Public Hearing

Commissioner / Commissaire
The Honourable / L’honorable
Paul S. Rouleau

VOLUME 26

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Friday, November 18, 2022

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--- 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.
Bogden, Mr. Hutchinson.

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

DS JACQUELINE BOGDEN: Yes.

MS. SHANTONA CHAUDHURY: Okay. And following that interview, Commission Counsel prepared a summary of that interview. You’ve reviewed that summary?

DS JACQUELINE BOGDEN: Yes.

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

DS JACQUELINE BOGDEN: Yes.

MS. SHANTONA CHAUDHURY: So for the record, that’s WTS00000072. No need to call it up right now, Mr. Clerk. Ms. Bogden, I understand you are the Deputy Secretary of Emergency Preparedness; is that correct?

DS JACQUELINE BOGDEN: Yes, that’s correct.

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

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

MS. SHANTONA CHAUDHURY: Okay. And just so you know, we’re conducting this examination in panel format. I may direct questions to one or the other of you; if I direct it in general, then whoever’s best placed to answer is free to answer. And you can also, of course, jump in if someone else has
something to say about a point I ask.

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

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

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

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

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

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

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

**DS JACQUELINE BOGDEN:** That’s correct.
MS. SHANTONA CHAUDHURY: Okay. Can you explain how that interaction works, and what each of you do to support the Minister?

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

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

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

DS JACQUELINE BOGDEN: It’s all hazards. So you would -- we would be concerned with human-made situations that might arise, you know, such as the protests, the occupation and blockades, but we would also be concerned with any number of natural disasters. Or public health emergencies, like, for
example, you know, part of the genesis of this is we’ve just lived through two and a half years of COVID-19 and all that that has entailed for the country.

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

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

**DS JACQUELINE BOGDEN:** Correct.

**MS. SHANTONA CHAUDHURY:** Okay.

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

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

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

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

**DS JACQUELINE BOGDEN:** Correct.

**MS. SHANTONA CHAUDHURY:** --- the Freedom Convoy in question.
DS JACQUELINE BOGDEN: Correct.

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

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

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

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

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

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

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

MR. JEFFERY HUTCHINSON: That question's for me?

Sorry. There's a framework whereby provinces can make a request for federal assistance in certain circumstances, where they just need help in managing an emergency, and you see that in different situations. So after Hurricane Fiona, for example, you saw the military deployed for sandbagging and logistics and things like that. That's generally done under an RFA.

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

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

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

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

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

DS JACQUELINE BOGDEN: Okay.

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

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

And the objective there is really to make sure that, you know, we're ready to do whatever's needed, the efforts are coordinated, and ideally, that the course of action is effective.
So what we would've been doing in this case, like the Emergency Preparedness Secretariat, you would have heard, for example, from others who testified earlier this week, that there was a governance structure set up at the Deputy Minister level. There was governance that was set up at the ADM level to facilitate that sharing of information.

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

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

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

**MS. SHANTONA CHAUDHURY:** Of course.
DS JACQUELINE BOGDEN: --- just to...

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

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

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

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

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

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

So to get to your question, which is about, you know, when did you know that things were... So I think it became clear to us on Sunday that things... I remember watching the news conference that was held by the organisers of the convoy, where it was made clear that they were staying. And so then we're starting to give some thought to, okay, Parliament is scheduled to return on the Monday, we -- you know, we're still in hybrid format, but we know some ministers are going to be
making a decision to return to Ottawa, either flying in on the Sunday evening or the next day. We need -- you know, presumably the Prime Minister would like some information about whether it's safe and secure for them to do that, how will they access the Hill.

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

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

**DS JACQUELINE BOGDEN:** I don’t.

**MS. SHANTONA CHAUDHURY:** Okay.

**DS JACQUELINE BOGDEN:** I don’t, sorry.

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

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

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

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

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

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

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

DS JACQUELINE BOGDEN: Yeah.

MS. SHANTONA CHAUDHURY: I’ll just stop you there
DS JACQUELINE BOGDEN: Okay.

MS. SHANTONA CHAUDHURY: --- with one question;

which Ministers would have ---

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

MS. SHANTONA CHAUDHURY: Okay.

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

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

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

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

MS. SHANTONA CHAUDHURY: I will.
DS JACQUELINE BOGDEN: Okay.

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

DS JACQUELINE BOGDEN: Okay.

MS. SHANTONA CHAUDHURY: --- the minutes from that first SSE meeting, which is SSM.NSC.CAN00000292. So you can continue, with the benefit of the minutes.

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

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

And so the meeting would’ve proceeded in two ways, as you’ll see reflected in the minutes, asking, you know,
key heads of different institutions to report on the situation; so the Commissioner of the RCMP, I think the Director of the Canadian Security and Intelligence Service also provided an update, probably Deputy Minister Rob Stewart. And the idea there, just like the Ministerial briefings is to give everybody a common understanding of this situation, how it’s evolving, what we know, what we don’t know.

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

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

MS. SHANTONA CHAUDHURY: Okay.

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

Is this the placemat you were talking about?

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

DS JACQUELINE BOGDEN: Yeah, sure. So, you know, like I said, you’re thinking about all of the things that are in area of federal responsibility. So you’re thinking about what authorities do you have; what influence do you have; what
resources do you have; what are the kinds of things that you
could do? So you see on the left-hand side of this document,
the convening and engagement power that -- power; the convening
and engagement sort of influence that the government could bring
to bear.

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

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

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

**DS JACQUELINE BOGDEN:** I don’t know if it’s
attempting to sort out the jurisdiction, because I think
jurisdiction is clear, ---
MS. SHANTONA CHAUDHURY: Okay.

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

MS. SHANTONA CHAUDHURY: So to put it a slightly different way, “What can we do within our jurisdiction?”

DS JACQUELINE BOGDEN: Totally.

MS. SHANTONA CHAUDHURY: Okay.

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

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

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

MS. SHANTONA CHAUDHURY: Okay. And then, so how does that lead in to the next meeting of the SSE, which I believe was February 6th?
DS JACQUELINE BOGDEN: Yeah. So, you know, as we expected, that weekend there was an increase in protest activity. And you know, we, you know, not only saw an increase in protest activity in Ottawa and in Coutts. You know, you saw the situation expand into B.C., Manitoba now, in central Canada. You know, we're seeing similar slow roll protests in Toronto and in Quebec City. Fortunately, those two jurisdictions learned a little bit about the experience in Ottawa and were able to manage those situations differently, and it didn't result in, you know, what we were seeing happen in Ottawa.

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

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

DS JACQUELINE BOGDEN: Correct.

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

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

MS. SHANTONA CHAUDHURY: Yeah.

DS JACQUELINE BOGDEN: So looking for,
"...federal assistance that includes
the provision of equipment and
personnel to move approximately 70
semi-[truck] trailers and approximately
75 personal and recreational vehicles
from the area."

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

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

And as Jeff explained ---

COMMISSIONER ROULEAU: Can I just interrupt,
please?

DS JACQUELINE BOGDEN: Oh, slow down.

COMMISSIONER ROULEAU: Slow down a bit for the
interpreters, please.

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

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

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

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

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

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

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

**DS JACQUELINE BOGDEN**: Yeah. So we're on February 5th. We received this request, and I'm not entirely certain if we knew then, or we knew on Sunday, but we were anticipating an additional request for assistance from the City of Ottawa, looking for additional resources to help the Ottawa Police Service. So by Saturday, we had decided, okay, we need
to bring Ministers together again on Sunday night, so we began
the preparations for that discussion on Sunday night.

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

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

**MS. SHANTONA CHAUDHURY:** Sorry?

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

**MS. SHANTONA CHAUDHURY:** Oh, very good memory.

Okay. So -- yes, can you situate us for this meeting, how it
took place and what was discussed?

**DS JACQUELINE BOGDEN:** So, I mean, this meeting
was, you know, similar to the meeting that we had on Tuesday
night in that it sort of was transacted in two ways. One was to
update Ministers on the situation as we knew it at that point in
the afternoon, and those briefings would have been delivered as
they were on the Thursday night, you know, by the Commissioner
of the RCMP, the Director of CSIS, and others to make sure that
Ministers had an up-to-date situational awareness. And then
there would have been a follow-up discussion about, you know,
we've seen an escalation of protest activity over the weekend.
You know, we're going into week two now of this, and what
additional things -- you know, picking up from the conversation
on Thursday and over the weekend, because remember, we're still
briefing, you know, the core Ministers over the weekend. They
were very seized with this over the weekend. What more should
we consider doing heading into hitting into the week?
So, you know, as an example, one of the ideas that was talked about was should we seek to bring together the representatives of the Ontario government with the Government of Canada and Ottawa, which is what became known as the tripartite discussion or tripartite table. And so that was, you know, one of the -- like, that is, you know, one example of something that would have -- tangible action that would have flowed from that meeting. I would have been asked the next day to organize that meeting and get that started.

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

DS JACQUELINE BOGDEN: Correct.

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

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

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

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

MS. SHANTONA CHAUDHURY: Okay. So can you take
us through that a little bit? You said you were tasked with
setting up the next day.

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

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

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

**DS JACQUELINE BOGDEN:** Right.

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

**DS JACQUELINE BOGDEN:** Correct.

**MS. SHANTONA CHAUDHURY:** Okay.

**DS JACQUELINE BOGDEN:** There was not
representation from Ontario.
MS. SHANTONA CHAUDHURY: Was Mr. Di Tommaso?

DS JACQUELINE BOGDEN: No.

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

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

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BODGEN: Okay.

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

DS JACQUELINE BODGEN: Super. Thank you.

MS. SHANTONA CHAUDHURY: Okay. So that sort of takes us, at this point, to we’re in the second week of protests, getting into that, and then the third and then final, I believe, SSE. So that was February 8th. The document number
Was this one also an ad hoc meeting or was this a regularly scheduled one?

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

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

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

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

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

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

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

**DS JACQUELINE BODGEN:** Yeah.

**MS. SHANTONA CHAUDHURY:** --- a PCO, Mike MacDonald, ---
DS JACQUELINE BODGEN: Yeah.

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

“Genevieve, I am looking at this now and will make changes in track changes […] send back to you…”

DS JACQUELINE BODGEN: Yeah.

MS. SHANTONA CHAUDHURY:

“…my sense is […] we need more info from […] RCMP…”

So this is what you’re discussing?

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

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

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

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

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

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

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

The tow truck strategy, which I think gave everybody gray hair, just thinking of the millions of ways that
we could try to resolve that situation.

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

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

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

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

Find essentially that list that you just described.

DS JACQUELINE BODGEN: Yeah.

MS. SHANTONA CHAUDHURY: Enforcement ---
DS JACQUELINE BODGEN: Oh, perfect. Okay.

Sorry. I should have allowed you to do that. That would give you sort of the kind of lines of effort that we were thinking about. So enforcement, engagement, finance refers to thinking about, you know, one of the -- I talked a little bit about the trucks. One of the other policy problems that we had was the fundraising, you know, and what do we do about the fact that there is a significant amount of money that is being raised that is going to support illegal activity. And what do we do about that?

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

Okay. So do you recall, ---

DS JACQUELINE BODGEN: Yeah.

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

DS JACQUELINE BODGEN: Yeah.

MS. SHANTONA CHAUDHURY: --- that have been discussed?

DS JACQUELINE BODGEN: This was the first cut; right? We’re ---

MS. SHANTONA CHAUDHURY: That’s right.

DS JACQUELINE BODGEN: --- taking information that’s being provided from different organizations. This -- I can’t remember off the top of my head whether this came from the
RCMP or Public Safety, but it would have been one or the both of them.

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

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

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

**DS JACQUELINE BOGDEN:** Yeah.

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

**DS JACQUELINE BOGDEN:** Yeah.

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

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

**DS JACQUELINE BOGDEN:** Correct.

**MS. SHANTONA CHAUDHURY:** So this is the
information that you would have been receiving from Commissioner Lucki and the RCMP?

DS JACQUELINE BOGDEN: Yeah, presumably. Yeah.

MS. SHANTONA CHAUDHURY: Okay.

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

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

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

MS. SHANTONA CHAUDHURY: Okay. So I think that some of those concerns are reflected.
If we just scroll a bit down the document a bit, and then we get to Strategic Enforcement Options.

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

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

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

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

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

**DS JACQUELINE BOGDEN:** Yeah.
MS. SHANTONA CHAUDHURY: Okay.

DS JACQUELINE BOGDEN: Yeah.

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

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

DS JACQUELINE BOGDEN: Yeah.

MS. SHANTONA CHAUDHURY: --- potential disruptions.

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

MS. SHANTONA CHAUDHURY: So both domestically and ---

DS JACQUELINE BOGDEN: Correct.

MS. SHANTONA CHAUDHURY: --- and cross border? Okay.

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

MS. SHANTONA CHAUDHURY: And do you recall having any information at that point that those things might happen?
Any intelligence in that?

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

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

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

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

**DS JACQUELINE BOGDEN:** Yeah.

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

**DS JACQUELINE BOGDEN:** Yeah. As -- like, there's a range of options that we can explore here, right, and we need to -- you know, the idea of potential engagement with the..."
organisers of the protesters, like it's been an idea that was
thought of and talked about, and -- so now starting to put some
definition around well, what would that mean. What would that
involve? Who would do that?

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

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

**DS JACQUELINE BOGDEN:** Yeah.

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

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

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

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

"[Deputy Minister] of [Public Safety]
and NSIA are meeting with senior
levels..."

That's factually true. Where the idea of:

"Engagement could be expanded to
include the [FCM]..."

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

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

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

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

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

**DS JACQUELINE BOGDEN:** That's correct. Yeah.
MS. SHANTONA CHAUDHURY: Yeah. And as we know, there was no representation from Ontario at the political level at that one.

DS JACQUELINE BOGDEN: Correct.

MS. SHANTONA CHAUDHURY: Okay.

DS JACQUELINE BOGDEN: Or the Public Service level.

MS. SHANTONA CHAUDHURY: Okay.

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

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Correct.

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

DS JACQUELINE BOGDEN: Correct.

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

DS JACQUELINE BOGDEN: Yeah.

MS. SHANTONA CHAUDHURY: So presumably this reflects some attempt on the part of the Federal Government to
get that engagement going at a ---

DS JACQUELINE BOGDEN: Yeah.

MS. SHANTONA CHAUDHURY: Okay.

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

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Yeah.

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

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

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

DS JACQUELINE BOGDEN: Yeah, it's part of a communication strategy. It -- I mean, in these kinds of situations, it's really -- it's important to have clarity and
consistency on your communications about the initiative. And I think at this point -- where are we, we're the 9th? We do -- like, the federal government wants to make sure that Canadians understand that, on the one hand, we understand their frustration with COVID and the world that we have all had to live with up until that point, and -- and I didn't read these -- the narrative again before my testimony, but so it's on the one hand ---

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

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

Okay. If we could keep going down?

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

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

And so this kind of notes are kind of put together to help Ministers and others, you know, have a common, consistent message about how do we want to talk about the
situation. Canadians expect to hear from their government.

They want to know what they think. And I think this is an early
draft of that. I think there would have been additional drafts
but ---

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

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

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

**DS JACQUELINE BOGDEN:** Yeah.

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

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

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

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

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

**DS JACQUELINE BOGDEN:** Okay. So at the top of the email -- here I'm just -- you know, the document that you had projected earlier was an earlier version, right, like, a first cut. And here I'm just saying to them, so we've done the best we can to not just take the input from the departments but try to put it together in a way that might be thoughtful. I think, you know, with the emphasis on enforcement, both in Ottawa and Windsor, and I've kind of put it into, you know, Plan A is provide resources, you know, whatever's needed to help resolve, and, you know, if that's not successful, what else do we need to be thinking about? And that's always the world we're in is what can we do within existing resources. And when that doesn't work or the situation escalates, or deteriorates, however you want to characterize it, you need to be thinking about what is Plan B, you know, what other -- you can call it
Plan B or you could call it Track 2, but you need to be thinking about what other options that you might need to be thinking about.

