursi and I'm one of the counsel for the OPP.

3 So I have just a few minutes with you today, so
4 I'd like to ask you just a few short questions and briefly deal
5 about your understanding of what was happening in that weekend
6 leading up to the arrival of the convoy in Ottawa. So if you
7 cast your mind back to that time period -- and we have seen some
8 of the documentation but I'd just like to ask you, did you have
9 any awareness at that point that there were some indications
10 that this convoy of truckers which was going to number
11 potentially in the hundreds in terms of vehicles heading towards
12 Ottawa -- were you aware of that basic fact at that point?

13 **MS. JANICE CHARETTE:** So, Ms. Kubursi, you're
14 speaking about the week beginning the 24th of January, the
15 Monday, is that what you're referring to?

16 **MS. JINAN KUBURSI:** That's right. That's right.

17 **MS. JANICE CHARETTE:** So I think -- I think -- I
18 can't exactly remember what day. I believe the 24th or 25th, we
19 heard for the first time in a team meeting that there were
20 reports that there were -- there was at least a significant
21 number of protesters coming to Ottawa. I can't remember whether
22 there were other sites at the time that were mentioned or not,
23 but certainly Ottawa sticks in my mind. And the exact details
24 of that, I'll tell you, I didn't retain.

25 We -- there were -- those events were being
26 monitored by folks -- other folks in the Privy Council Office.
27 You may recall earlier I said that there was a cabinet retreat
28 underway and I would -- a lot of my attention was focused on

1 supporting the cabinet retreat. But I had others in the
2 organization, in the Privy Council Office, who were monitoring
3 that and conducting daily briefings with minister's offices and
4 meetings between the PCO and PMO which led into the ministers,
5 and so on and so forth. So that was the beginning, for sure.

6 **MS. JINAN KUBURSI:** Right. And understandably,
7 you had other matters that you were dealing with, of course. So
8 can I take it, as you're saying, you had some awareness and you
9 have some recollection of hearing that there were going to be a
10 large number of truckers, you know, perhaps not a specific ---

11 **MS. JANICE CHARETTE:** Vehicles.

12 **MS. JINAN KUBURSI:** Vehicles. Thank you for that
13 correction -- of vehicles including -- it would include some
14 trucks -- were on their way to Ottawa, and did you have any
15 awareness at that time that there was some indication that some
16 members of this protest group, if I call it that, were intending
17 to stay in Ottawa until their demands with respect to vaccine
18 requirements were met?

19 **MS. JANICE CHARETTE:** I would say that I did not
20 know how long they were planning to stay or what they wanted to
21 achieve before they were prepared to leave. I would think --
22 and I have said this earlier -- that a protest was coming to
23 Ottawa. We had a lot of protests. They said they were coming
24 for the weekend. Sunday night arrived; they had not left. This
25 -- we were now into a very different situation.

26 **MS. JINAN KUBURSI:** Right. But would you agree
27 with me that early information that there was at least a group
28 indicating a commitment to staying in Ottawa until certain

1 demands were met, and early indications that some vehicles
2 including heavy machinery with the trucks that were on the way
3 to Ottawa would all be indications that would be at least
4 informative for you and your colleagues in terms of what you
5 might expect?

6 **MS. JANICE CHARETTE:** Yes.

7 **MS. JINAN KUBURSI:** Yes? Okay.

8 And so we've heard ---

9 **MS. JANICE CHARETTE:** I now know -- sorry, may I
10 add something?

11 **MS. JINAN KUBURSI:** Yes, please.

12 **MS. JANICE CHARETTE:** I think what we have heard
13 through the work of this Commission of Inquiry is that there
14 were reports, there was more information available that was
15 being shared with law enforcement that we have found out after
16 the fact, and I think the Hendon Reports is an example of the
17 kind of information that was being shared, but that wasn't my
18 focus at the time.

19 **MS. JINAN KUBURSI:** Right, not your focus and not
20 within your awareness because you're not direct recipients of
21 these reports. They are shared within the law enforcement
22 community. But you'd agree that through your appropriate
23 information channels, including the National Security and
24 Intelligence Advisor, communicating with the RCMP, it's of
25 course, helpful to ensure that the communication channels are
26 working effectively so that you have early information that can
27 assist you in your role and then ultimately, you know, decision
28 making?

1 **MS. JANICE CHARETTE:** I think it's absolutely
2 true that the more, better information we have about what's
3 happening or what's going to happen will inform our actions
4 every single time. The fact that there may have been
5 information known by some people but not all is, I think what's
6 known in the business as an intelligence gap, and we've taken a
7 lot of steps to correct that in terms of the international
8 dimension of our work, following up on the events of 9/11 to
9 make sure that the information is shared, that there's an
10 ability assess and to integrate threat assessment. And I think
11 the National Security Intelligence Advisor may have talked about
12 some of that.

13 I think earlier I talked about there may have
14 been gaps in what we knew or didn't know in terms of OSINT, open
15 source information, social media information, and there may have
16 been domestic sources of intelligence that maybe we need to do a
17 better job of pulling together and looking across.

18 **MS. JINAN KUBURSI:** M'hm. Okay.

19 **COMMISSIONER ROULEAU:** Counsel, you're out of
20 time, actually, over time, so you're going to have to wrap up.