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

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

**DS JACQUELINE BOGDEN:** Yeah.

**MS. SHANTONA CHAUDHURY:** —— in the IRG tracker?

**DS JACQUELINE BOGDEN:** Yeah.

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

**DS JACQUELINE BOGDEN:** Yeah.

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

"We [...] have a Tripartite table [you say] booked at 12:[...]pm for federal Ministers, hopefully the Ontario Minister and Mayor Watson and
officials. I will check in the morning whether the Ontario Minister [...] has accepted the meeting or not."

Do you recall whether she did, whether she attended?

DS JACQUELINE BOGDEN: No.

MS. SHANTONA CHAUDHURY: Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And based on those conversations, Deputy Minister Stewart put together a piece of paper, which I know is in the
minutes from a subsequent IRG meeting, he put together a proposal for consideration at the IRG.

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

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

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

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

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

**MR. JEFFERY HUTCHINSON:** Correct. I think that -- I probably shouldn’t have used that expression because it’s a bit of an idiom, but that comes from previous -- a previous stage of my career. But the discussion around engagement was essentially rendered moot by the events of the next couple of days, including the IRG and the Cabinet meeting, and then eventually the invocation of the Act.
DS JACQUELINE BODGEN: And maybe, you know, the, sort of what happened in Windsor; right? The Ontario Government had attempted to do that and it wasn’t fruitful. So I think that would also be one of the considerations.

MS. SHANTONA CHAUDHURY: Fair enough.

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

MR. JEFFERY HUTCHINSON: No, I was done.

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

MR. JEFFERY HUTCHINSON: I wouldn’t necessarily have, like, first hand knowledge of that. I have no issue with his characterization.

MS. SHANTONA CHAUDHURY: Okay. Fair enough.

Okay. The last area I want to address with you briefly, Mr. Clerk, if you can pull up SSM.CAN.00000429?

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

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

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

“Good morning
Jeff has put pen to paper...”

Jeff here would be you, Mr. Hutchinson?

MR. JEFFERY HUTCHINSON: Correct.

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

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

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

Earlier in the day, the National Security and Intelligence Advisor had reached out to the Deputy community implicated and asked, you know, essentially, “What’s your assessment of where we’re at with the need for the Emergencies Act?” And after that step, she turned to me and said, “Can you put some ideas on paper?”
Unlike invocation, my understanding of the Act is that it doesn’t have specific criteria or a test for revocation, and so we were looking to put together policy advice on when revocation was appropriate.

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

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

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

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

In this email exchange that you have pulled up,
you see some back and forth with some Deputy Ministers, and
Deputy Mike Keenan in particular used some language about,
“Okay, these factors may be indicators of the sort of things
we’re looking at but what this really comes down to is; is it
necessary? Is it still necessary?” And the way I understood
that language and the way I tried to use it from that point was
you have to understand your threat level and then you have to
understand whether that threat is manageable within the existing
authorities, meaning outside of the Emergencies Act, or whether
you still need the leverage of the Emergencies Act to address
the threat that you’ve assessed.

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

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

**MR. JEFFERY HUTCHINSON:** Yeah, I guess that’s a
fair characterization.

**MS. SHANTONA CHAUDHURY:** Okay. Subject to that,
those are my questions for you. But before I sit down, is there
anything that we haven’t discussed today that you would like to
raise?
DS JACQUELINE BOGDEN: No.

MS. SHANTONA CHAUDHURY: This may be a record. I think we’re about five minutes early; this may be the only examination that has ended early.

Thank you very much.

COMMISSIONER ROULEAU: I think there may have been one other, but this is -- and it may have been you, but I think it’s a good sign.

So we can turn to the convoy organizers, please.

MR. BRENDAN MILLER: Sir, the Democracy Fund is going to go first. I just need to get some things done, if that’s okay?

COMMISSIONER ROULEAU: Okay. Democracy Fund first.

(SHORT PAUSE)

--- CROSS-EXAMINATION BY MR. ALAN HONNER:

MR. ALAN HONNER: Good morning, Ms. Bogden, good morning, Mr. Hutchinson.

DS JACQUELINE BOGDEN: Good morning.

MR. ALAN HONNER: My name is Alan Honner, and I’m lawyer at the Democracy Fund. I just have a few questions for you.

And I apologize; I arrived a little bit late today, and I had to listen to some of your evidence in my car. And so I just want to confirm; at the SSE meetings, the RCMP Commissioner and the CSIS Director would provide situational updates to Ministers such as Minister Blair and Minister Mendicino?
DS JACQUELINE BOGDEN: They would have been there, yes. They are members of that committee, yeah.

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

DS JACQUELINE BOGDEN: Correct.

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

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

MR. ALAN HONNER: But they were sometimes present?

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

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

DS JACQUELINE BOGDEN: Correct.

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

DS JACQUELINE BOGDEN: Not full Cabinet, no.

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

DS JACQUELINE BOGDEN: Oh yes, sorry. Sorry; when you -- sorry; yes, that is correct. Yes, sorry. I was thinking about the normal regularly scheduled Cabinet meetings as opposed to the one we had on...
MR. ALAN HONNER: That’s fine. And Mr. Hutchinson, you were there as well, I understand.

MR. JEFFERY HUTCHINSON: I believe so.

MR. ALAN HONNER: Okay. And that was the last Cabinet meeting before the invocation of the Emergencies Act. Can we please pull up SSM.NSC.CAN00000242_REL.0001?

(SHORT PAUSE)

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

DS JACQUELINE BOGDEN: That’s what it looks like, yeah.

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

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

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

“City of Ottawa [agreed] announced an agreement with protest leader (Tamara Lich) that could lead to
[approximately] 70 per cent of trucks and cars [leaving]...residential areas in the downtown...[for] the next 24 hours..."

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

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

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

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

So to Windsor, we have an update:

“As of [February 13th], police enforcement actions continue with reports of arrests being made and vehicles towed.”

**DS JACQUELINE BOGDEN:** Correct.

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

**DS JACQUELINE BOGDEN:** Correct.

**MR. ALAN HONNER:** Okay.

And can we scroll down some more, please? A little bit more. More, please. Okay.
So Emerson, Manitoba:

“As of [February 13th], the blockade remains north of the POE.”

If we look down to Coutts:

“All services have been temporarily suspended at Coutts POE as of [1400 hours Eastern time]...”

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

**DS JACQUELINE BOGDEN:** We didn’t know that then, that evening.

**MR. ALAN HONNER:** Right.

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

**MR. ALAN HONNER:** Okay.

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

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

So Sarnia,

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

Fort Erie, [Ontario]:

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

And if we look down below,
"Toronto [...] :
No major impacts reported from protest activity."

And can we scroll down a little bit more, please?

Now we see Winnipeg, no major impacts. Fredericton, no major impacts.

"Cornwall, Ontario:
As of 13[th] Feb[ruary], the Cornwall POE remains open."

We see that?

**DS JACQUELINE BOGDEN:** Yeah.

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

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

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

Can you remind us what RRM is, please?

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

DS JACQUELINE BOGDEN: --- Global Affairs.

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

JMR. JEFFREY HUTCHINSON: I don't know that acronym.

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

DS JACQUELINE BOGDEN: Correct.

MR. ALAN HONNER: --- interference.

DS JACQUELINE BOGDEN: Correct.

MR. ALAN HONNER: Right?

DS JACQUELINE BOGDEN: They ---

MR. ALAN HONNER: Okay.

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

MR. ALAN HONNER: That's fine.

DS JACQUELINE BOGDEN: --- description is correct.

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

"CSIS/CSE:

No concerns at [that --] this time.

Social Media Analysis:

I won't go through it, but let's look at the overall assessment here. And what we see if a remark that, "The majority of the events have been peaceful." Now what I want to ask you, based on, you know, everything -- all the meetings you've attended up until that point, all the briefings you've
attended up until that point, do you think this document leaves out anything important, other than things that are privileged?

DS JACQUELINE BOGDEN: Does it leave out anything important?

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

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

MR. ALAN HONNER: Fair enough.

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

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

DS JACQUELINE BOGDEN: Right.

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

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

MR. ALAN HONNER: M'hm.

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

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

MR. ALAN HONNER: M'hm.

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

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

DS JACQUELINE BOGDEN: Yeah.

MR. ALAN HONNER: Okay.

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

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

DS JACQUELINE BOGDEN: --- delays, okay, but we
did have an instance, right, where the RCMP has charged four
individuals who have broken through an RCMP barricade there.
I'm sorry, I made you hit your time.

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

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

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

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

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

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

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

DS JACQUELINE BOGDEN: Yeah, that may be.

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

DS JACQUELINE BOGDEN: Okay.
COMMISSIONER ROULEAU: Thank you. Next the Convoy Organizers, please.

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

MR. BRENDAN MILLER: Good morning.

DS JACQUELINE BOGDEN: Good morning.

MR. JEFFREY HUTCHINSON: Good morning.

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

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

DS JACQUELINE BOGDEN: Yes.

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

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

MR. BRENDAN MILLER: Right.

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

MR. BRENDAN MILLER: But and you -- you, again, you do it yourself at times; right? You, within your Ministry, because it's -- you agree that there's legislation sets out what you can do and what you can't do; is that fair?
DS JACQUELINE BOGDEN: So, well, the first part of your question, no, I don't interpret legislation on my own, and I believe the second part of your question is correct. You know, Parliament passes legislation that sets out what their vision and intent for legislation is. And in some cases, it says what you can, and you can't do.

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

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

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

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

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

DS JACQUELINE BOGDEN: I think ---

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

Okay. Can we scroll down, please? Scroll down. Scroll down. And scroll down. There we go. Thank you. Okay. This is one of the Commission documents, and I just want to know if this is your understanding and was your understanding at the
time; okay? This is something that the Commission has wrote. And it says,

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

Do you have any reason to disagree with that?

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

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

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

MR. BRENDAN MILLER: Okay.

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

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

DS JACQUELINE BOGDEN: Me, personally? No.

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

DS JACQUELINE BOGDEN: There would have been discussions about this, but I think those questions, you know, about -- were, you know, put to the National Security
Intelligence Advisor yesterday, and I would defer to whatever answer she provided to the Commission yesterday on these questions.

MR. BRENDA MILLER: Okay.

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

MR. BRENDA MILLER: Right. And ---

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

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

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

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

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

MR. BRENDA MILLER: Okay. We have not heard, we've heard all of law enforcement so far testify, and it
doesn't appear that anyone in law enforcement advised them that the threshold to invoke the CSIS Act was met. Do you agree with that?

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

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

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

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

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

**MR. BRENDAN MILLER:** So it's fair to say that the things that you were a party to, you didn't know about the undercover operation in Coutts or the individuals there, what they were up to?
DS JACQUELINE BOGDEN: No. I was aware that there was a threat of violence, that there was thought to be firearms involved ---

MR. BRENDAN MILLER: Right.

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

MR. BRENDAN MILLER: Right.

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

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

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

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

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

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

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

THE REGISTRAR: The Commission is in recess for 15 minutes. La Commission est levée pour 15 minutes.
--- Upon recessing at 11:14 a.m.
--- Upon resuming at 11:30 a.m.

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

--- DS JACQUELINE BOGDEN, Resumed:
--- MR. JEFFERY HUTCHINSON, Resumed:

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

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

COMMISSIONER ROULEAU: Okay. Thank you.

Next, the Ottawa Police Service, please.

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

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

DS JACQUELINE BOGDEN: Good morning.

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

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

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

MR. DAVID MIGICOVSKY: Right. And a passage was
read out to you that -- indicating that there was strong
reluctance to commit without some details as to how the
resources were going to be used. Do you recall that?

DS JACQUELINE BOGDEN: If that’s what the record
says, then yes.

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

DS JACQUELINE BOGDEN: I believe so. Like that’s
my understanding of what I heard, yeah.

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

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

MR. DAVID MIGICOVSKY: No, it wasn’t.
And it wasn’t a meeting, I don’t think, that you
were at, so I wasn’t certain if you were aware.

DS JACQUELINE BOGDEN: Okay. No, I’m not aware
of that.

MR. DAVID MIGICOVSKY: And I think the comment
was also in a document -- I don’t think you were taken to that
specific passage, but I believe the comment also appeared in the
February 9th email in which you specifically noted to your
colleague a need for more information on the outline of the OPS enforcement plans. Do you recall that?

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

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

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

**DS JACQUELINE BOGDEN:** Correct.

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

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

**MR. DAVID MIGICOVSKY:** Thanks.

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

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

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

    And if you’d just look at the first bullet in
that email:

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

So that’s what happened in Windsor; correct?

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

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

MR. DAVID MIGICOVSKY: Right.

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

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

DS JACQUELINE BOGDEN: Correct.

MR. DAVID MIGICOVSKY: --- you understand;
correct?

DS JACQUELINE BOGDEN: Correct.

MR. DAVID MIGICOVSKY: Not by the federal.

DS JACQUELINE BOGDEN: Correct.

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

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

MR. DAVID MIGICOVSKY: Sure. And sorry, the one final question, and I’ll just show you the document, is SSM.CAN00000148.

Is a -- and so it starts on January 14th. It’s a timeline and you’ll see there’s a column “Significant developments”, “Federal decisions”, then “Meetings” and so it goes all the way down to -- page 21 takes us to the Prime Minister invoking the Emergencies Act on February 14th.

And I will not see in the column of “Federal decisions” any engagement by the federal government with the protestors. Is that fair?

DS JACQUELINE BOGDEN: Correct.

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

DS JACQUELINE BOGDEN: Thank you, sir.

MR. DAVID MIGICOVSKY: Thank you.

COMMISSIONER ROULEAU: Okay. The next is the
OPP, please.

MS. JINAN KUBURSI: Good morning, Commissioner.
I have no questions. It’s Jinan Kubursi for the OPP.
Thanks.

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

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

COMMISSIONER ROULEAU: Okay. Next is the City of
Windsor.

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

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

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

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

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

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

We will have no questions and we ask that all our
time go to Ms. King for the City of Windsor.
Thank you.
MS. JENNIFER KING: Thank you.

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

MR. JEFFERY HUTCHINSON: Yes, that sounds right.

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

MR. JEFFERY HUTCHINSON: I don’t recall that specifically.

MS. JENNIFER KING: Okay. And you’ve discussed today that there’s a risk that the protestors would reassert a presence on the roadways.

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

So we monitored a lot of locations and we also noted from time to time the need for police resources to not only clear but hold. Now, that’s information that I received, obviously, second or thirdhand. That was my understanding, that -- in fact, I tried never to use the words “resolved” or “cleared” because it didn’t seem to describe the situation very accurately.
MS. JENNIFER KING: Right. So I’d ask Mr. Clerk to please pull up WIN0000932.

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

MR. JEFFERY HUTCHINSON: I’ll take your word for it.

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

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

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

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

So the Chief Justice found that:

“...the City has established a strong prima facie case, on a balance of probabilities, that the protesters have breached multiple municipal by-laws and that there is a risk they will continue to do so based on the following uncontroverted evidence:...”
And you’ll see -- I won’t read it all out, but you will see that there’s a number of subpoints here, but the
Chief Justice found that:

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

He found that:

"There is evidence of the protestors’ expressed intent to continue their blockade despite the February 11 Order."

Found that:

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

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

"...including messages of ‘it’s not over,’ ‘we are not done’ and ‘Civil war time.’"

And:

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

So the Chief Justice made these findings and found that:

"The evidence clearly establishe[d] that
[...] the protestors chose to ignore [the Order] and continue[d] to impede and obstruct access to the Bridge [after the Order was granted].”

So were you aware of these findings at the time?

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

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

We’ve also been having some discussion during this hearing about the distinction between lawful and unlawful protests, and I just wanted to show you page 10, paragraph 59. And you’ll see here the Chief Justice refers to the rule of law and states that:

“The rule of law requires that everyone obey the law. Significant, organized, deliberate and persistent defiance of the law and court orders is a serious threat to the rule of law which is one of the foundations of a functioning democracy. The protesters are obliged, as is every Canadian citizen, to follow the law and not breach municipal by-laws or court orders that prohibit unlawful conduct…”
So, you know, I wanted to -- I’m not sure if you have any comments on that, or if you were asked any questions about the distinction between lawful and unlawful protests, but again, the Chief Justice did make findings that the protests were unlawful in Windsor.

MR. JEFFERY HUTCHINSON: Nothing that you’ve raised contradicts the information that I was privy to at the time.

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

MR. JEFFERY HUTCHINSON: Yes, I do.

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

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

I was pretty struck during the summer when the
U.K. could declare a national emergency over heat and take steps
to protect their citizens under national legislation and, to my
knowledge, and I’m learning on the job, as Deputy Stewart
referred to the other day, to my knowledge, we don’t have that
kind of framework. We’ve a little bit more of a patchwork.

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

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

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

MR. JEFFERY HUTCHINSON: Yeah, so taking the
comment in a very general sense, like not commenting on this
situation specifically, we’re well aware from all of the situations that we manage that municipalities tend to be -- and communities tend to be the first responders. And we have to have the systems of support in place. Not that I’m suggesting, in any way, shape, or form that the Federal Government should be out of its lane. That’s not what I’m suggesting. But the lines of support, the lines of communication, the shared planning where necessary, the collaborative planning, those would all support each level or order of government being able to fulfil its function to the fullest.

MS. JENNIFER KING: Thank you. Those are my questions.

COMMISSIONER ROULEAU: Thank you.

Next I’d like to call on the NPF, National Police Federation.

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

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

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

MR. MITCH McADAM: Good morning.

DS JACQUELINE BODGEN: Good morning.

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

During your testimony this morning, you mentioned a meeting that was called by the Clerk of the Privy Council on
the morning of February the 9th, at which she directed Deputy Ministers and staff at the Privy Council Office to examine all possible options for resolution of the blockades and protests. Do you recall that?

DS JACQUELINE BODGEN: Yes.

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

DS JACQUELINE BODGEN: Correct. Yeah.

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

DS JACQUELINE BODGEN: Yes, that’s correct. I think we confirmed that with Commission Counsel this morning. Yeah.

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

DS JACQUELINE BODGEN: That would be an option. Yes. either the Emergency Act, or Special Purpose Emergency Legislation; right? Like, there’s a couple of different ways
you could do that. Yeah.

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

**DS JACQUELINE BODGEN:** Yeah. To a certain extent, yeah.

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

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

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

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

**MR. MITCH McADAM:** Okay, thank you. And
Ms. Bogden, you said this morning something along the lines of "a good civil servant does their homework in advance." Did I have that correct?

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

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

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

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

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

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

**DS JACQUELINE BOGDEN:** It would've probably been
on or around the 9th.

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: I think that's right.

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

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

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

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

DS JACQUELINE BOGDEN: I can't say definitively. I know there was work being done in the Privy Council Office.
As to how other departments would have been implicated, I can't speak to that.

MR. MITCH McADAM: Okay. Thank you very much.

Those are all of my questions.

DS JACQUELINE BOGDEN: Okay. Thank you.

COMMISSIONER ROULEAU: Okay, thank you.

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

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

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

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

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

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

MR. JEFFERY HUTCHINSON: That's my understanding.

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

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

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

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

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

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

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


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

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

So at that time, can you just confirm that Ottawa
wasn't clear the enforcement hadn't even been taken at the time of the invocation; is that correct?

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

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

If you go down a little bit further.

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

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

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

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

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

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

"RCMP is assisting in various impacted areas across the country and is focused on areas where enforcement or the risk of escalation is most acute."
Do you see that?

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

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

**DS JACQUELINE BOGDEN:** Correct.

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

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

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

**MR. JEFFERY HUTCHINSON:** I concur with that description. As I said earlier, I -- my perspective was very much that a momentary pause in a demonstration had not, up to that point, or after, frankly, proven to be an end of a demonstration. So my view that weekend was that there was -- there continued to be a national crisis, that it was impacting communities in almost every province, that we continued to see...
injunctions, emergency legislation being used, sort of extraordinary actions.

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

MR. ROBERT MacKINNON: So if you scroll down a little bit further where it has Ottawa on page 5. So you'll see on the last bullet point, the date -- well, on February 12th, it mentions:

"Police say protesters overwhelmed officers on Friday night."

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

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

And you know, here, this reference to, "Police say protesters overwhelmed officers", you know, that's also the
point I made earlier, you know, what we were seeing in B.C. and Coutts. We don't have infinite resources to enforce the law, and you do need to be concerned about threats of violence against the people that you're asking to enforce the law. So there was a lot here to be worried about at this particular point in time.

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

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

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

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

So the last line says:

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

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

DS JACQUELINE BOGDEN: No, not at all. Like there's a volatility and uncertainty in this situation. Yeah.
MR. ROBERT MacKINNON: And while we're on this one, just over the page to the next page at the top.

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

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

Do you see that?

DS JACQUELINE BOGDEN: Yes.

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

DS JACQUELINE BOGDEN: Yes.

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

It's the IRG meeting of February 23rd, page 5, and that's SSM.NSC.CAN, a number of zeros, 408. There you go.

So it's about the middle paragraph, "Across the country". Yes.

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

"...Winnipeg Police issued a notice to protesters gathered near the provincial legislature advising them that they had 24 hours to leave and providing a
pamphlet outlining potential consequences of not doing so. The pamphlet mentioned enforcement under the federal Emergencies Act as one of the possible measures that police would use if protesters did not vacate the premise by..."

A certain time there. Do you see that?

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

MR. ROBERT MacKINNON: Okay. So ---

DS JACQUELINE BOGDEN: Yeah.

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

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

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

DS JACQUELINE BOGDEN: Correct.

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

DS JACQUELINE BOGDEN: Correct.

MR. ROBERT MacKINNON: And you've got Plan A and Plan B, correct, in the third paragraph you refer to?
DS JACQUELINE BOGDEN: Yeah.

MR. ROBERT MacKINNON: Plan A:

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

And Plan B:

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

Correct?

DS JACQUELINE BOGDEN: M'hm.

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

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

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

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

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

DS JACQUELINE BOGDEN: Yeah.

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

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

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Correct. Which was -- you know, which was discussed, you know, at the first Incident Response Group. You know, what you find in the minutes of the
meeting of the 12th is actually a reflection of what was discussed on the 10th, which is, yeah.

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

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

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

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

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

DS JACQUELINE BOGDEN: Correct. Correct.

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

DS JACQUELINE BOGDEN: Right.

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

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

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

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

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

DS JACQUELINE BOGDEN: Well, like I think as I said in my testimony earlier, when we convened the first Cabinet committee meeting on Safety, Security and Emergencies, we're midway through the next week after the weekend in Ottawa. We
have a situation, a blockade in Coutts and an occupation in
Ottawa, and we have no fidelity over how this situation's going
to get resolved. So, you know, there's a need to support
Ministers in coming together and having a conversation about
that, and what, you know, are the range of things that the
government might want to do or to think about to help bring the
situation to a resolution.

MR. ROBERT MacKINNON: All right. So it went
from late January, from looking ahead with scenarios, to
meetings with four Ministers, to February 3\textsuperscript{rd}, to the 8\textsuperscript{th} with SSE
meetings?

DS JACQUELINE BOGDEN: Correct.

MR. ROBERT MacKINNON: And then what was the
reason to move from the SSE meetings to the IRG meetings on the
10\textsuperscript{th}, 12\textsuperscript{th} and 13\textsuperscript{th}?

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

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

So is it at this point on the 12\textsuperscript{th} that the option
1 and option 2, Tracker 1 and Track 2 are being fully considered
as an agenda on the -- on this committee or ---

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

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

DS JACQUELINE BOGDEN: Correct.

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

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Yeah.

MR. ROBERT MacKINNON: Do you see all that?

DS JACQUELINE BOGDEN: Yes.

MR. ROBERT MacKINNON: And is that accurate?

DS JACQUELINE BOGDEN: Yes.

MR. ROBERT MacKINNON: And then if you go down
close to the bottom of that one, it mentions the escalation in
activity in Ottawa and the role of social media and that its
role in the communication and organizes the protesters across
the country. Was that very much of a concern at this point on
the 12th?

DS JACQUELINE BOGDEN: Yeah, yeah.

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

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

MR. ROBERT MacKINNON: Right.

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

MR. ROBERT MacKINNON: And there's also a
reference on page 9 to,
"...an update on [a] potential
engagement with [the] leaders of the
blockades..."

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

DS JACQUELINE BOGDEN: Correct.

MR. ROBERT MacKINNON: And do you know the kind
of questions that were asked in order to, you know, decide that
issue or not decide that issue? What -- are there any questions
that weren't answered concerning whether to engage with the
protesters or not?

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

MR. ROBERT MacKINNON: Okay.

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

DS JACQUELINE BOGDEN: Thank you.

COMMISSIONER ROULEAU: Okay. Any re-examination?

MS. SHONTANA CHAUDHURY: No re-examination.

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

DS JACQUELINE BOGDEN: Yes.

COMMISSIONER ROULEAU: And you said that you were
preparing for what you knew and what you didn’t know ---

DS JACQUELINE BODGEN: Correct.

COMMISSIONER ROULEAU: --- but you also said you
were preparing for what if it doesn’t go well.

DS JACQUELINE BOGDEN: Yeah.

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

DS JACQUELINE BOGDEN: Right. So I’ve sort of
described kind of the ways in which it could not go well, right,
in -- you know, we have this ---
COMMISSIONER ROULEAU: No, I ---

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

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

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

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

Now, there’s a theoretical risk that it could be worse than that, but we just need to know what the machinery is and what we would do and, you know, kind of what happens in the
first four hours, first 12 hours, and that’s the kinds of things
that you’re thinking about.

COMMISSIONER ROULEAU: So to try and summarize,
it’s to be able to kick in the decision-making ---

DS JACQUELINE BOGDEN: Correct.

COMMISSIONER ROULEAU: --- process ---

DS JACQUELINE BOGDEN: Correct.

COMMISSIONER ROULEAU: --- but it isn’t something
concrete such as ---

DS JACQUELINE BOGDEN: No, there’s -- there’s
nothing to do.

COMMISSIONER ROULEAU: --- preparing physically.

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

COMMISSIONER ROULEAU: Thank you.

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

So you’re free to go.

DS JACQUELINE BOGDEN: Thank you, sir.

MR. JEFFERY HUTCHINSON: Thank you.

COMMISSIONER ROULEAU: Now, I guess I can give
you the option. We can have lunch early and come back at 1:30
or we can proceed with the next panel.
What would you prefer?

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

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

**THE REGISTRAR:** The Commission is in recess until 1:30. La commission est lever jusqu’à 13h30.--- Upon recessing at 12:25 p.m.

--- Upon resuming at 1:30 p.m.

**THE REGISTRAR:** Order. À l’ordre.

The Commission is reconvened. La Commission as reprend.

**COMMISSIONER ROULEAU:** Okay, good afternoon. Bonne après-midi.

So we have a panel of witnesses.

Okay, Commission Counsel, please.

**MS. SHANTONA CHAUDHURY:** Thank you Mr. Commissioner. For the record, Shantona Chaudhury for the Commission, and the witnesses this afternoon are Ms. Janice Charette and Ms. Nathalie Drouin.

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

**MS. JANICE CHARETTE:** My name is Janice Charette; J-a-n-i-c-e, C-h-a-r-e-t-t-e.

--- **MS. JANICE CHARETTE, Sworn:**

**THE REGISTRAR:** Thank you.

Oui, parfait, merci. Pour les fins du procès
verbal s'il vous plaît, veuillez indiquer et ensuite épelez votre nom en entier.

**MS. NATHALIE DROUIN**: Nathalie Drouin; N-a-t-h-a-l-i-e, Drouin, D-r-o-u-i-n.

--- **MS. NATHALIE DROUIN, Affirmed**:

**LA GREFFIÈRE**: Merci.

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

**MS. SHANTONA CHAUDHURY**: Good afternoon, Ms. Charette and Ms. Drouin. Thank you for being here.

We'll just start with some housekeeping, introducing your witness summary. So you'll recall having sat for an interview with Commission Counsel on September 29th, 2022?

**MS. JANICE CHARETTE**: I do.

**MS. SHANTONA CHAUDHURY**: Okay.

Ms. Drouin?

**MS. NATHALIE DROUIN**: I do.

**MS. SHANTONA CHAUDHURY**: Okay. And after that interview, Commission Counsel prepared a summary of that interview, which you have reviewed. Can you confirm that that summary was accurate?

**MS. JANICE CHARETTE**: I can.

**MS. NATHALIE DROUIN**: I confirm.

**MS. SHANTONA CHAUDHURY**: Okay.

And for the record, that is, Mr. Clerk, WTS.00000074, but no need to pull it up right now.

Okay, Ms. Charette, I understand that you are the Clerk of the Privy Council.

**MS. JANICE CHARETTE**: I am.
MS. SHANTONA CHAUDHURY: How long have you held that role?

MS. JANICE CHARETTE: I was named as the Interim Clerk of the Privy Council in March of 2021, so that is about 18 months or so ago, and I was confirmed in the role as the Clerk of the Privy Council in May of 2022.

MS. SHANTONA CHAUDHURY: Okay. And what was your background before that?

MS. JANICE CHARETTE: I’ve been a senior public servant for -- actually I think I’ve been a Deputy Minister for almost 20 years. Before being named as the Interim Clerk of the Privy Council, I was the High Commissioner for Canada to the United Kingdom, or Great Britain and Northern Ireland, and previous to that, I was actually serving as the Clerk of the Privy Council.

I’ve held roles as the Associate Clerk of the Privy Council; Deputy Minister of Intergovernmental; the Deputy Minister of then-Human Resources and Skills Development; of Immigration, Refugee, Citizenship; Associate Deputy Minister of Health; and, as you can tell, a number of roles over my career.

MS. SHANTONA CHAUDHURY: It’s a long list, is it?

Okay.

And Ms. Drouin, you’re the Deputy Clerk at the Privy Council?

MS. NATHALIE DROUIN: Exactement.

MS. SHANTONA CHAUDHURY: And how long have you held that role?

MS. NATHALIE DROUIN: J’ai été nommée sous-
greffière au mois d’août 2021.

**MS. SHANTONA CHAUDHURY:** OK. Et avant ça?

**MS. NATHALIE DROUIN:** Avant ça, j’étais sous-ministre à la Justice à Justice Canada et, de 2012 à 2016, j’étais sous-ministre à la Justice au gouvernement du Québec.

**MS. SHANTONA CHAUDHURY:** OK. Et si vous allez témoigner en français Madame Drouin, je vais vous poser des questions dans les deux langues.

**MS. NATHALIE DROUIN:** S’il vous plaît, s’il vous plaît, soyer bien à l’aise et je vais faire la même chose, des fois je vais répondre en anglais, des fois je répondrai en français.

**MS. SHANTONA CHAUDHURY:** Parfait. Alors on parle en parfait franglais.

**MS. NATHALIE DROUIN:** Absolument.

**MS. SHANTONA CHAUDHURY:** Ms. Charette, would you be able to explain to us, in some detail, the role of the Clerk of the Privy Council? It’s well understood by you but maybe not by everyone here.

**COMMISSIONER ROULEAU:** And if I can just pipe in.

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

**COMMISSIONER ROULEAU:** You have a tendency to speak very quickly, ---

**MS. JANICE CHARETTE:** Yes, okay.

**COMMISSIONER ROULEAU:** --- which I’m sure is --- comes handy when you’re delivering messages to government, but if ---

**MS. JANICE CHARETTE:** Oh.
COMMISSIONER ROULEAU: --- for here it’s useful
to slow down.

Thank you.

MS. JANICE CHARETTE: I wrote the words, “Slow
down” just so that I would try to remember that. Thank you,
Commissioner.

So the Clerk of the Privy Council and Secretary
to the Cabinet is the full title of the position. And I would
say that that basically encompasses three roles. The Privy
Council Office is the department of the Prime Minister. And so
I serve as the Deputy Minister of the Privy Council Office, and
the Deputy Minister, therefore, to the Prime Minister.