21 **MS. JINAN KUBURSI:** Okay. I have one remaining
22 question or two, Commissioner, if you might allow me, in a
23 different area.

24 And ---

25 **COMMISSIONER ROULEAU:** I'll allow one, so pick
26 the best one.

27 **MS. JINAN KUBURSI:** I'll try, Commissioner.

28 Thank you.

1 Your witness summary and some of what we've heard
2 from both of you in your evidence acknowledges certain
3 jurisdictional challenges, if I can put it that way, in that a
4 Public Order Event that is being considered as potentially a
5 Public Order Emergency is one that occurs, you know, in an area
6 that doesn't engage federal jurisdiction in the sense that it's
7 a situation that the federal government can apply its resources
8 to resolve.

9 And sorry for the long introduction, but would
10 you find it helpful in this -- such a situation if it were ever
11 to present again, but to have -- would it be helpful for you to
12 have a more direct line of communication to certain law
13 enforcement leaders, perhaps, with respect to options, tools,
14 status of the police situation generally, to assist you in being
15 as fully informed as possible?

16 **MS. NATHALIE DROUIN:** I do believe that, you
17 know, a better coordination, an appropriate flow of information
18 is always helpful, that's for sure.

19 And also, when it comes to Ottawa, for example,
20 you are probably aware that we are working on the future of
21 Wellington, what we call the future of Wellington, to make sure
22 that we understand and we have a better protocol on who does
23 what when, when it comes to the Parliamentary precinct, for
24 example.

25 So yes, I think that this situation that we went
26 through in February will give rise to a lot of lessons learned
27 and I think this is one of the purposes of this Commission.

28 **MS. JANICE CHARETTE:** I would add to that. I

1 think a more comprehensive look at our critical infrastructure
2 in the country and what the respective responsibilities are of
3 each level of government authorities and so on, and the -- how
4 information is shared so that that could inform, for example,
5 tabletop exercises or other scenario exercises so that if we
6 have an issue like what happened in Windsor, for instance, we
7 wouldn't have to spend so much time trying to figure out who's
8 got responsibility for the bridge, for the plaza, for the road
9 to the plaza, for highway off ramps, and all of that. It would
10 be -- they would have a kind of a plan in a box that would have
11 been exercised with respect to particularly critical
12 infrastructure in the country, so just to add to Madam Drouin's
13 observation around the Parliamentary precinct in Ottawa and
14 Wellington Street.

15 **MS. JINAN KUBURSI:** Okay. Thank you both very
16 much.

17 Thank you, Commissioner.

18 **COMMISSIONER ROULEAU:** Okay, thank you.

19 Next is counsel for Former Chief Sloly.

20 **MR. NIKOLAS De STEFANO:** Thank you, Mr.
21 Commissioner. It's Nikolas De Stefano for former Chief Sloly.
22 We have no questions.

23 **COMMISSIONER ROULEAU:** Okay. Next is the City of
24 Windsor.

25 **MS. JENNIFER KING:** Good evening. My name is
26 Jennifer King. I am one of the legal counsel to the City of
27 Windsor and in returning my friend's offer of time from earlier
28 today, I'm going to cede my time to Windsor Police Services.

1 Thank you.

2 **COMMISSIONER ROULEAU:** A very equitable
3 arrangement.

4 So the Windsor Police Service please.

5 **--- CROSS-EXAMINATION BY MR. THOMAS McRAE:**

6 **MR. THOMAS McRAE:** Thank you, Mr. Commissioner.
7 My name is Tom McRae. I am counsel to the
8 Windsor Police Service.

9 Yesterday we heard evidence from Mr. Sabia, the
10 Deputy Minister of Finance, to the effect that a peaceful
11 resolution to the Ambassador Bridge blockade was better than a
12 non-peaceful resolution to that blockade. Do you agree with
13 that proposition?

14 **MS. JANICE CHARETTE:** Yes, I do.

15 **MR. THOMAS McRAE:** Okay. Madam Drouin?

16 **MS. NATHALIE DROUIN:** I do.

17 **MR. THOMAS McRAE:** Thank you.

18 Do you both agree that a peace -- a resolution
19 that respects Charter protected rights such as the right to
20 protest would be preferable to one that does not?

21 **MS. NATHALIE DROUIN:** Agree.

22 **MS. JANICE CHARETTE:** Yes.

23 **MR. THOMAS McRAE:** Thank you. Can I ask Mr.
24 Clerk to turn up the witness statement? It's 6074. And while
25 the clerk's doing that, can I ask you, do you know when the
26 Windsor Ambassador Bridge blockade started?

27 **MS. JANICE CHARETTE:** Well, I think there were
28 blockades that started in the week of -- I'll just get my dates

1 here right -- excuse me for a moment, Mr. McRae.

2 **MR. THOMAS McRAE:** Take your time, take your
3 time.

4 **MS. JANICE CHARETTE:** I think we were seeing kind
5 of on and off in and around the 5th, 6th. There was kind of
6 slowdowns, slow rolls, up, down, and then the kind of the
7 crescendo, if you want to call it that happened around the 9th,
8 8th, 9th, 10th.