I am the most Senior Public Service Advisor to
the Prime Minister and to his Office. I’m responsible for the
overall management of the Privy Council Office, and the
discharge of all of our functions and responsibilities. And
making sure that -- so that’s kind of the administration side,
but I’m also the advisor on all matters that would before -- be
before the Prime Minister for his consideration and decision.

Second part of the role is the Secretary to the
Cabinet. And in that respect, I’m responsible for helping to
organize Cabinet meetings, make sure that the agendas are set,
the attendance is set, the information is available for
Ministers to deliberate on; that the meetings are supported with
things like translation, all of the kind of staff support; that
the decisions of the Cabinet are faithfully recorded and
therefore comm -- and communicated out as necessary. And I’m
responsible for overseeing the implementation, then, of those
decisions.

So anything to do with how Cabinet operates its decision-making structure, I am responsible for. Obviously working with the team in the Privy Council Office, both in the advisory function and the Secretary to the Cabinet function.

And then, finally, in our system, the head of the -- the Clerk of the Privy Council has a third role, which is the Head of the Public Service. And I think if you look at the Institutional Summary for the Privy Council Office, we try to describe that in the Canadian’s version of the Westminster System, the Public Service is a professional, non-partisan Public Service. And I am responsible, as the Head of the Public Service, for, amongst other things, providing an annual report to the Prime Minister on the state of the Public Service.

In this respect, I also provide advice to the Prime Minister on the appointment and performance of Deputy Ministers and other senior officials. And, basically, for making sure that the Public Service is ready to be able to serve the needs of the government and of the country, today, and also a stewardship role into the future.

So those are kind of the three roles. And I would say the other thing that might be relevant as we get into this conversation is the Clerk of the Privy Council is one of a community of Deputy Ministers. I think in -- the expression would be primus inter pares, you have -- you are one amongst others, and I very much work with the community of Deputies, in order to be able to discharge those functions.

**MS. SHANTONA CHAUDHURY:** First among equals?
MS. JANICE CHERETTE: That’s it.

MS. SHANTONA CHAUDHURY: Okay.

And Mme Drouin -- but we’re going to go back to some of that, Ms. Charette, ---

MS. JANICE CHERETTE: Okay.

MS. SHANTONA CHAUDHURY: --- but before we do that, can you explain the role of the Deputy Clerk, Ms. Drouin? And then maybe how the two of you work together.

MS. NATHALIE DROUIN: Perfect. So let me start with that.

So my first role is really to support the Clerk in her role. A little bit like what we call a two-in-the-box model. So on the day-to-day basis, ce que ça veut dire, c’est, entre autres, assurer un leadership au sein du ministère qui est le ministère du Conseil privé. Ensuite, assurer un leadership sur les dossiers qui sont horizontaux, donc dans le développement des politiques, par exemple, assurer une cohérence. Un des pouvoirs que j’ai, c’est celui de convoquer des sous-ministres pour discuter d’enjeux, donc c’est des choses que je fais régulièrement. Je suis souvent appelée aussi à faire de la gestion de crise, qu’on appelle, en anglais, le « issue management ». C’est justement dans ce cadre là que j’ai joué un rôle dans la gestion du convoi dont on va parler cet après-midi. Et j’assure aussi un leadership sur des dossiers horizontaux, par exemple, les dossiers à matière autochtones.

MS. SHANTONA CHAUDHURY: OK. Et comment est-ce que vous travaillez ensembles tous les deux?

MS. NATHALIE DROUIN: C’est, you know, I’ll say
very organic. So my mantra is, I go where the needs are in order to support the Clerk. You know, more instinctively I go where I have strength, competencies and capacities to support her in her main role, advising the Prime Minister and the Cabinet. So this is, you know, how we work.

On a weekly basis, we will reassign, you know, where I should put my attention and efforts and what file I should keep under my radar.

MS. JANICE CHARETTE: Can I just add a little bit to that, if that’s all right?

MS. SHANTONA CHAUDHURY: Of course.

MS. JANICE CHARETTE: So perhaps I’ll just add two things. I think one of the operating styles that Madam Drouin and I’ve tried to follow is that if I’m not there, Nathalie is briefed up enough to be able to handle or to be able to deal with any issue, and vice versa, so that we are not completely interchangeable, but there is leadership at any point in time, because people have holidays or whatever else to do.

And secondly, I don’t think either one of us mentioned that we also have a number of Ministers within the Privy Council Office portfolio, and I might forget one here, but I’ll try not to. So the Minister of Intergovernmental Affairs, who are supported by the PCO.

MS. SHANTONA CHAUDHURY: And that’s Minister LeBlanc?

MS. JANICE CHARETTE: Minister LeBlanc. That’s right. The Government House Leader. That’s Minister Holland. The Quebec Lieutenant, which is an intergovernmental type of
function. That’s Minister Rodriguez. The Minister of Emergency Preparedness. That’s Minister Blair. And I have no forgotten.

**MS. NATHALIE DROUIN:** And the DPM.

**MS. JANICE CHARETTE:** And of course the Deputy Prime Minister, that’s right. In her role as the Deputy Prime Minister, she also gets support, of course, from the Department of Finance. But in her role as the DPM, we do provide her some support as well.

**MS. SHANTONA CHAUDHURY:** Okay. So as the Senior Advisor within the Public Service to the Prime Minister, can you explain a little bit the interaction between PCO and PMO and just explain how those lines of communication work, how the Prime Minister is briefed, how you communicate with him, those general things?

**MS. JANICE CHARETTE:** Sure. I think the term that Madam Drouin used of organic maybe applies here. There are many, many routes in terms of the flow of information and advice between myself and the team in the Privy Council Office and the Prime Minister’s office and the team that support him there.

When it comes to the Prime Minister himself, it gets more structured. And I’ll come back to that in a moment. There would be daily conversations going on between PMO and PCO staff, whether it’s around information exchange, trying to think about how to manage an issue, surface a problem we’re trying to solve, exchange information. Any number of things in the course of a day would take place.

In terms of the advice to the Prime Minister,
Minister, in some cases you will see, I think even in evidence, of documents that have been submitted to the Commission that if it’s for the purposes of just sheer information, you would see a briefing note perhaps prepared by one of the Deputy Secretaries to the Cabinet. But if it contains advice, it contains a recommendation, if write to the Prime Minister for the purpose of decision, that would come through me.

In some cases, some of those briefing notes may also go through Madam Drouin, and if I’m not around, Madam Drouin can sign off on briefing notes, decision notes for my -- over my signature.

**MS. SHANTONA CHAUDHURY:** So would it be correct to say that all formal advice to the Prime Minister from the Privy Council Office goes through one of you?

**MS. JANICE CHARRETTE:** I think that would be fair to say, yes.

As well, we have a number of opportunities to provide oral information, oral briefings to the Prime Minister as well. I have a regular bilateral meeting with him every week, which is joined by the Chief of Staff to the Prime Minister. That is Katie Telford. And sometimes other members of the Prime Minister’s staff will join us. And that’s a session where sometimes the Prime Minister has items, I might have items, the Prime Minister’s Office may have items. But what’s kind of our regular once a week touch base, traffic management, advisory, decision, kind of -- whatever is on the issue plate of the day.

Every second week, the Deputy Prime Minister will
be joining into that meeting as well.

So that’s our regular structure.

We may have issue-based meetings or briefings with the Prime Minister. We’ve done -- for a very long time, we were doing frequent, three times a week briefings of the Prime Minister and his office, sometimes with Ministers on the covid situation, for example. That might involve senior officials from other departments, Dr. Theresa Tam, the Chief Public Officer, officials from Public Health Agency and Health, and so on and so on. You get the picture.

When there is a Cabinet meeting that the Prime Minister is involved in, we almost always have a pre-brief session with the Prime Minister where we’ll go over the agenda, the kind of show, who is going to say what, the key issues to be deliberated, so he has a focus on, in addition to the written briefing material we would have provided, kind of what are the key issues he’s trying to adjudicate at the session, what are some of the perspectives he may want to be listening for, where is the area or the zone for a possible decision. And we would be doing that before a Cabinet meeting, for instance. And certainly, I think which will be relevant to the work of the Commission, before an Incident Response.

**MS. SHANTONA CHAUDHURY:** Thank you. That’s helpful. We’re now going to move to the, I’ll say the meat, but the early days of the convoy, the Freedom Convoy, the events that the Inquiry is concerned with.

But just picking up on the last point that you made in terms of the communication lines and briefings, could
you set the stage for us in terms of what was going on in
government at the time? At a very practical level, as well as a
sort of ideas level. So were things happening virtually? Where
were people working? Where were you? Where was the Prime
Minister? That scene.

MS. JANICE CHARETTE: Right. So to cast your
mind back, we were in January of 2022. We -- the country, like
many other countries around the world, was dealing with the
Omicron variant of covid. We actually had, I believe in mid-
January, record levels of hospitalizations, even higher than
previous peaks of the covid outbreak.

And so the vast majority of the public service
was working remotely, although there were some people, but dint
of their function who had the need to come into the office to
access secure materials or so on. But it was kind of -- the
public health advice was to be working remote by default, and
that’s where the bulk of the public service was.

The same thing for, I think it’s fair to say, for
the Prime Minister, Ministers, and political staff. So we were
all working remotely.

I remember this well because there was a Cabinet
retreat that was held in the week of, I have a little calendar
here to try to remind me of dates, the week of January the 24th.
That would have been the first Cabinet retreat that had taken
place since the Government was formed after the 2021 election.
And I think everybody was hoping that that was going to be an
opportunity for a face to face, and unfortunately it ended up
being a virtual.
We are very fortunate to have secure video communications so we can actually have Cabinet meetings held virtually, and so we were able to do that in the week.

There was a lot of other issues that were before the Government. I think you would have heard from other witnesses as well that we were monitoring the potential for an emerging situation in Ukraine and trying to prepare for what possibly could happen at that point in time.

And so as we came out of the -- came out -- the Cabinet retreat, I believe, was two or three days, and that’s when we started to hear the early signals that there might be a protest or a series of protests happening in Ottawa, and potentially other locations.

Now, I should say that as of January the 15th, there was a change in the public health measures related to covid that affected truckers in the country, affected cross-border traffic, and that change was for truckers that were unvaccinated coming back into the country. They were -- they had been previously exempt and they were now going to be subject to public health measures.

And so we were monitoring very closely both the implementation of that measure, as well as the talking to the trucking association and monitoring, because it was clear that at that point in time, despite the very serious record levels of covid we were facing, that Canadians were kind of getting a bit fed up at that point in time with the restrictions, and the measures, and what they were having to deal with. And so that was very much on our minds.
We were getting ready for the return of the House of Commons. They had been on a Parliamentary break coming out of the holiday season and the House was due to resume on the 31st of January. And so as we went into what I think others have described as Weekend 1, the weekend starting Friday, the 28th of January, we were monitoring and waiting for the protest that we had understood was going to be arriving.

And that’s kind of the context at the very beginning, if that’s helpful.

**MS. SHANTONA CHAUDHURY:** Yes.

**MS. JANICE CHARETTE:** I’m happy to add to that.

**MS. SHANTONA CHAUDHURY:** That’s helpful. That’s perfect. So that takes us to my next question, which is when did you first brief the Prime Minister on what was happening with the convoy?

**MS. JANICE CHARETTE:** The first briefing I had with the Prime Minister was an oral briefing on the 30th of January.

I think you’ve heard testimony from other Privy Council Office colleagues that there were PCO/PMO briefings that had been going on in week before that there had been daily Ministerial briefings going on starting, I think, on the Thursday before that.

So on the Sunday, the 30th, there was a telephone call or oral briefing with the Prime Minister, including members of his staff, other members of the Privy Council Office to basically kind of give him a situation report.

At that point in time, it was Sunday, I believe
it was evening, and it was pretty clear that the protestors weren’t leaving. So we had a situation in Ottawa and our thoughts were turning immediately to the House return the next day and whether there was any issues we had to be thinking our way through in terms of the safe conduct of Parliamentarians actually accessing the Parliament buildings.

As you may recall, Wellington Street was a bit of a challenging area.

As the head of the Public Service and responsible for our department, I also had to think about what instructions we were giving to public servants, some of whom were still required to be going into the office about whether we were closing buildings or leaving those open.

So that was really the first briefing with the Prime Minister, kind of a situation report, what was happening, giving him information. We were able to tell him that there had been Ministerial briefings, that there was lots of outreach going on by Deputy Ministers across we call it the Town, across Ottawa, across departments and agencies. And so that was -- and I wouldn’t say that we sought any decisions from him at that point in time other than to have a conversation about were we well connected, for example, were the right people talking to Parliamentary officials, to the Sergeant at Arms, the Parliamentary Protective Service. Were they connected up to the -- to law enforcement and security agencies to make sure that, you know, Parliament at the centre of our democracy could function well starting the next day.

**MS. SHANTONA CHAUDHURY:** We’ve spent a lot of --
I don’t know if you had a chance to see the testimony of Ms. Bogden this morning and Mr. Hutchinson and/or the NSIA yesterday.

We’ve heard from many of your Deputy Minister colleagues and we’ve spent a lot of time on the lead-up to the convoy and the early days, so I think with you this afternoon we’re going be focusing mostly now on the beginning of -- sort of February 9th on. Let’s put it that way.

So I’m going to ---

MS. JANICE CHARETTE: Could I just take you back one moment?

MS. SHANTONA CHAUDHURY: Yes, you can. I thought that ---

MS. JANICE CHARETTE: When you referred to other Deputy Minister colleagues, I know that yesterday as well you heard from colleagues from the Department of Finance.

And so another big preoccupation as we were kind of starting up our work at the end of January was we were in the beginnings of budget preparation for budget 2022. So the Prime Minister, the Deputy Prime Minister, myself, the Deputy Minister of Finance and our teams, both their -- the political teams and the public service teams were thinking our way through what was going to be the economic strategy for the country at a time when, you know, we had hoped to be through the worst of the economic impacts of COVID and, frankly, we weren’t as a result of the fact that we were kind of facing another wave.

So that was also kind of a contextual factor that I think might be helpful and relevant as we get later on into
the discussion.

**MS. SHANTONA CHAUDHURY:** That’s fair enough. I think that will probably arise.

So I’ll just set the paraphrasing very briefly the kinds of evidence that we’ve heard from your colleagues over the first week or two -- let’s put it that way -- after the convoy arrived.

So the convoy arrived. It was not expected to stay as long as it did. It did stay. At that point, the federal government was meeting to try and understand what was going on. There were regular DMOCs happening.

And I’ll just ask, actually, were either of you in attendance at those -- at the DMOCs that were happening?

**MS. NATHALIE DROUIN:** Starting on the 9th, yes.

**MS. SHANTONA CHAUDHURY:** Starting on the 9th there. Okay. Which is why we’re soon going to be skipping to the 9th.

**MS. JANICE CHARRETTE:** I don’t know that I attended every DMOC. I attended some of them, so Deputy Minister Operational Committee, for the acronyms.

I know you’ve been through them all now. You’re an expert, actually, I’ve heard.

But I don’t think I was at all of them. I would have -- those were chaired by the National Security Intelligence Advisor. I would have been at some key ones or I thought I either needed to give direction or to hear, particularly at certain points in time, but I wasn’t involved in the day to day.

**MS. SHANTONA CHAUDHURY:** Okay. So ---
MS. JANICE CHARETTE: My first DMOC was, like Mme Drouin’s, the 9th of February.

MS. SHANTONA CHAUDHURY: The 9th, okay.

So we’re sort of -- all roads lead to the 9th here.

So we heard about the three SSE committee meetings that were had. Ms. Bogden took us through those February 3rd, February 6th, February 8th. And we more or less left it off at the end of the day on the 8th it was sort of -- it was decided, essentially, that maybe it was -- it’s time for the federal government to consider more intervention in the situation. Would that be fair to say?

MS. JANICE CHARETTE: I would say that I was at the meeting of the Cabinet Committee on Safety, Security and Emergencies, the SSE Committee, on the Sunday, the 6th. That’s the only one of the three meetings that you describe that I was at.

So I was trying to get a sense -- that was at the end of weekend 2 -- trying to get a sense from Ministers and from my colleagues kind of what the situation was and what the sense was about how this was all going.

I got a readout, a debrief, from the Cabinet Committee meeting on the 8th of February from my colleagues who were there, and it was certainly clear to me that the level of concern, anxiety and the situation itself was escalating. And so that was the reason I chose to go to the DMOC meeting on the 9th and to hear out my colleagues in terms of -- and to give direction at that point in time.
And it was through the course of that day
listening to them and other meetings that took place during that
day I’m happy to tell you about if you’d like that I formed the
view as we went into the 10th that it was time for me to provide
the advice for the Prime Minister to decide to -- as to whether
or not he wanted to convene an Incident Response Group meeting.

MS. SHANTONA CHAUDHURY: Okay. We’re definitely
going to come to that.

Just before we do ---

MS. JANICE CHARETTE: Of course.

MS. SHANTONA CHAUDHURY: --- I actually want to
take you back to the 8th before we get to the 9th.

Mr. Clerk, can you pull up PB.NSC.CAN00008073?

This is a document you may not have seen before,
so I’ll just explain to you what it is.

These are the notes of Deputy Commissioner Mike
Duheme.

And if we scroll down, Mr. Clerk, to page 41,
you’ll see a notation there. So these are Mr. Duheme’s notes
from Deputy Commissioner Duheme for, I believe, it’s the 8th,
maybe the 9th, but it looks like it’s the 8th.

And you’ll see 8:00 a.m. there, 7:00 a.m. in
office, 8:00 a.m., “Call with clerk. Flesh out the financial
[something] financial compensation”. I’m not sure what that
says. Employee business, maybe?

Then “Public safety. Feels organized.
Ambassador Bridge stretches. OPP incremental success, OPS.
Working in incremental way”.

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And then if we just scroll down a little bit more to what I’m actually looking for.

“Clerk. We need to take this over. Do they know what this means?”

So I understand that during this time you were having regular calls with various colleagues within the federal government. Can you explain to us, do you recall this conversation?

**MS. JANICE CHARETTE:** So I -- so I don’t know whether Mr. Duheme himself was at the DMOC meeting. I was not speaking to RCMP colleagues or a broad selection of colleagues working in the National Security and Intelligence Public Safety space on the 8th. That really started on the morning of the 9th for me after I heard the readout.

So I think maybe the date, if I’m not wrong ---

**MS. SHANTONA CHAUDHURY:** Maybe it’s the 9th?

**MS. JANICE CHARETTE:** I think it might be the 9th.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. JANICE CHARETTE:** I certainly was at a meeting at 9 o’clock in the morning -- sorry, 8 o’clock in the morning on the 9th, which was a DMOC, so it’s not unreasonable to think that the Commissioner of the RCMP -- either she was there and brought Mr. Duheme with her or he was attending for her. Either one of those two things is possible, so.

**MS. SHANTONA CHAUDHURY:** So these are probably Mr. Duheme’s notes from the DMOC call.

**MS. JANICE CHARETTE:** I never had a one-on-one
call with Mr. Duheme, so ---

MS. SHANTONA CHAUDHURY: Makes sense>

MS. JANICE CHARETTE: --- it would have been in the context of a broader meeting.

It looks like, from what you have heard, that if PS is, in fact, the Public Safety, there was others there as well.

Let’s talk about what the meeting was about.

So having heard the readout from the SSE meeting on the 8th -- I should add as well there was a debate in the House of Commons on the 7th of February, if I’m not wrong, on the convoy situation. Parliamentarians, House of Commons, Member of Parliament can trigger a debate if they wish, and I gather the Speaker consented to that and so there was a debate.

So there was rising levels of concern. That was obvious. And we heard this from the SSE Committee as well, and so I went to the DMOC meeting which was taking place at 8 o’clock in the morning on the 9th.

And my purpose there was really to do a couple of things. I was there to make sure that I was hearing firsthand from Deputy Ministers and agency heads who have responsibilities in this area who had been meeting with the National Security Intelligence Advisor through the days previous to that on their assessment of the situation, and I wanted to provide my direction to them as the senior public servants, that in my view this was a very serious situation, that we had rising levels of questions from federal ministers, who were asking "How is this going to end? What can we do?"
And so my commentary at the meeting, I think I was at two DMOCs on this day, as a matter of fact. Certainly at the first meeting at — in the morning, my objective, my intention was to try to say to my Deputy Minister colleagues, "We have to leave no stone unturned. We have to make sure that we are looking at every power, duty, every authority we have, every resource we have to make we are bringing the full power of the Federal Government and its resources to try to help those who are frontline responsible to manage the situation."

I'm not an expert in any of these domains. I would be conveying, like, "we've got to get on this, and we've got to use", like this -- I think you heard the expression this morning, you know, this is an "all hands on deck". I don't know why we use naval references, but all hands on deck situation. And I would've been saying all hands on deck. No idea too crazy. Let's look at absolutely everything. Let's look at every law we have, every resource we have.

And including in that, what would it mean, you know, how does law enforcement actually -- well, like, how do the structures work? Who is responsible for what? You know, if it gets beyond the capability of one particular, you know, like a local police force, like the Ottawa Police Service or the RCMP acting in its local capacity, say in Coutts, you know, what happens then? Where does it go from there? Who takes over from that? How does that all work? How does the jurisdiction work? What are the responsibilities work? So this is not a -- my direction to the sense there was any direction was to let's get on this work. We need to get this work done.
I think you heard a lot from Ms. Bogden this morning about then what she was doing the whole day long to try and collect up this information. But that would have been my intention. I didn't tell people what to do, I was asking -- we've got to get this work done.

**MS. SHANTONA CHAUDHURY:** Okay. So if I understand correctly, when you say -- what Mr. Duheme writes down here is:

"We need to take this over, do they know what this means."

You're talking in a general sense about it's time for some federal intervention in this. Let's talk about what that might look like or what the options are. Is that fair?

**MS. JANICE CHARRETTE:** I'm not sure I had reached the conclusion it was time for some federal action. It was certainly ---

**MS. SHANTONA CHAUDHURY:** Fair.

**MS. JANICE CHARRETTE:** It was certainly the case --

**MS. SHANTONA CHAUDHURY:** Time to consider, perhaps.

**MS. JANICE CHARRETTE:** It was time to consider -- to be ready to respond. I think the other thing is, and cast your mind back to, you know, the public environment at that point in time, this was all happening in Ottawa, a lot of it on Wellington Street. You were looking at the coverage in the media. You were seeing the Parliament buildings behind it. So there was a lot of questions being asked of federal ministers,
"What are you doing? What are you doing? What are you doing?"

And so certainly, we had the sense coming out of the meeting on the 8th they were impatient to know what they could do, and that was my direction to the town at this meeting is go and figure this out. "What can we do? Be as creative as you can. Really think outside the box."

**MS. SHANTONA CHAUDHURY:** Okay. And we saw this morning ---

Mr. Clerk, you can take those notes down, thank you.

We saw this morning that Ms. Bogden put together a -- sort of a list of -- that pretty much wrapped up a lot of the discussions that had been had over the previous two weeks about strategic enforcement strategies, financial options, et cetera, et cetera. That's something she sent off a draft of some point during the -- on the 9th, and think at three o'clock in the morning on the 10th. So we've looked at that.

And you mentioned, I'm just going to take you back to your conclusion before, that at some point in all of this you formed the conclusion or gave the advice to the Prime Minister that it was time to convene an Incident Response Group.

**MS. JANICE CHARETTE:** So perhaps I can say in addition to that meeting with Deputy Ministers there was another meeting with deputies later in the day. I think if you -- you'll hear from the Prime Minister and ministers next week, but in addition to what the Public Service was doing, and outside of these official kind of Cabinet committee meetings and daily ministerial briefings, the Prime Minister was also speaking to

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his ministers, either one at a time or in small groups, in more informal conversations, getting his own direct kind of "What's happening? Brief me on this." talking to his own team. He'd been talking to mayors, he'd been talking to other stakeholders.

And through the day on the 9th, as he was talking to his ministers, a number of which those interactions I was party to, I'm not always, but a number of those, certainly conversations with the Minister of Public Safety, Minister Mendocino and the Minister of Emergency Management, Preparedness Management, I can never remember, Minister Blair, you could feel that, you know, we were moving to a -- it felt to me like we were moving to a place that we had to be ready in case ministers and the Prime Minister actually wanted to look at what our options to be able to act.

And so as the day turned over from nine to ten, I certainly formed the view that I believed it was time for the Prime Minister to convene the Incident Response Group. There was another informal call amongst Prime Minister and ministers that morning, and after that I gave my advice, and the Prime Minister accepted it and chose to have a meeting, an in-person meeting, which was unusual at the time because of course we were still working remotely, but given the stakes of what we were talking about and the nature of the situation we were dealing with, my advice was I thought it would be important to have an in-person meeting, and we did that at an offsite.

MS. SHANTONA CHAUDHURY: Okay. Maybe I should've asked you this or to put it this way to begin with, but to the extent you can, can you walk us through the chronology, then, of
what happened on the 9th and how we got to the 10th?

**MS. JANICE CHARETTE:** I guess I can try.

Certainly what I saw, the parts that I will be part of ---

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

**MS. JANICE CHARETTE:** --- I was part of a Deputy Minister's meeting in the morning. I would have had various conversations, either individually or with -- in small groups with the Privy Council Office, officials, or other Deputy Ministers and senior officials through the course of the day. I may have spoken to, I can't remember exactly, the Prime Minister's Office. I certainly was part of a meeting that the Prime Minister had, as I said, with Ministers Mendicino and Blair, as well as other members of the PCO and the Prime Minister's Office, and I believe their staff. I don't know whether there were any other senior officials from outside of PCO in attendance.

There was a second meeting of the Deputy Ministers Operational Committee on the 9th. When I came to work or got up for work on the 10th, I was -- one of the first things I had was a email from Ms. Bogden with their results of her overnight work, not a practice we like to encourage in the PCO, but very dedicated, and came up with, kind of pulled together everything that basically I had -- all the product of the work that I had tasked on the 9th. And we were in the morning of the 10th. There was another informal conversation, and then there was an IRG in the afternoon.

**MS. SHANTONA CHAUDHURY:** Okay. And can tell us -- so the Prime Minister accepted your advice to convene the IRG
and then did so. Can you tell us about that first IRG meeting?

And I'll just -- oh. Was there something?

Madame Drouin, si jamais vous vouliez ajouter quelque chose, dites-le. Allez-y.

**MS. NATHALIE DROUIN:** Well, maybe, and if you and the Clerk can talk about that thing. Also, the Prime Minister had a call with Premier Ford on the 9th.

**MS. JANICE CHARETTE:** I can't remember whether it was the 9th or the 10th. I -- I'm sorry.

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

**MS. JANICE CHARETTE:** I will defer to Madam Drouin's memory on this one.

**MS. NATHALIE DROUIN:** So maybe you'd like to check that. And maybe just to go back to the take over conversation.

I think the Clerk talked a little bit about the fact that, you know, a lot of images from, you know, the Parliament, but it was also an international bridge. It was also port of entries. It was also the federal vaccine mandate. So all the indicators were towards it is, you know, the Federal Government is owning the situation, and yet on the ground, RCMP, for example, didn't have jurisdiction on Wellington Street. We don't have jurisdiction on routes that brings you to the bridge. So it feels that we owned it publicly, but we didn't have jurisdiction to address the situation.

So asking ourselves, "What can we do to have jurisdiction and really to support?" on top of, you know, supporting municipalities, supporting provinces, but that was...
also the type of questions we were asking ourselves.

**MS. JANICE CHARETTE:** We knew that there had been a lot of conversations going on between our colleagues in other departments, at Transport, Public Safety, RCMP, CBSA with their provincial territorial counterparts, in some cases with local and municipal counterparts, there had been meetings going on with the City officials in Ottawa, all around to try and understand the situation. There was this "What could we do?"

That was the -- I mean I think, as we were going into, now, the third weekend, we were really feeling kind of a crescendo escalation, although the situation changed from day to day and the sites changed from day to day.

**MS. SHANTONA CHAUDHURY:** Okay, that’s fair. And yeah, we’ve heard a lot of evidence this week about exactly that, sort of what the -- the conversations that have been going on between counterparts in various levels of government, et cetera, so we’re pretty well caught up on that. And that, then, takes us to the February 10th IRG, and we’ve heard that -- from Ms. Bogden -- what started off on her February 19th plan -- or email as Plan A and Plan B, existing authorities or new authorities of some sort, then evolved into Track 1 and Track 2 in the IRG Tracker. So can you just take us through that a little bit, what was discussed at the February 10th IRG, how that evolved into the IRG Tracker that we then see in the February 12th IRG? And at that point, we’ll ask the clerk to bring that up so you can take us through it.

**MS. JANICE CHARETTE:** Would it be helpful for me to just -- I don’t know whether you talked about what the
Incident Response Group is with Ms. Bogden this morning.

**MS. SHANTONA CHAUDHURY:** Always helpful to have a reminder.

**MS. JANICE CHARRETTE:** Okay, I’m happy to do that.

So the Incident Response Group is a committee of cabinet. It is usually chaired by the prime minister. Although it can happen without the prime minister, these ones did not. They were all chaired by the prime minister. They include a collection of ministers that are necessary to deal with either a national crisis, an emergency. That could happen in Canada; it could happen outside of Canada but affect either Canadian interests or Canadians.

And so I think you did hear testimony this morning, perhaps, from Mr. Hutchinson that the IRGs have been used, for example, with wildfires in British Columbia, for dealing with Hurricane Fiona in Atlantic Canada. It was also used, subsequently, to deal with the illegal invasion of Ukraine by Russia and dealing with Canadian interests and Canadians as a result of that. So it could be a crisis that emerges domestically that affects Canada or a Canadian crisis.

It is unlike other cabinet committees, and I think you did talk about this a bit this morning with Ms. Bogden. Cabinet -- the structure of cabinet is cabinet is the decision-making structure. Cabinet committees make recommendations which are ultimately ratified by cabinet. So it's kind of the -- the work gets divvied up amongst cabinet ministers. There’s -- because there’s a lot of decisions that get taken, kind of more thorough deliberation, and then they
come to cabinet for final deliberation and decision-making.

The Incident Response Group, the IRG, is unlike those other cabinet committees. Because it is about the management of a crisis or an emergency, it has decision-making powers with the prime ministers in the chair.

**MS. SHANTONA CHAUDHURY:** Okay, that’s helpful.

**MS. JANICE CHARETTE:** So that was such a ling explanation, now I’ve forgotten your question. I apologize.

**MS. SHANTONA CHAUDHURY:** So I have I. No, no, that’s helpful. Okay, so if the decisions -- what kinds, actually -- I just want to explore that a little bit. What kinds of decisions can the IRG take?

**MS. JANICE CHARETTE:** Oh, the IRG can make decisions like, “Okay, we think we need to ask a minister to do something, to make a telephone call, to go on a visit.” They -- it could we need to make sure that these resources are actually being allocated to a particular situation. It could be tasking further work like going away and looking at whether there’s a regulatory authority that needs to be triggered. So it’s anything to do with federal jurisdiction, to use a good term, anything that’s in federal jurisdiction but an existing power, an authority, a resource that could be deployed either to help to resolve the situation or to deal with a Canadian in need.

**MS. SHANTONA CHAUDHURY:** But the IRG wouldn’t have had the power, for instance, to invoke the Emergencies Act?

**MS. JANICE CHARETTE:** The only ability to invoke the Emergencies Act -- the decision-maker there is the Governor in Council, so that’s the prime minister in cabinet with the
approval of the governor general. And then, of course, there’s
an approval process requiring a vote by parliament, and I’m sure
we’ll get into that.

**MS. SHANTONA CHAUDHURY:** Yeah, we will. Okay, I
just wanted to clarify that right now. Okay, so then let me
pull up, Mr. Clerk, SSM.NSC.CAN000000214.