9 **MR. THOMAS McRAE:** I think it was the 7th. I
10 think it was the 7th, actually, when a truck just stopped in the
11 middle of the road there.

12 **MS. JANICE CHARETTE:** There you go.

13 **MR. THOMAS McRAE:** If I can take you please to
14 the top of page 7 of witness statement 74? Sorry, I guess I got
15 it wrong. Oh, I'm sorry, it's the top of page 8. My apologies.

16 And this has the time frame of this, and maybe
17 you can scroll a bit just to give the witnesses the proper
18 context. I apologize for that. There's a heading at the top.
19 It's about the invocation of the *Emergencies Act*. If you could
20 go back to the top of page 8?

21 Now if -- and this is really a question for Madam
22 Drouin, because as I read this statement, Ms. Drouin recalled
23 that:

24 "PCO considered options as varied as
25 shutting down cell towers, shutting down
26 gas stations, and even deploying federal
27 employees with commercial licenses to
28 remove trucks entrenched in Ottawa." (As

1 read)

2 This is the part I want to focus on.

3 "She recalled losing hope that local
4 police forces in Ottawa and Windsor were
5 capable of executing their operational
6 plans as time went on and no concrete
7 police actions materialized." (As read)

8 Madam Drouin, when is it that you lost that hope?

9 **MS. NATHALIE DROUIN:** First of all, I think that
10 we saw a crescendo in terms of the movements all across Canada.
11 And when we were approaching what I think the Clerk will call
12 the third weekend, so the week of February 9 until the 13, I
13 think this is where, and I think we talked about that a lot, we
14 were hearing about "We have a plan." And then the plan was not
15 being executed. And that was true for the different sites
16 across Canada. And I guess this is where we started to wonder
17 whether or not provinces' law enforcement agencies, were enough
18 equipped to face the situation.

19 **MR. THOMAS McRAE:** I'm sorry, just so I'm clear,
20 you understood during the week of February 7th that Windsor had a
21 plan and it had not executed on it?

22 **MS. NATHALIE DROUIN:** So what I'm saying is that
23 -- and I'm not putting a date for Windsor.

24 **MR. THOMAS McRAE:** Okay.

25 **MS. NATHALIE DROUIN:** What I'm saying is that
26 during the week past February, you know, 6th until the following
27 week, we were hearing very often in our update from law
28 enforcement agencies that "We have a plan." To the extent that

1 -- it was like something that every day we were hearing, "We
2 have a plan. We're working on a plan." But yet we were not
3 seeing any action on that plan.

4 So I think this is what I mean by I was losing
5 hope.

6 **MR. THOMAS McRAE:** M'hm.

7 **MS. JANICE CHARETTE:** Perhaps I can add ---

8 **MR. THOMAS McRAE:** M'hm.

9 **MS. JANICE CHARETTE:** --- just contextually.

10 Would it be helpful, Mr. McRae?

11 **MR. THOMAS McRAE:** Sure.

12 **MS. JANICE CHARETTE:** As we went into that week,
13 the 7th, 8th, 9th, I think you've heard earlier in our testimony,
14 on the 9th, for example, that I attended a meeting with the
15 Deputy Ministers involved in kind of national security and
16 intelligence, having heard a growing degree of frustration and
17 concern on the part of Ministers with the situation, to make
18 sure that we were looking at all available instruments, all
19 available resources, all available tools, every crazy -- shut
20 down cell towers, as an example, find public servants who could
21 drive tow trucks. Anything to try to help to resolve the
22 situation, because the situation facing law enforcement in
23 Ottawa and in Windsor were complex and challenging.

24 Windsor in particular, we had a lot of concern
25 about, as you know. Our colleagues from the Canadian Border
26 Services Agency directly involved working with the police of
27 local jurisdiction on the ground.

28 But what could we do to help? That was the focus

1 here. Police alone, without more help, were they going to be
2 able to deal with the size and the intensity of the challenge?
3 I think that's what our focus was in our attempt to try to bring
4 all of the resources and the might of the Federal Government
5 that we could to try to help.

6 **MR. THOMAS McRAE:** We've heard evidence that the
7 OPP came promptly upon a request for help, the RCMP from London
8 came promptly on a request from help, police forces from
9 Waterloo and Hamilton also came promptly on a request for help.
10 Were you aware of that at the time around February 9th?

11 **MS. JANICE CHARETTE:** I'd say, Mr. McRae, that I
12 was watching these events kind of unfolding on the television
13 screen.

14 **MR. THOMAS McRAE:** Okay.

15 **MS. NATHALIE DROUIN:** Maybe just to add, and I'm
16 sure we're now saying I think you would agree that where we saw,
17 you know, a positive outcome in Windsor, we also heard that it
18 will require a lot of resources to keep it open. So it was also
19 time intensive in terms of making sure that the passage will
20 stay open.

21 **MS. JANICE CHARETTE:** And I think, if I could
22 add, that we saw the complement of law enforcement and the
23 assets and capability that were deployed to deal with the
24 occupation, the blockage at Windsor. I know that some of those
25 measures were left in place even after the *Emergency Act* was
26 invoked. And the -- to try to make sure that the Windsor Port
27 of Entry, the Ambassador Bridge, was remained open.