**MS. JANICE CHARESTTE:** This reminds me of your
question, actually. So what did we do ---

**MS. SHANTONA CHAUDHURY:** So what was my question?

**MS. JANICE CHARESTTE:** What did we do at the IRG
on the 10th of February, I think?

**MS. SHANTONA CHAUDHURY:** Well, apparently you
came up with a lot of what ended up in the IRG Tracker on the
12th, so ---

**MS. JANICE CHARESTTE:** The truth, yeah.

**MS. SHANTONA CHAUDHURY:** Can we just flip down,
please, Mr. Clerk, to where the tracker starts? There we go.
Okay, so Ms. Charette or Ms. Drouin, can I ask you to explain
sort of what is going on under Track 1 and then Track 2 of the
IRG Tracker?

**MS. JANICE CHARESTTE:** So I’ll start, perhaps, and
then you can add if you want, Madam.

So this goes back to the kind of -- Track 1/Track
2 goes back to the conclusions of the IRG meeting on the 10th of
February where the prime minister heard from a variety of senior
officials on what the situation, their kind of overview of the
situation, the treat and risk assessment the NSIA, from agency
heads; then he turned to his ministers for their view of the
situation, who they’d been speaking to, what was happening, what they thought needed to be done.

And coming out of the meeting on the 10th, in the way the conclusions of the meeting and the tasking coming out of that meeting was, there was two tracks of work to be done. Track 1 was everything that could be done within existing authorities, existing jurisdiction; although it may take new resources to do those things, what’s everything that we could do within the existing set of powers, duties, and functions under law? And then Track 2 was, are there new instruments that we might need; are there new legal authorities that we might need?

So this looks to me like what we would have tabled -- I think this is true -- this is what we would have tables as a supporting document, an input to the deliberations of the IRG as the results of what had -- the work that had been done since the meeting on the 10th. And so it goes item by item and it describes, well, what was -- what were we doing under Item 1, and a bit more description of it; who was the lead on that, if any supporting departments; what the status of it was; if there were any documents. And if you go to number 3, you’ll see that there are some supporting documents and any other notes.

So we were able to, on an ongoing basis, be in a position to provide ministers with an update on all the work that was underway across all the departments across both Track 1 and Track 2.

MS. SHANTONA CHAUDHURY: Okay, and if we ---

MS. JANICE CHARETTE: Was that good?
MS. NATHALIE DROUIN: Yeah, that’s perfect, maybe just one thing to add. And I think Jackie covered that a little bit this morning, but those options, or suggestions of work of area -- area of work, sorry, were at different stage of their analysis. You know, some were at the really early stage and then we found out that -- you know, for example, blocking the cell towers, do you see that elsewhere in the IRG? That was something that we look at, was just not feasible; we stopped that initiative. So we look at many things but here you don’t really see how in-depth is the analysis on each of one.

MS. SHANTONA CHAUDHURY: Okay, so it’s not clear from looking at this document what stage the analysis ---

MS. NATHALIE DROUIN: Exact.

MS. SHANTONA CHAUDHURY: --- is at for these various tracks?

MS. NATHALIE DROUIN: It can be an idea or it can be something that is very fruitful.

MS. JANICE CHARETTE: Yeah, and they’re all of different sizes. I mean “establish a clear leadership table”, that’s a relatively simple thing to do. And you see “daily DMOC schedule”. Some of the others are a lot more complex, complicated, and involve a lot more parties to do.

MS. SHANTONA CHAUDHURY: Mr. Clerk, if we can just scroll down a little bit, see what else is on this. Okay, we see the famous ---

MS. JANICE CHARETTE: The tow-truck strategies. There’s a lot about tow trucks.

MS. SHANTONA CHAUDHURY: We’ve heard a lot about
tow trucks, more about tow trucks than we ever thought we’d know. We also see there -- and I’ll just get you to comment on this briefly because we did canvass it with Ms. Thomas, but Item No. 4 there says:

"Identify immediate measures to close the intelligence gap."

Is there anything you’d like to -- well, I suppose you didn’t necessarily hear all of the NSIA’s evidence but she spoke at some length of the social media intelligence gap and the difficulty of the federal government in collecting the kind of information that may have been of assistance in this situation. Is that something you’ve personally observed as well? Would that apply to you as well?

**MS. JANICE CHARETTE:** I would say that, again, context matters here. We were the 12th of February and as this track was being put together, we had a situation that was moving very quickly. There was a lot of inputs of information. We had very organized ways to get information through some of the agencies and a lot of that fed in through the National Security Intelligence Advisor, through organizations like the Integrated Terrorism Assessment Centre which operates as part of CSIS.

What it felt to us at the time -- and I think, as the time went on, we both found out some things that told us we didn’t have a gap -- some people knew things, it’s just we didn’t have necessarily a way of sharing all the information. So I would say as you read here, the intelligence gap, and it goes on to specify open source, non-criminal, non-terrorist. So we thought we had -- we knew law enforcement was collecting up

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intelligence, wasn’t necessarily sharing it with us, nor necessarily should they have, because it was operational information.

Terrorists, that would have been specific agencies that were collecting that.

But it fell to us when it came to open source and that there were things happening, particularly in the offline space and through earned media that perhaps we didn’t really have a full 360-degree view on.

And I would comment here that one of my observations is that on the public service side, we don’t tend to be as skilled and as literate -- I'm making a huge generalization here, but stick with me -- we don’t tend to be as skilled or as literate in the use of social media as the team that supports ministers and the prime minister on the political side. That’s very much kind of in their wheelhouse and we don’t tend to do as much of that.

And so even going back before convoys and back to kind of through the election and afterwards, I was -- I would find myself on occasion hearing the prime minister's office staff, Ms. Telford and others, talking about things that they were seeing on social media that I just -- I wasn’t seeing and I wasn’t necessarily hearing or picking up. Those wouldn't have been the same places I would get information. They wouldn’t be the normal kind of inputs that I would receive.

And so as we sat -- and this is one of the interesting things about the Incident Response Group -- unlike other Cabinet committees, ministers, the prime minister at the
table, but senior officials are also at the table able to participate in the conversation. Normally in Cabinet or Cabinet committees, officials are there and we're called on to speak. We don't kind of participate in the conversation.

But given the situation we were faced with, everybody was kind of trying to workshop this together. What could we do? And it became clear in the conversation, which is why you see this in the tracker, that there were -- there was things happening in the open source, in the social media environment that we just didn’t have a very good handle on. And so that was one of the things, like, how could we close that gap? How could we figure that out better?

And I think you see products later that we have attempted to actually try to figure this out.

**MS. SHANTONA CHAUDHURY:** That’s helpful.

Now, if we can just scroll down, Mr. Clerk, to Track 2? I think we can sort of put Track 1 away. We've heard quite a bit about what was going on under Track 1.

Track 2, you see that the first sort of item there is "Assess utility of other tools that do not require invoking the *Emergencies Act*, e.g., the *National Defence Act*.”

Now, I appreciate that the rest of that is solicitor-client privilege which is redacted, but is it fair to day that there were options other than the *Emergencies Act* being considered in some ways?

**MS. JANICE CHARETTE:** Yes. We were looking at standalone -- we were looking at authorities under other legislation, standalone legislation that could have been done in
the financial area, I think, for example. You may have heard
some of that yesterday from the Department of Finance, Mr.
Sabia, and the Department of Finance colleagues, or the
Emergency Act, which is really a legislation of last resort.

So were there other things that could be done,
other legislative steps that could have been taken? That’s --
but I'd say that we were trying to do this not so much inventing
legislation but trying to understand the nature of the gaps and
therefore, what would be the solutions to try to fill those gaps
as opposed to kind of think up, you know, new legislative
solutions on the spot.

MS. SHANTONA CHAUDHURY: Okay. So the gaps drove
the solution?

MS. JANICE CHARETTE: Yeah, exactly.

MS. SHANTONA CHAUDHURY: Okay.

MS. JANICE CHARETTE: Right.

MS. NATHALIE DROUIN: I can give you maybe
another example that I'm sure you have seen in our documents
that at some point, we were looking at the definition of "trade
corridor"?

MS. SHANTONA CHAUDHURY: Yes.

MS. NATHALIE DROUIN: So that’s one of the things
we were looking at. Do we have regulation powers somewhere
where we can come and define what is a trading corridor, and
then have jurisdiction in trying to do something?

So those were the type of things we were looking
at under this regulation.

MS. SHANTONA CHAUDHURY: And I think it was found
that there was nothing available; is that right, that could
allow sort of the designation of a trade corridor?

**MS. NATHALIE DROUIN:** Exactly.

**MS. JANICE CHARETTE:** In Windsor, you know, we
had -- *Bridges and Tunnels Act* allowed us to actually control or
have jurisdiction over the bridge, but the plaza, the roads
going into it, well, that’s a bit more complex of a story.

So was there a way to look at that piece of
critical infrastructure and say, "Okay. This whole trade
corridor, the roads leading into it, the plaza, is there a way
for us to get jurisdiction over that so that we could manage?"

It wasn’t just the blockade, as you recall the
film footage on this is fabulous in a not very good way, but it
shows you just -- like, it wasn’t just the bridge, right? There
was 10 kilometres, sorry, of trucks backed way up.

So the problem wasn’t just what was happening on
the bridge, it was the entire trade corridor, and the Ambassador
Bridge is a pretty important piece of our trade infrastructure.

**MS. SHANTONA CHAUDHURY:** Okay. Sorry, I'm trying
to figure out how to bring us to the next topic without going
too far into it.

At the end of the February 12th IRG -- so we'll
put away this document for now. That sort of brings us to what
is a critical time in the chronology of all of what was
transpiring February 13th.

**MS. JANICE CHARETTE:** Yeah.

**MS. SHANTONA CHAUDHURY:** And what I'd like you to
do if you can is walk us through -- I understand that was a very
packed day, DMOC, IRG, Cabinet, maybe another DMOC somewhere in there. How did you get from -- well, just walk us through the day, but before we go there, a slight parenthesis, which is, the Emergencies Act appears on the IRG tracker, and it sort of appears out of nowhere and -- when you look at the documents.

But I understand from our interview that the Emergencies Act was something that had sort of been in the background of the consciousness of the federal government since the COVID-19 pandemic started in March 2020, so I wonder if you could give us a little bit of that background before we get into the chronology of what happened on February 13th?

**MS. JANICE CHARETTE:** So maybe we'll do this as a tag team because Madam Drouin was there in March of 2020 and I wasn’t, and then I could kind of pick it back up in February of 2022. Is that okay?

**MS. NATHALIE DROUIN:** So go back to 2020 with COVID, and maybe we will come to that later. But we did some talk about the Emergency Act and whether or not the conditions were there to trigger the Emergency Act for health purposes and not for Public Order purposes, of course.

And this is where I think -- and I was at Justice at that time -- we develop a little bit better understanding of the Act, an act that has never been used since its adoption in 1988.

So we develop a little bit better understanding on how it operates, what is the oversight mechanisms, the House, the Joint Committee, this Inquiry, the consultation with the PT, so all the necessary steps to invoke.
So this is where I think we develop a little bit more agility with the Act.

But coming back to the convoy, from my perspective, the real first time where we start thinking about that was really after the DMOC of February 9 when, you know, as a group, we said we need to look at all potential options. And this is why we -- sorry, we start looking at what kind of tools the Emergency Act can give us, how we -- you know, meeting the thresholds of the Emergency Act. So I really think that for me, anyway, it's -- it was really on February 9 that we started to seriously look at whether or not it was an option.

**MS. SHANTONA CHAUDHURY:** So I was right in starting this examination with February 9th. Would you agree with that?

**MS. JANICE CHARRETTE:** I would certainly defer to ---

**MS. SHANTONA CHAUDHURY:** Not with what I said, with what Nathalie said.

**MS. JANICE CHARRETTE:** Maybe both. I would defer to Madam Drouin on the early stages of the public health. That certainly, as it came to be February the 9th and we were looking at what could we do, the potential of the Emergency Act, which I'll underline had not been used since 1988 -- also contributed to when I thought about my advice to the prime minister, ministers were actually going to consider options put before them by officials, including the possibility of triggering the Emergency Act. That required an Incident Response Group.

Now, you would -- I think you've been hearing in
the testimony, you know, this is kind of a careful build up of all the deliberations, but when we were starting to talk about this as one of the potentials, I thought that the prime minister and ministers needed to be sitting in a structured Incident Response Group to understand, to be briefed on and to deliberate on that serious a matter.

**MS. SHANTONA CHAUDHURY:** Okay. That’s helpful.

So now I’ll just ask you again to walk us through the chronology of the 13th of February.

**MS. JANICE CHARETTE:** Okay. So the chronology of the 13th. So there was a lot.

**MS. NATHALIE DROUIN:** Keep in mind, it was a Sunday.

**MS. JANICE CHARETTE:** It was a Sunday. That’s right. Also Day 17, at the end of the third weekend.

I think you’ve heard testimony from other colleagues and others about kind of what was going on in terms of the protests, what was happening at -- we had all been, when we weren’t working and on calls, we’d been watching the law enforcement action that had been taking place in Windsor for example. We were watching what was happening on our television screens. But there were calls and meetings that took place that day, which are the focus, I believe, of your question.

I don’t recall myself participating in a DMOC that day. I may have. I just can’t remember, to be honest with you.

My focus was really on getting ready for the IRG meeting at that point, just given the escalation that had taken
place, the fact that we were in -- we were at -- we were coming to the end of the third weekend. I think the IRG was in the afternoon on the 13\textsuperscript{th}, if I recall correctly. So we were getting ready for that, making sure the materials were ready and so on, collecting up all of the latest inputs.

We were at the end of the third weekend. Ottawa was still a significant site of what I think was generally considered at that point to be an illegal protest.

There -- make no mistake, there were people who were there for a lawful protest, but at that point, the totality of the situation in Ottawa was an illegal protest, an illegal blockade. And what was going on in Windsor.

And we saw the size of the effort that was required to bring Windsor under control and the duration of the effort. That took days to de-escalate and to eliminate -- to get to a point where that situation was settled and the port of entry was able to open, but we didn’t know how long it was going to be sustained.

So all to say, it was a series set of circumstances. Other ports of entry were kind of on and off. The situation was quite volatile. So at any point in time, there were lots of different inputs.

We went into the Incident Response Group in the afternoon of the 13\textsuperscript{th} of February and through conversations that we had had internally, my -- the proposed agenda for the IRG was a bit different than it was on the 10\textsuperscript{th} or the 12\textsuperscript{th}. And if you look carefully at it, you’ll see that we have switched the order of items.
The first item is not what you would normally expect as a situational overview and update. Ministers and the Prime Minister had been meeting on the 12th, they’d been meeting on the 10th, they’d been getting this constant feed of information.

So the advice of the Prime Minister was to turn, at that point, immediately to -- given we were at the end of the third weekend, we still had a very challenging and I believe the conclusions we had were a dangerous situation, a complex, volatile situation. What were the options. What were the decisions available to Ministers? And then after a long series of deliberations, then there was, is there anything new to add? And so an upside-down flip of the traditional agenda.

And the conclusion coming out of that Incident Response Group was the Prime Minister was convening the Cabinet on the evening of the 13th of February, a virtual Cabinet call, luckily we had that secure video capacity to do that, to consult with his Cabinet on the overall response. And at that point, I think I’m allowed to say, of course, including the invocation of the Emergency Act as one of the decisions, the potential decisions to be considered by Cabinet.

**MS. SHANTONA CHAUDHURY:** Okay. So the outcome of the IRG in the afternoon was it’s time to convene Cabinet to consider options, including potentially invoking the Emergencies Act?

**MS. JANICE CHARETTE:** That’s correct.

**MS. SHANTONA CHAUDHURY:** Okay. And then that evening is when that Cabinet meeting took place?
MS. JANICE CHARETTE: That’s correct.

MS. SHANTONA CHAUDHURY: There’s a few questions we want to ask you about what information Cabinet had at hand in that -- at the end of that day, if I can put it that way.

So there’s some specific questions, and we’ll just go through them one at a time. They’re items that have come up in the last two weeks of hearings, or the last maybe more than two weeks of hearings.

Mr. Clerk, can you pull up OPS00014566?