28 It was also a concern, as I believe we have found

1 out subsequently, about how much resources this could be drawing
2 away from the potential to deal with the situation in Ottawa.

3 So resources are not finite, as I'm sure anybody
4 who runs any organization understands. So.

5 **MR. THOMAS McRAE:** If I can turn back to the
6 witness statement? Madam Drouin, you clarify at the bottom of
7 that paragraph:

8 "She clarified that neither she nor the
9 Clerk [that's you, Ms. Charette,] have
10 reviewed police plans because law
11 enforcement agencies operate independently
12 of government." (As read)

13 Wouldn't you agree that that is appropriate that
14 law enforcement agencies operate independently of government?

15 **MS. NATHALIE DROUIN:** Absolutely.

16 **MR. THOMAS McRAE:** Thank you. If I can take you,
17 please, quickly, to a document that I think the Commission
18 Counsel took you to? It's Canada, I think, 00003256. It is an
19 email, I think, that you received, email that's dated the 14th, I
20 think you received -- someone received it on the 13th, the
21 evening before the invocation of the *Emergencies Act*. It's from
22 Brenda Lucki.

23 In this email, as I understand it when it was
24 taken to you, and I think it was you, Ms. Charette, it
25 mentioned, if you scroll down a bit, where she talks about --
26 this is from Brenda Lucki. She talks about arrests. Could you
27 please keep going? This said:

28 "... I am of the view that we have [...]"

1 exhausted all available tools..."

2 And I believe that context, Ms. Charette, you
3 suggested that there hadn't been enough arrests yet? Or any
4 arrests? Was my recollection of your evidence correct?

5 **MS. JANICE CHARETTE:** I do not believe that would
6 be correct, ---

7 **MR. THOMAS McRAE:** Okay.

8 **MS. JANICE CHARETTE:** --- because we had seen a
9 lot of law enforcement happening in Windsor.

10 **MR. THOMAS McRAE:** Okay.

11 **MS. JANICE CHARETTE:** And so -- but there -- as I
12 said, this was about not just a single site, not just a single
13 threat, not just a single event.

14 **MR. THOMAS McRAE:** All right. And in fact, is it
15 your recollection that Windsor was cleared up on February 13th
16 and the bridge was reopened just after midnight on the 14th?

17 **MS. JANICE CHARETTE:** I believe that is correct.
18 And I also know that Federal Ministers were focused on what it
19 was going to take to keep that trade -- that absolutely critical
20 trade corridor open, sir.

21 **MR. THOMAS McRAE:** Thank you. We heard from --
22 and this is my second last question. We heard from the Deputy
23 Minister, Mr. Sabia yesterday, and in questions from my friend,
24 Mr. Aylward for Canada, who asked just how quickly had they to
25 act, what timescale did Mr. Sabia have in mind, was it an issue
26 of days or weeks, or what was the time frame.

27 Mr. Sabia's evidence, and this is in the
28 transcript, but I don't know how to call it up, but it's the one

1 that's publicly available, was that our -- they varied the
2 length by where they were in the country, but:

3 "These disruptions had already gone on for
4 a reasonable period of time, reasonably
5 lengthy period of time, so our objective
6 here was we were thinking about this in a,
7 you know, period of several days or a
8 week, or a bit more than a week." (As
9 read)

10 So do you agree with Mr. Sabia, at least as I
11 read his evidence, that a week to resolve a protest is a
12 reasonable period of time?

13 **MS. JANICE CHARETTE:** I don't think I can really
14 answer that question, Mr. McRae? How big of a protest? What
15 kind of a protest? Where is the protest? I think that's ---

16 **MR. THOMAS McRAE:** Oh, I -- let's focus on the
17 Ambassador Bridge blockade. Do you think a week ---

18 **MS. JANICE CHARETTE:** Okay.

19 **MR. THOMAS McRAE:** --- to resolve the Ambassador
20 Bridge blockade was a reasonable period of time?

21 **MS. JANICE CHARETTE:** I think it depends who you
22 are. If you are a manufacturer operating a large car assembly
23 plant in southern Ontario, depending on just in time delivery of
24 critical supplies to run that plant and keep your production
25 line going, I don't think a week is necessarily going to be fast
26 enough. If you were worried about the transport of food, or
27 fuels, or medicine, which are coming across that critical supply
28 point, I think you may have a different measurement, sir.

1 **MR. THOMAS McRAE:** If you're keeping in mind ---

2 **MS. NATHALIE DROUIN:** If I can ---

3 **MR. THOMAS McRAE:** Oh, please continue.

4 **MS. NATHALIE DROUIN:** If I can add; after Windsor
5 bridge was clear, we had also threat about other port of
6 entries, and I think -- I don't want to put words in Deputy
7 Minister Sabia's mouth, but he was also looking at the whole
8 situation, making sure that, you know, not other supply chain
9 will be affected. So the timely resolution that Michael Sabia,
10 from what I understood yesterday or the day before -- it was
11 yesterday morning; yesterday was a long day for you, I know, I
12 know -- was really like a global resolution.

13 **MR. THOMAS McRAE:** If -- and Ms. Charette, I
14 guess this is focused at you. I'll rephrase the question: If
15 you're looking for a peaceful resolution that respects people's
16 charter rights, do you think or do you agree with how I read Mr.
17 Sabia's evidence, that one week is too brief a scope of period
18 for that to happen in?

19 **MS. JANICE CHARETTE:** I'm sure everybody would
20 have liked to have it happen faster, but I think in terms of
21 making sure that -- I think issues of officer safety, and so on,
22 were taken into consideration, that a peaceful resolution is
23 really the most important criteria, and if takes a week, it
24 takes a week, sir.

25 **MR. THOMAS McRAE:** Thank you. I'm just tying up
26 something you said earlier, and then I'll be done.

27 There is evidence before this Commission that,
28 for example, if there's a car crash on the Ambassador Bridge, it

1 is the Windsor Police who respond. Did you know that?

2 **MS. JANICE CHARETTE:** I did not know that.

3 **MR. THOMAS McRAE:** Okay. Those are my questions.

4 Thank you very much for your time and have a good
5 evening.

6 **MS. JANICE CHARETTE:** Thank you.

7 **MS. NATHALIE DROUIN:** Thank you.

8 **COMMISSIONER ROULEAU:** Okay, thank you.

9 Next, I'll call on he Province of Alberta,
10 please.

11 **--- CROSS-EXAMINATION BY MS. STEPHANIE BOWES:**

12 **MS. STEPHANIE BOWES:** Good evening. My name is
13 Stephanie Bowes; I'm counsel for the Province of Alberta.

14 Ms. Charette, I believe that your evidence today
15 was that you learned about the arrests in Coutts sometime on the
16 morning of February 14th; is that correct?

17 **MS. JANICE CHARETTE:** That is what I said, ma'am.

18 **MS. STEPHANIE BOWES:** Okay. And this Commission
19 has heard evidence that the arrests and the discovery of cache
20 of weapons by the RCMP was a trigger for the protesters involved
21 in the Coutts blockade to indicate a desire to leave the protest
22 and that their intent to do was communicated to the RCMP that
23 day. Did either you or Madam Drouin learn that the protesters
24 indicated an intent to leave the protest site?

25 **MS. NATHALIE DROUIN:** Well, I was not aware of
26 that. No, that's not true. I have heard about potential
27 breakthrough in Coutts. And when it comes to your previous
28 question, we were aware of potential presence of firearms in

1 Coutts, but prior to the enforcement action, we didn't know
2 about the cache.

3 **MS. STEPHANIE BOWES:** Okay. But in terms of a
4 breakthrough in Coutts, at least with respect to the protesters
5 clearing the site and no longer blockading the port of entry,
6 when did you learn about that?

7 **MS. NATHALIE DROUIN:** So what I can -- so what I
8 do recall during the FMM meeting, is Alberta being afraid that
9 invoking the *Emergency Act* can put, you know, potential
10 breakthrough in danger in Coutts. So we were aware that it was
11 imminent.

12 **MS. STEPHANIE BOWES:** Okay, thank you.

13 Now, in your decision document for the Prime
14 Minister -- which, for the record is SSM.NSC.CAN.00003224.
15 We've looked at it a number of times today; I don't intend to
16 bring it back up, but was invoking the *Emergencies Act* the only
17 option presented to the Prime Minister in that document?

18 **MS. JANICE CHARETTE:** It was the decision that
19 was sought in this document.

20 **MS. STEPHANIE BOWES:** Okay.

21 **MS. NATHALIE DROUIN:** But just to be clear, and I
22 think that if you look at the many IRG trackers, many, many
23 other options have been looked at, and the Prime Minister was
24 present during the conversations when we looked at the different
25 options.

26 **MS. STEPHANIE BOWES:** All right.

27 **MS. JANICE CHARETTE:** So fair to say, then, this
28 was a decision note by the specific decision that was being

1 sought, and there were other activities underway with the Prime
2 Minister's full knowledge.

3 **MS. STEPHANIE BOWES:** Okay. So at that time, the
4 only option was *Emergencies Act*, yes or no.

5 **MS. JANICE CHARETTE:** No, ma'am, that was not
6 what I said.

7 **MS. STEPHANIE BOWES:** No, I ---

8 **MS. JANICE CHARETTE:** The option in the notes ---

9 **MS. STEPHANIE BOWES:** Yes, that's what I -- and
10 I'll clarify; that's what I mean, in the decision document.

11 **MS. JANICE CHARETTE:** The Prime Minister can
12 decide to invoke; he can decide not to invoke; he can decide to
13 ask for more information; he could call for a meeting. I mean,
14 he has a number of options available to him. To invoke, not to
15 invoke would be two very obvious ones, to be fair, Ms. Bowes,
16 but the Prime Minister can write us back and say, "No," or call
17 and say, "There are alternative courses I'd like to pursue."

18 **MS. STEPHANIE BOWES:** And did any of that happen?

19 **MS. JANICE CHARETTE:** We got an affirmative
20 decision to invoke the *Emergency Act* and to proceed with the
21 implementation.

22 **MS. STEPHANIE BOWES:** All right, thank you.

23 And Madam Drouin, I believe your evidence today
24 was that Canada first started thinking about the *Emergencies Act*
25 in the context of these protests after the DMOC on February 9th;
26 is that correct?