So to situate you a little bit while this is coming up, this is about the law enforcement plan in the City of Ottawa. So the Commission has heard a lot of evidence about the plan for resolving the Ottawa situation, or lack there of, from the moment the convoy arrived to where we are in time right now, which is around February 13th.

And the question we have, if you can just scroll down, Mr. Clerk, to where you see, “Lucki did not get prime minister”? It’s on page 2. There we go.

Lucki, so that would be Commissioner Lucki, did not -- and these are notes, by the way, I think on the 14th? Is that correct? Okay. So this is a meeting between Commissioner Lucki, Commissioner Carrique, and what it says there is:

“Lucki did not get prime minister briefed […] on the plan. Prime minister will be enacting the emergenc[ies] […] act. Advised her legal to review what the measures are, what’s the procees [sic]…”

MS. JANICE CHARETTE: Can you tell me who has
written this or who is supposedly speaking at this? Like, what’s at the top of that?

**MS. SHANTONA CHAUDHURY:** Sure.

**MS. JANICE CHARETTE:** Ten (10:00) o’clock meeting.

**MS. SHANTONA CHAUDHURY:** Ten (10:00) o’clock meeting with Commissioners Carrique and Commissioner Lucki. My guess is that these are scribe notes.

**MS. JANICE CHARETTE:** From? Chief Sloly or from?

**MS. SHANTONA CHAUDHURY:** OPS. So we got the document from the Ottawa Police Service.

**MS. JANICE CHARETTE:** So OPS. Thank you.

**MS. SHANTONA CHAUDHURY:** Yeah.

**MS. JANICE CHARETTE:** So OPS meeting with the OPP Commissioner and the RCMP Commissioner?

**MS. SHANTONA CHAUDHURY:** That’s right.

**MS. JANICE CHARETTE:** That’s what it looks like.

Okay. Thank you.

**MS. SHANTONA CHAUDHURY:** So the statement there is:

“Lucki did not get prime minister briefed [...] on the plan. Prime minister will be enacting the emergenc[ies] [...] act. [And then] [a]dvised her legal to review what the measures are, what the procees [sic]...”

So the question we have for you is, coming out of the 13th of February between the IRG and the Cabinet, was the Prime Minister -- was Cabinet/the Prime Minister briefed on the
state of the plan for law enforcement in Ottawa, and
specifically that there was a plan coming together?

MS. JANICE CHARETTE: So I wasn’t at this
meeting. I don’t know how accurate ---

MS. SHANTONA CHAUDHURY: Absolutely fair.

MS. JANICE CHARETTE: --- these notes are. And I
will tell you for a fact that one of the things that’s written
here is not accurate, because at 10:00 o’clock in the morning on
the 14th, no decision had been taken about enacting the *Emergency
Measures Act*, which is not the name of the legislation anyways.
So with that out of the way, what happened at the
IRG and the Cabinet meeting in terms of the materials, the
inputs to the deliberations before the Prime Minister and the
Cabinet, I think is the essence of your question.

And so I would differentiate between how IRGs
work and Cabinet. I think I said this a bit earlier. An IRG
meeting, it’s really kind of everybody around the table trying
to provide a contribution with the Prime Minister in the chair
kind of deciding who gets to speak what and running the meeting,
as you would expect.

And so that’s a bit more of an opportunity for
senior officials, including the RCMP Commissioner, to
contribute.

Whereas Cabinet is a different kind of a meeting.
It’s a more structured formal meeting. The Prime Minister runs
it. It’s tradition that Ministers speak and officials only
speak if they’re called on by the Prime Minister.

So a couple of things about this. Commissioner
Lucki was a participant in the IRG and she was an attendee, I would say, at Cabinet. She was a participant, as I was a participant, at the IRG. And then an attendee and a secretary at the Cabinet meeting.

I think it’s fair to say on the evening of the 13th when these two meetings took place that we had been hearing various versions of the evolution of a plan for the situation in Ottawa, as we had been hearing about law -- at a very high level, not at a detailed tactical or operational level, about the planning around what to do about Coutts, what to do about the situation at Emerson, what to do about the situation at Windsor. And so we’d been hearing about the evolution of the Ottawa plan. We’d been hearing about the conversation around the setting up of an Integrated Command Centre, so that RCMP and OPP resources, along with OPS resources, could be organized and share information and so on.

But we’d heard a lot -- we’d heard often about a plan. What we hadn’t seen at the end of the third weekend was anything happening on the plan.

And so the plan, which there had been various conversations about the Ottawa plan, there was no -- to the best of my recollection, the Commissioner or did not speak in detail at the IRG about the operational plan, but there were conversations about the fact that police were working together to have a plan, to resolve the situation in Ottawa, as you would expect them to. We had a horrific situation in Ottawa going on. You would expect that law enforcement at all levels were trying to figure out what to do about it.
When it came to Cabinet, as I said, it's a different structure. The National Security and Intelligence Advisor provided an integrated brief to the Cabinet, which takes as inputs information that is provided through the colleagues who would be represented, for example, on the DMOC. And that would include the information that would have been fed in by the RCMP, by Transport, by CBSA, by CSIS, by PCO, by Global Affairs across -- again, and then the National Security Intelligence Advisor would provide that integrated view.

The RCMP Commissioner, as any agency had a Deputy Minister, as a Minister who's also a member of the Cabinet, and we have obligations as Deputies to make sure when our Ministers are going to a Cabinet meeting, they're briefed, and they have our perspectives. And so my expectation would have been she would have also been briefing her Minister, Minister Mendocino, if she had things that she thought were relevant to the conversation. And so there was no explicit conversation either at the IRG, to the best of my memory, in detail about the plan but there had been many conversations leading up to that, as well as at the Cabinet meeting would have been the integrated view from the National Security Advisor, which has been the practice, I would say, without getting beyond the Cabinet confidence waiver that you have from the Prime Minister. It's fair to say that that has been the practice on other issues on which the Cabinet has been confronted. Situation in Ukraine, for example, the NSIA, the National Security Intelligence Advisor provides an integrated brief to the Cabinet pulling together all the information, so part of it's time management
and one integrated brief.

I guess the last thing I would say is that Commissioner Lucki, as the head of the RCMP, I recognized as the Clerk of the Privy Council that as the person who was in charge of the RCMP, there might be times when the RCMP Commissioner may have information that she did not want to provide in front of a large room of people, whether that's Ministers or officials, for whatever reason. There's sensitive information. And so I think it's part of my responsibility to make sure the RCMP Commissioner knows that if there's anything that she thinks that I need to know, that she has an open door to me. And also, that if she thought the Prime Minister needed information, that I would facilitate that. And I don't know whether there -- you know, I don't think there's any case in which the RCMP Commissioner has reached out to me to provide information that I have not had a chance to have that engagement with her.

So we'll come to the conversation about what would have changed, if anything, if we'd known about it, in my view, just to give you the kind of the Cole's notes version of where we're going, it was one factor, one site, one moment in a complex situation.

MS. SHANTONA CHAUDHURY: Okay. That's helpful. So if I can -- and just sort of a -- because you may summarize, Cabinet's state of knowledge as to what was going on in Ottawa, it would have been at the end of the day on the 13th. There is some sort of plan being developed but nothing particular earth shattering about what stage that plan was at?

MS. JANICE CHARETTE: I'm not sure I would say
earth shattering, but that there had been evolutions of the plan
with law enforcement with OPP and the RCMP working together with
the OPS, but I didn't have a detailed level of -- Cabinet was
not provided with any detailed level of knowledge about the
contents of that plan, how it was going to work, when it was
going to work.

MS. SHANTONA CHAUDHURY: Okay. So no detailed
knowledge about the timing of it or the intention at that point?

MS. JANICE CHARRETTE: Or how, or what the plan
exactly was.

MS. SHANTONA CHAUDHURY: Okay. So the second
question I want to ask about is also to do with the RCMP.
PB.NSC.CAN.00003256, please, Mr. Clerk.

So to situate you, this is an email from
Commissioner Lucki to Mike Jones, Chief of Staff of Minister
Public Safety. The timestamp on it is, it's the Greenwich Mean
Time thing, so it's midnight minus 5 hours, so 7:47 ---

MS. JANICE CHARRETTE: Seven ---

MS. SHANTONA CHAUDHURY: --- shortly before the
Cabinet meeting that took place, I think at 8 o'clock or 8:30 on
the evening of the 13th, 8:30 I believe.

Okay. And if we just scroll down, so she's
putting together what she -- what's called her EM list,
emergency measures list. And then if we scroll down to the very
end of the email ---

MS. JANICE CHARRETTE: Can you back up for just
one moment, please?

MS. SHANTONA CHAUDHURY: Yeah, of course.
MS. JANICE CHARETTE: Sorry, just to remember --
I want to remember something. Okay. Thank you.

MS. SHANTONA CHAUDHURY: Okay. We scroll down to
the very end of it. Yeah, sorry, just there, Mr. Clerk. This
said,

"...I am of the view that we have not
yet exhausted all available tools that
are already available through the
existing legislation."

And then she says,

"There are instances where charges
could be laid under existing
authorities..."

And then, "The Ontario Provincial Emergencies Act
just enacted..."

I think that had been enacted on...

MS. JANICE CHARETTE: Friday.

MS. SHANTONA CHAUDHURY: --- the 11th.

MS. JANICE CHARETTE: Yeah.

MS. SHANTONA CHAUDHURY: Right.

"...will also help in providing
additional deterrent tools to our
existing toolbox."

So my question for you is, was that something
that was conveyed at either the IRG or more importantly the
Cabinet meeting that evening, that the RCMP had flagged that
their -- in their view, in Commissioner Lucki's view, there were
still available tools?
MS. JANICE CHARETTE: I think in the conversation around the management of the situation including the invocation of the Emergency Act, it's fair to say that Cabinet was briefed that there were tools and authorities in many organizations that had not been fully deployed, including in the RCMP.

Think about the situation facing law enforcement on this third weekend. You know, they'd just been through the situation in the RCMP, along with OPP and Windsor Police Service, managing a significant situation in Windsor. They had this very difficult situation in front of them in Ottawa. RCMP was managing Coutts. There was a lot on the plate of law enforcement. It's a very difficult job at the best of times and these were not the best of times and very difficult conditions. And so that our police said that there were existing authorities -- we knew that there were existing authorities that hadn't been fully used. There were trucks parked on Wellington Street. You don't get to park on Wellington Street. So there were authorities that had not been fully deployed. There -- from municipal all the way through to Criminal Code, as the Commissioner indicates here. You would expect that the police were continuing to look at every available tool that they had to be able to deal with the situation.

And so I can tell you that, to the best of my memory and my recollection, Cabinet were informed that, yes, there were tools and authorities. Track 1, go back to the tracker, there were Track 1 that hadn't been fully deployed, but the question was whether or not they were going to be adequate to be able to deal with the totality of the situation. That I
think was the matter before Ministers.

**MS. NATHALIE DROUIN:** Can I add something on this? As the Clerk said, yes, some tools were used unsuccessfully, unfortunately. Some haven't been tried, but the situation was still there. At the same time, I think it's, in a way, reassuring that a Commissioner, head of the biggest law enforcement agency is still wanting, you know, to use the tools, you still have confidence in her teams to do something. Can you imagine if we have waited for the Commissioner to say, "I'm overwhelmed. It's over. I can't do that." So we wouldn't have been in a situation of threat. We would have been in a situation where the threat would have materialized.

**MS. SHANTONA CHAUDHURY:** That's helpful, and I think that will come up a little bit later on when we discuss the eventual decision that was made. So, Ms. Charette, you pointed out that at the end of the 13th, the decision -- no decision had been made, you said, to invoke the Emergencies Act.

**MS. JANICE CHARETTE:** That is correct. A decision was for the Prime Minister to convene a First Minister's Meetings to consult the provinces and territories on the situation to brief them and to discuss with them the possible invocation of the Emergency Act.

**MS. SHANTONA CHAUDHURY:** Okay.

There are actually two more bits of information that I want to ask you about first briefly, but I think they will go pretty quickly and there may be others who take up these points as well.

But the first one is -- I don't think I need a
reference for this one. But was Cabinet aware that CSIS had assessed that there was no threat to the security of Canada under section 2 of the CSIS Act coming out of the protests?

**MS. JANICE CHARETTE:** Let me make sure I’ve got this straight, how I explain this.

Cabinet was aware that CSIS had not assessed a threat to the security of Canada necessary to trigger their authorities under the CSIS Act. To the best of my knowledge to this day there was no CSIS investigation of the protest, which is what section 2 of the CSIS Act is about. It is about triggering CSIS to use their authorities. They see a threat to national security by a person or a group that would cause them to seek a mandate to actually launch intelligence gathering activities.

**MS. SHANTONA CHAUDHURY:** Okay. That’s ---

**MS. JANICE CHARETTE:** That was not the case.

**MS. SHANTONA CHAUDHURY:** Okay. And we’ll come back to that in some detail. Again, I just wanted to make sure that Vigneault had expressed that view that you just articulated was before Cabinet.

**MS. JANICE CHARETTE:** The CSIS assessment and the threat legal assessment was before Cabinet.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. NATHALIE DROUIN:** And then maybe just to add, the CSIS assessment in order to trigger powers under the CSIS Act -- so their assessment for the purpose of CSIS Act, not their assessment for the purpose of the Emergency Act.

**MS. SHANTONA CHAUDHURY:** Yes, okay. That’s fair, and we’ll come to that.
And then the last piece of information is we’d heard from some of the deputy ministers and CSIS, I believe, and the RCMP that there were concerns being expressed that invoking the Emergencies Act could make things worse, not better, in the sense that it could inflame tensions. I believe one of the lines used by Deputy Minister Keenan was “it could backfire” -- so either Deputy Minister Stewart or Deputy Minister Keenan.

So was that sort of hesitancy or reluctance then put before Cabinet?

**MS. JANICE CHARRETTE:** I can tell you absolutely that that was put before Cabinet.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. JANICE CHARRETTE:** And that was discussed. In all of these matters it was a balance, you know? When was the right time to act? What was the right thing to do? Was it too early? Was it too late? Was it too little? Was it too much?

And so one of the things that Cabinet had to debate was amongst all of the actions to be taken, what was the possibility that there was going to be a reaction on the part of those who were engaged in the protest activity who were not there for legal purposes, who were not there for peaceful protests, who had other motives?

So Cabinet very much had to be briefed and they were briefed by, and they had access to the information from CSIS from us.

**MS. SHANTONA CHAUDHURY:** Okay. So that brings us to the end of the meeting, and as you say, a decision was made
to convene a First Ministers’ meeting the following day.

How was that convened?

**Ms. Janice Charette:** So I believe there may have been other conversations that happened that night between the Prime Minister and his Parliamentary caucus, but we, the public service is not part of that.

So there we go. Sometime between the evening of the 6th and the morning of the 7th my colleagues in the Intergovernmental Affairs team and the Privy Council Office which is led by Deputy Minister Michael Vandergrift would have sent a message out to the offices of provincial and territorial leaders that the Prime Minister was convening a teleconference of provincial and territorial leaders. I think it was taking place at 10 o'clock in the morning which is a little bit early if you're in British Columbia, I suspect. But the objective was -- I'm not even sure that the subject matter was communicated.

I think it was an FPT conference call.

I don't actually remember whether that happened late in the night of the 13th or whether that happened in the morning of the 14th, but sometime between those things. As well, I have come to understand as a result of reading the institutional report of the Prime Minister’s Office, there was other conversations going on between the Prime Minister’s Office and the office of other premiers across the country.

So it could have been, but they got a heads up earlier. I don’t know the answer to that. But the official communication around convening this call happened sometime between when Cabinet concluded on the 13th, and 10 o'clock the

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next morning. I don’t think it was a lot of notice, that’s fair
to say.

**MS. SHANTONA CHAUDHURY:** Okay. And I saw, Mme.
Drouin, you were shaking your head at it, so the subject matter
was not conveyed to the premiers that evening; is that correct?

**MS. NATHALIE DROUIN:** That’s correct.

**MS. SHANTONA CHAUDHURY:** So the First Ministers’
meeting was called but the premiers weren’t advised that this is
about potentially invoking the *Federal Emergencies Act*.