27 **MS. NATHALIE DROUIN:** That's what I said, yeah.

28 **MS. STEPHANIE BOWES:** Okay. And then the two-

1 track process where the *Emergencies Act* was identified as track
2 2 was started on February 12th? No?

3 **MS. NATHALIE DROUIN:** Well, I think we also talk
4 about, you know, the predecessor of the two-tracks document,
5 which was a document developed by Jacquie Bogden, I think the
6 following night.

7 So we started the two tracks at the beginning, I
8 think. We were talking about Plan E -- Plan A and Plan B, but
9 -- so it was -- you know, I think it was before the one on the
10 12th, maybe more the one on the 10th that we first had developed
11 the Track 1 and Track 2 document.

12 **MS. JANICE CHARETTE:** We were ---

13 **MS. STEPHANIE BOWES:** All right.

14 **MS. JANICE CHARETTE:** May I add? We were doing
15 our homework on the 9th to feed into deliberations which became
16 the Incident Response Group on the 10th, and then that homework
17 came back on the 12th with work that had been done after the IRG
18 on the 10th, through the 11th, and back into Ministers on the
19 12th.

20 **MS. STEPHANIE BOWES:** All right. And there's
21 nothing in the *Emergencies Act* that prevented the Government of
22 Canada from beginning consultation with the First Ministers on
23 February 9th; correct?

24 **MS. NATHALIE DROUIN:** So on February 9, the --
25 not the decision but the path of using the *Emergency Act* was not
26 sufficiently developed to consult. Like, it was one of the
27 things, one of the options we were working on, but we were not
28 in a position at that time, because it was not serious enough as

1 an option to start the consultation.

2 I'd like also to add something. I receive a
3 question earlier this afternoon about, you know, another
4 consultation we did on the *Emergency Act* in relation with COVID.
5 And the situation was quite different.

6 Remember that we also discussed today that the
7 moment we talk about the *Emergency Act*, that can trigger some
8 reactions, and that was the CSIS assessment on the risk of
9 triggering or invoking the *Emergency Act*. So we were quite
10 aware that the moment that we talk publicly about the *Emergency*
11 *Act*, the timeline to take a decision is very short. It can be a
12 go or no go, but you cannot wait.

13 You cannot put that in the domain without taking
14 a decision. And what we were afraid happened very rapidly. The
15 moment we hang off the call on the FMM, it was already out there
16 that we were thinking about the *Emergency Act*.

17 So this is why, you know, we were very concerned
18 and -- *concerne* that talking about the *Emergency Act* will
19 request a very rapid decision; a no or a yes but a rapid
20 decision.

21 **MS. STEPHANIE BOWES:** Okay. So there was a
22 concern there, but certainly no limit on the ability of the
23 Government of Canada to start a consultation process?

24 **MS. NATHALIE DROUIN:** I think what I've said is
25 that -- you know, contrary to the virus, you can talk about
26 publicly that you are thinking about using the *Emergency Act*.
27 You can develop, you know, language. You can put in writing
28 proposals to provinces, receive their comment, and that will not

1 change how the virus behaves.

2 If you engage in a more lengthy process when it
3 comes to protests, that can change how the protest will evolve
4 and how protesters will behave. So this is why we were
5 concerned that the time limit to take -- to make a decision was
6 very very short, the moment it was public and out there that we
7 were considering invoking the Emergency Act.

8 **MS. STEPHANIE BOWES:** And then you would agree
9 that that concern which limited the amount of time that you felt
10 could be given to the First Ministers before they were
11 consulted, meant that the First Ministers weren't able to
12 prepare for that meeting and have briefing from within their
13 public service, from the experts who understand the legislation,
14 the powers, that exist in the province, the resources that exist
15 in the province, and what the police have jurisdiction in the
16 province might need if the *Emergencies Act* were going to be
17 invoked.

18 **MS. NATHALIE DROUIN:** I think this is why, you
19 know, after the FMM we -- well, first of all, all the
20 conversations, all the FPT engagement, prior to the formal
21 consultation on the 14th really supported and feed also our
22 decision and our assessment on whether or not a single province
23 can deal with the situation.

24 But this is why after the FMM we maintained open
25 channels with provinces. We offered a briefing and you know, we
26 were also, if I may say, comfortable with the fact that the
27 *Emergency Act* was time limited, that we were not displacing any
28 provincial jurisdiction, that any law enforcement was not also

1 displaced. They were able to continue to exercise their
2 authorities. So we also find comfort with that and also, as I
3 said, we maintained the channel open and we were also offering
4 possibility, for example, to amend the two measures that we were
5 proposing.

6 **MS. STEPHANIE BOWES:** All right. Thank you.
7 Those are my only questions tonight.

8 **COMMISSIONER ROULEAU:** Okay. Next I'd like to
9 call on the National Police Federation.

10 **UNKNOWN SPEAKER:** Commissioner, they've ceded
11 their time.

12 **COMMISSIONER ROULEAU:** They've ceded their time
13 to -- do we know who to?

14 **UNKNOWN SPEAKER:** Just at large so we can get out
15 of here five minutes earlier.

16 **COMMISSIONER ROULEAU:** Okay. So we can ---

17 **MS. JANICE CHARETTE:** Thank you.

18 **COMMISSIONER ROULEAU:** Okay. Well then, the
19 Government of Canada doesn't get it. And they are next.

20 **MS. DONNAREE NYGARD:** You'll be happy to know,
21 Commissioner, on a Friday evening that I have no questions for
22 these witnesses.

23 **COMMISSIONER ROULEAU:** Okay. Any re-examination?

24 **MS. SHANTONA CHAUDHURY:** No re-examination,
25 Commissioner.

26 **COMMISSIONER ROULEAU:** Okay. Well, I just have a
27 few short questions. And if you would tolerate this with me.

28 And forgive me while I try and find them.

1 In your drafting of a proposal and the timing for
2 the decision by the Prime Minister, did you consider the
3 appropriateness or desirability of scheduling a debate in
4 Parliament, not a vote, just a debate to consult, because this,
5 the *Emergencies Act* is a delegation from the Legislative to the
6 Executive. Was that considered and discarded or was that not
7 considered -- and any comments you may have on that.

8 **MS. JANICE CHARETTE:** Thank you, Mr.
9 Commissioner. I believe I mentioned earlier that there had been
10 a debate in the House of Commons on February the 7th which would
11 have been, I think, in the form of a take note debate, on the
12 situation overall. It wasn't specifically based on the
13 Emergency Act.

14 I think as with respect to the role of Parliament
15 in -- and consideration of the role of Parliament, in the
16 invocation note I think I indicated to the Prime Minister the
17 broad outlines of the role of Parliament but I haven't gone into
18 detail. And there was subsequent advice that was provided to
19 him around that.

20 I think it does come back to the point that Mme
21 Drouin was making. The sequence of events from the IRG on the
22 afternoon of the 13th, into Cabinet the night of the 13th, into
23 the FMM the next day, the Prime Minister's times and space for
24 final deliberations, mine -- to give him my advice sounds like a
25 long time. It wasn't a lot of time at this point. And it was
26 also -- we were anxious that that news getting out there, that
27 information getting out there would have had an effect, a cause
28 and effect on the nature of what was happening. And it was

1 already a volatile situation.

2 And so there was to be a debate in the House of
3 Commons. There was to be a vote in the House of Commons. And I
4 would say that we thought that that was the Parliamentary
5 process to be followed in this case.

6 I was going to say something else.

7 I believe the Prime Minister had a consultation
8 with the leaders of the Opposition -- in addition, I believe Mr.
9 Thomas, their National Security and Intelligence Advisor
10 referred to this -- on the evening of the 10th, so after the first
11 IRG meeting. I believe the Prime Minister had a conversation
12 with the leaders of the Official Opposition including Ms. May at
13 the time, to talk to them about the situation.

14 So there was a Parliamentary debate on the 7th.
15 There was that telephone call consultation, not on the EA again,
16 sir, to be clear, but on the general situation. And then we
17 were into the invocation process.

18 **COMMISSIONER ROULEAU:** Okay. I'm going to ask
19 you this couple of questions just with respect to the national
20 scope of the order, and I think you've addressed it -- I'll call
21 it one dimension that it was a national issue.

22 But was part of that consideration the use of
23 federal powers such as the Bank Act which are -- because of the
24 economic measures, I guess the Deputy Minister Sabia said money
25 is fun to his -- were those considerations on whether you would
26 do national or limited?

27 **MS. JANICE CHARETTE:** I'll try and answer your
28 question. If I don't get it right, perhaps you can correct me,

1 sir.

2 But when we thought about both the nature of the
3 situation we were facing was national in terms of how it was
4 manifesting in different parts of the country. But also, the
5 people who were participating -- let's say the truckers in
6 Ottawa, for example. They didn't just come from Ontario. They
7 came from right across the country.

8 And so to be able to use a deterrence measure to
9 try and encourage people to go home, a deterrence measure -- and
10 that was probably what lay behind the use of the emergency
11 economic measures. We were trying to get people to go home.
12 And the freezing of the assets was a pretty important powerful
13 incentive to go home.

14 Those truckers weren't all from Ontario. They
15 were from across the country so the use of a national tool,
16 national legislation, allowed us to make sure that we were
17 capturing not just, you know, the people who might have been
18 from the particular site that we were dealing with.

19 Mme. Drouin, do you want to add ---

20 **MS. NATHALIE DROUIN:** That's perfect. I just
21 want to add that I don't know if it was during the FMM or the
22 following briefing that I did with provincial and territories,
23 when I was asked, you know, why don't we use the *Emergency Act*
24 for only one province or two provinces, my answer was what the
25 clerk said, i.e., the movement of protesters and the risk of
26 having popups all across Canada, but also exactly what you said,
27 that in order for the economic measures to be effective they
28 have to apply Canada-wide.

1 And I think I have said that also during my
2 interview.

3 **MS. JANICE CHARETTE:** The financial institutions,
4 for instance, that would be involved across the country.

5 **COMMISSIONER ROULEAU:** Which gets me to an answer
6 you gave, Mme. Drouin, and I'm just going to press it a bit.
7 You said the declaration did not displace provincial
8 jurisdictions, I think you said.

9 **MS. NATHALIE DROUIN:** Yeah.

10 **COMMISSIONER ROULEAU:** That's not quite correct.
11 Some of the provincial powers were interfered with. I'm not --
12 I don't mean that negatively but that's one of the aspects of
13 this declaration, is it does override the provincial in certain
14 respects.

15 **MS. NATHALIE DROUIN:** So with the measure we have
16 adopted, we -- our views was that nothing was displaced. Like,
17 the provinces could continue to exercise their authorities. For
18 example, what we did for financial institutions or the power
19 with FINTRAC, this is already federal jurisdiction, and we have
20 already authorities ---

21 **COMMISSIONER ROULEAU:** No, I ---

22 **MS. NATHALIE DROUIN:** --- to do that. So we
23 haven't -- and I think it's -- sorry to interrupt you.

24 **COMMISSIONER ROULEAU:** No, I just wanted to
25 direct -- for example, your dealing with Caisse Populaire,
26 that's -- and you're directing Caisse Populaire; that's
27 provincial jurisdiction. You overrode the way federal police
28 officers would -- could become peace officers in the province.

1 So there were -- I don't know. I mean I'm ---

2 **MS. NATHALIE DROUIN:** I ---

3 **COMMISSIONER ROULEAU:** I'm not giving you legal
4 advice. I'm ---

5 **MS. NATHALIE DROUIN:** Yes, but I would ---

6 **COMMISSIONER ROULEAU:** I'm raising those points
7 and saying ---

8 **MS. NATHALIE DROUIN:** I would submit, for
9 example, that Desjardins est déjà assujetti à FINTRAC.

10 **COMMISSIONER ROULEAU:** Yeah, but not the freezing
11 of the accounts.

12 **MS. NATHALIE DROUIN:** Mais on peut avoir des --
13 par exemple, on peut avoir des autorités ou des régulateurs
14 fédéraux ---

15 **COMMISSIONER ROULEAU:** M'hm.

16 **MS. NATHALIE DROUIN:** --- qui donnent des
17 ordonnances a des institutions financières comme les caisses
18 populaires, donc c'est possible pour une entité fédérale de
19 soumettre à certains ordonnances ou à certains règlements les --
20 c'est possible pour Desjardins et d'autres coopératives
21 financières d'être soumis or sujet à des ordonnances fédérales.

22 **COMMISSIONER ROULEAU:** Oui, mais la question
23 c'est, comment vous rendez la et si vous déplacer. Puis,
24 l'autre exemple tu as donner c'est les GRC avais doit de devenir
25 sans passer par le processus provincial pour devenir la paix.
26 Puis je ne sais pas. Je demande la question. C'est juste pour
27 comprendre la portée de l'ordonnance au niveau du partage de
28 pouvoir.

1 **MS. NATHALIE DROUIN:** Peut-être c'est une
2 question de mot, puis je pense que nos avocats will have the
3 opportunity to submit -- to submit factums, but I think when I
4 say "displaced" it means that what were offering was in addition
5 of what provinces and law enforcement agencies can do. Like,
6 this is what I mean by "not displacing". It was supplementing -
7 --

8 **COMMISSIONER ROULEAU:** M'hm. So I totally
9 understand ---

10 **MS. NATHALIE DROUIN:** --- and introducing ---

11 **COMMISSIONER ROULEAU:** Yeah, I understand the
12 intention, and maybe it's a quibble, but I was -- just wanted to
13 raise it because it's -- I think the issue of federal/provincial
14 is simply what I have -- wanted to raise with you.

15 **MS. JANICE CHARETTE:** Commissioner, could I take
16 up the matter of the RCMP ---

17 **COMMISSIONER ROULEAU:** Yes.

18 **MS. JANICE CHARETTE:** --- point. And no doubt
19 our fantastic legal advisors will correct me if I'm wrong in
20 their eventual information they'll file before you, but I
21 believe what we were trying to achieve there was a facilitation
22 ---

23 **COMMISSIONER ROULEAU:** Sure.

24 **MS. JANICE CHARETTE:** --- tool that was available
25 to be taken up, not something that was being force on. So it
26 was discretionary as opposed to obligatory, if that's -- so --
27 maybe -- I'm not trying to quibble either. I'm trying to ---

28 **COMMISSIONER ROULEAU:** No, no, I ---

1 **MS. JANICE CHARETTE:** --- maybe help you
2 understand.

3 **COMMISSIONER ROULEAU:** I'm just raising these
4 things ---

5 **MS. JANICE CHARETTE:** Yeah.

6 **COMMISSIONER ROULEAU:** --- because obviously
7 that's part of the exercise.

8 **MS. JANICE CHARETTE:** Of course.

9 **COMMISSIONER ROULEAU:** And it's an odd process,
10 to say the least.

11 Those are all the questions I had, other than to
12 thank you very much for taking the time, especially on a Friday,
13 and to allow us to have extended it beyond what was planned. So
14 thank you very much and we'll adjourn until 9:30 on Monday
15 morning.

16 **THE REGISTRAR:** The Commission is adjourned. La
17 Commission est ajournée.

18 --- Upon adjourning at 6:57 p.m.

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

I, Wendy Clements, 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, Wendy Clements, une sténographe officielle, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Wendy Clements