**MS. NATHALIE DROUIN:** That was not mentioned ---

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. NATHALIE DROUIN:** --- in the invite.

**MS. JANICE CHARRETTE:** It’s fair to say there had
been a lot of FPT leaders’ meetings, First Ministers meetings,
going on through COVID, unprecedented. I would argue a number
of FMM meetings had been going on since the beginning of COVID.
But this was not of the same ilk.

**MS. SHANTONA CHAUDHURY:** Okay. And you mentioned
there may have been some conversations happening at the
political level that evening that we may get into next week ---

**MS. JANICE CHARRETTE:** Perhaps.

**MS. SHANTONA CHAUDHURY:** --- when we hear from
the ministers. We may or may not. We also did hear some
evidence from Deputy Minister Stewart that he had a call with
Deputy Solicitor General di Tomaso the evening of the 13th and it
was mentioned on that call that the Emergencies Act was being
considered.

To your knowledge, was there any other
communication at the officials level?

**MS. NATHALIE DROUIN:** So to my knowledge, no.

Have to take that with Deputy Minister Michael Vandergrift. And to our knowledge, no. What I can add though is if you look at that Sunday, Mr. Blair did a lot of media relations where he said everything was upon the table including the *Emergency Act*.

So the reality is that provinces, when we started the conversation on the 14th, they were not surprised that the conversation was about a consultation under the *Emergency Act*.

**MS. SHANTONA CHAUDHURY:** Okay. So that takes us right to the events of the 14th. So the First Ministers meeting is convened, at what time? Do you recall when it took place?

**MS. JANICE CHARETTE:** I believe it was 10 o’clock in the morning.

**MS. SHANTONA CHAUDHURY:** Okay. And we’ll hear some detail when I get to the next part about what occurred at that meeting. Maybe I’ll just ask you to walk us through the chronology of what happened on the 14th from your recollection.

**MS. JANICE CHARETTE:** Okay. Another action-packed day.

So my notes remind me that there was the First Ministers meeting. There was an Incident Response Group meeting, again on the 14th. The Privy Council Office was busy working, following the First Ministers meeting to pull together a decision note for the Prime Minister in terms of whether or not to actually proceed to invoke the *Emergency Act*.

That all culminated in the mid-afternoon sometime after three o’clock, so collecting up inputs to be able to pull
that together. And then the Prime Minister and I believe other ministers together made a public announcement that they were proceeding to invoke the Emergency Act.

Meanwhile, kind of in the situation that was still evolving, that morning we had seen the RCMP taking action in Coutts, Alberta, the port of entry at the southern of Alberta. Coutts has never been so famous.

We had been advised by the Commissioner of the RCMP at IRG meetings previous to that that without getting into detail, there was reason to believe that there were weapons at Coutts. But when -- after the First Ministers meeting and before the invocation, my decision note to the Prime Minister were finalized.

Actually, it might have been even before the IRG, before the FMM. We were seeing the results of the law enforcement activity and what was happening at Coutts and we were seeing the size of the stash of firearms and ammunition that were found in Coutts amongst the protesters.

So this was new and I would say relevant information in terms of just the nature of the threat that we were worried about in terms of the risk for serious violence.

So FMM, IRG, the invocation decision, I signed the notes to the prime minister representing the culmination of the advice to the prime minister. That was communicated to him.

He responded to me and indicated that he was approving the invocation and the news conference was held. The prime minister made that announcement publicly and, at the same time, kind of behind the scenes, I think it’s fair to say, you
would have seen kind of gears shifting. The public service was trying to be ready without getting ahead of the prime minister, the cabinet, or the Governor in Council because if we were going to -- if the Governor in Council was going to choose to invoke the Emergencies Act, there was need to be able to move quickly.

So we were moving from -- like, this is a matter of days. The 10th and the 12th, we were still in Track 1/Track 2 option, this option that, “Could we find tow-truck driver in the public service?” to, you know, the evening of the 13th, “We might be invoking the -- the Governor in Council might be invoking the Emergencies Act. Who’s going to do what? What’s it going to mean?”

And so we were starting to shift those gears while not, as I said, getting ahead of the Governor in Council, so that if the decision was taken, all of the organizations would understand, okay, what would it mean for them? And I think if you -- as an example, if you look in the notes that we saw from Commission Lucki earlier, you’ll see that she was feeding into, “Okay, if the Emergencies Act is invoked, here are some of the things that could be done as a result of that.”

So the public service behind the scenes -- the agencies, the departments -- were trying to be ready in the event that it was invoked because we knew we wanted to be able to move quickly. This was a crisis. This was an urgent situation -- to be able to use whatever powers and authorities were going to be given through the Act and the orders pursuant to the invocation of the Act because we knew were in a -- it was urgent. We had time-limited, targeted powers here; how do you
move very quickly? And so that was kind of going on behind the scenes. So as the prime minister then made the public announcement, I would say the public service shifted to, “Okay, so now we’re in the business of invoking the Act and here’s what we have to do to make that happen.”

At the same time, we talked about -- a little bit about the FMM. I suspect you may want to come back to that; I don’t know. But officials continued to talk to their provincial and territorial counterparts including the Deputy Minister of Intergovernmental Affairs with his colleagues. Madam Drouin, I think participated in some of those calls. It was happening by what I would describe as “sector deputies” kind of talking to their counterparts, “Here’s what this is going to mean. Here’s what” -- and to maintain that kind of open back-and-forth communication as the invocation was being announced and we were moving into kind of that new phase of -- with the Emergency Act.

**MS. SHANTONA CHAUDHURY:** Okay, so just to get the chronology straight, then, that day, First Ministers’ Meeting happens. I think you said an IRG happened. But is it possible that that’s misremembering?

**MS. JANICE CHARETTE:** Yes.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. JANICE CHARETTE:** It’s quite possible.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. JANICE CHARETTE:** Or miswriting down on my little calendar here. It may be that there’s no 14th and we may have gone from 13th pre-cabinet to the 15th because the 14th was decision day. That’s quite possible.
MS. JANICE CHARETTE: Sorry.

MS. SHANTONA CHAUDHURY: We know that there was an IRG -- or there was a cabinet meeting on the 15th, I believe.

MS. JANICE CHARETTE: That’s correct, yes.

MS. NATHALIE DROUIN: A regular cabinet.

MS. JANICE CHARETTE: A regular cabinet.

MS. SHANTONA CHAUDHURY: --- a First Ministers’ Meeting. Following the First Ministers’ Meeting, you provide advice to the prime minister ---

MS. JANICE CHARETTE: Correct.

MS. SHANTONA CHAUDHURY: --- and you advise -- and we’re going look at this in some detail in a moment. You advise that the time has come to invoke the Emergencies Act?

MS. JANICE CHARETTE: M’hm.

MS. SHANTONA CHAUDHURY: Okay. And then the public announcement happens?

MS. JANICE CHARETTE: That’s correct.

MS. SHANTONA CHAUDHURY: Okay. So let’s ---

MS. JANICE CHARETTE: Sorry, I advise, the prime minister decides, and then the Act is invoked.

MS. SHANTONA CHAUDHURY: I forget that step, yeah. The prime minister ---

MS. JANICE CHARETTE: I’m kind of fussy about that stuff, so.

MS. SHANTONA CHAUDHURY: Okay. So can pull up the “Invocation Memo”, as it’s known, SSM.NSC.CAN00003224?
So the first question, Ms. Charette, is, when was this memo prepared?

**MS. JANICE CHARETTE:** I signed this memo some time, as I said, after three o’clock in the afternoon of the 14th. I remember that because we had been -- there was some -- there was some importance to try and get this moving. Once it looked like that’s the direction things were going to be moving in, we wanted to be able to move quickly. And the prime minister -- he will tell you his own story about this -- he was eager to make the decision and to move forward. So we were -- were moving on. We were trying to move quickly.

The actual memorandum, which goes to many pages and has tabs associated with it, was being worked on and pieces were being pulled together even as we came out of cabinet the night of the 13th and through the day on the 14th, and pieces being added to it. The -- kind of the conclusions of the FMM, for example, there’s a paragraph in this decision note. This is the kind of decision note we would send to the prime minister -- I would send to the prime minister kind of capturing all that we thought was necessary, pulling it all together in one spot, the culmination, as I would describe it, of the public service advice to the prime minister on the decision as to whether or not to invoke this legislation.

And so just around -- some time after three o’clock in the afternoon -- I think there’s a timestamp somewhere about when my office would have sent it to the prime minister. And then we got a sign, which is how the prime minister indicates his decision. We got a -- an initialed copy
back with an “okay” and, following that, the press conference
started.

MS. SHANTONA CHAUDHURY: Okay. And just for a
moment, Mr. Clerk, can we pull up SSM.NSC.CAN00003218?

MS. JANICE CHARETTE: There we go.

MS. SHANTONA CHAUDHURY: Okay, so this would be —
— this email is from someone at PMO, Jeremy Adler, to a host of
people at PMO:

"Please find attached a PM note for
decision on invoking the Emergencies
Act and..."

So it’s the Invocation Memo and the timestamp on
it is 8:41 p.m. GMT, so that’s ---

MS. JANICE CHARETTE: Minus ---

MS. SHANTONA CHAUDHURY: --- minus five, so
that’s ---

MS. JANICE CHARETTE: So 3:41.

MS. SHANTONA CHAUDHURY: --- 3:41 p.m.

MS. JANICE CHARETTE: So Jeremy Adler was my
chief of staff. The address is ---

MS. SHANTONA CHAUDHURY: Oh, I’m sorry.

MS. JANICE CHARETTE: --- PCO-PMO. So Jeremy, as
part of his role at the time, was responsible for, when a
decision note finalized, he would transmit that to the Prime
Minister’s Office and then the -- kind of the catcher’s mitt on
the other side is a combination of officials in the Prime
Minister’s Office, including his -- I see there his -- the head
of his executive office, somebody from the policy team, two
members of the office of the chief of staff, and the head of the
policy team.

MS. SHANTONA CHAUDHURY: Okay. So the important
part, which I missed, is that it’s actually from PCO ---

MS. JANICE CHARETTE: Yeah, it’s from my ---

MS. SHANTONA CHAUDHURY: --- your chief of staff
---

MS. JANICE CHARETTE: That’s correct.

MS. SHANTONA CHAUDHURY: --- to PMO?

MS. JANICE CHARETTE: That’s right.

MS. SHANTONA CHAUDHURY: Okay, thank you. Mr.
Clerk, you can take that down and pull up the Invocation Memo
again, SSM.NSC.CAN00003224.

MS. JANICE CHARETTE: We were operating virtually
at this time. Today, it would be a paper version of that note
which I would physically sign, and then my chief of staff would
transmit that.

MS. SHANTONA CHAUDHURY: Okay. So there’s a lot
to unpack in the Invocation Memo. I see it’s three o’clock. I
may have to borrow back those five minutes with interest that I
gave up this morning, Mr. Commissioner.

COMMISSIONER ROULEAU: There’s too much trading
going on.

MS. SHANTONA CHAUDHURY: Let’s see how far we can
get.

COMMISSIONER ROULEAU: I think it’s worthwhile
spending the time, I think.

MS. SHANTONA CHAUDHURY: I think so, too. So the
summary here -- the overview of this memo essentially gives a wrap-up of what happens next. So ---

MS. JANICE CHARETTE: We call that “the decision box”, so.

MS. SHANTONA CHAUDHURY: “The decision box”, thank you.

"The Emergencies Act came into force in 1988 and is meant to be used as a measure of last resort."

And then we’ll see you go through the four different types of emergencies, or that there are four different types of emergencies. Go down a little bit.

"All measures taken under the Act must be exercised in accordance with the Canadian Charter of Rights and Freedoms and should be carefully circumscribed…"

Then you go through a little bit of the history of the IRGs. Scrolling down to the next page, this summarizes a bit of what has happened and who attended. Then getting down to a slightly more pertinent part here:

"While the demonstrations started out relatively peaceful, they have grown more complex and expanded into multiple locations in the country. The movement is considered to be highly organized, well financed, and is feeding a general sense of public unrest that could continue to escalate with severe risks
to public security, economic stability, and international relations. The economic impact to date is estimated at approximately 0.1 percent of Canada’s GDP per week, however the impact on important trade corridors and the risk to the reputation of Canada as a stable, predictable and reliable location for investment may be jeopardized if this continues.”

Just stopping there. So that’s essentially a summary of much of the evidence that we’ve heard coming from the Deputy Ministers this week before the Commission.

One thing I want to ask you about, and it goes back to something that you mentioned a bit earlier, and I realize that when you say while the demonstrations started relatively peaceful, they’ve grown more complex, you’re talking about everything that was going on in the country?

**MS. JANICE CHARETTE:** That’s correct. A kind of totality.

**MS. SHANTONA CHAUDHURY:** A little earlier, you mentioned that at some point, the Ottawa protest in particular had become illegal, had become unlawful. I’m wondering whether there’s -- you could put a timestamp on that?

**MS. JANICE CHARETTE:** I am not a lawyer.

**MS. SHANTONA CHAUDHURY:** No, fair enough.

**MS. JANICE CHARETTE:** So I will give you my laymen’s interpretation. But Wellington Street is a main
thoroughfare. It happens to be right outside my office. Large trucks being parked on Wellington Street over protracted periods of time, I think, you know, Ottawa’s a -- I think it’s been described as a protest city. Protests happen in Ottawa. It is the seat of government. People come to Ottawa if they want to lawfully protest.

And so I think there was -- you know, there was -- we don’t manage those kinds of regular protests, lawful protests. Those are local authorities that do that.

By the time we had gotten to Sunday night and it was very clear, the RCMP gave us advice at that point in time that the best of her information, at a minimum, the protestors weren’t going anywhere that week, although numbers did go up and down a little bit.

Even if you could kind of ignore the fact that there were, from the minute those trucks parked in the middle of Wellington Street, let’s say they were allowed to do that, let’s say that they were sent there, or allowed to park there, there’s a point at which the protracted existence or parking of those trucks and the activities going on in those trucks represented illegal activity. And I think as we got to the end of the first weekend, a reasonable person would say that we had entered -- we had gone beyond a legal protest and we were into an illegal protest, which isn’t to say that everybody involved was involved in an illegal activity. There was illegal activity, including things like by-law violations. There may still well have been people who were there to peacefully protest. But there was a level of illegal activity going on in Ottawa, I would say,
laymen’s view, at a minimum, some would say from the get go, but
I would say at the end of the first weekend it's reasonable. My
assessment would have been it had become an illegal protest, an
occupation almost. That’s what it felt like and was being
described by the citizens of Ottawa.

**MS. SHANTONA CHAUDHURY:** We had some discussions
yesterday with the NSIA about that line between lawful and
unlawful protests not necessarily being particularly clear or
particularly evident to everyone in these positions. And I
understand there’s some work being done by her, or her office,
looking into that question.

So taking us back to now the invocation memo, the
next line in it:

"A more detailed threat assessment is
being provided under separate cover."

**MS. JANICE CHARETTE:** Right.

**MS. SHANTONA CHAUDHURY:** Can you tell us about
that threat assessment?

**MS. JANICE CHARETTE:** So I think you’ve heard
others in the Privy Council Office describe us as kind of the
place that brings all of the information together, and I think
you will have -- there was a discussion yesterday with the
National Security Intelligence Advisor about, “I need
information for Janice.”

So this memo was being pulled together for me to
give my final advice to the Prime Minister about the decision to
invoke the Act, and there were inputs coming over -- coming from
all different parts of PCO reaching out to their networks.
And so when we got to this point, it would have been, I think, reasonable to expect that we would have been able to include, as part of the package going to the Prime Minister, here’s a threat and risk assessment that was not able to be -- that was not ready by the time that this memo was being sent.

And so the line:

“A more detailed threat assessment is being provided under separate cover.”

We have looked to see whether or not -- we’ve done -- gone back and search all our records, was this provided under separate cover, did it follow? We’ve not been able to find that. To the best of my knowledge, there was no written detailed threat assessment provided under separate cover.

I can tell you that at every IRG meeting that followed, including starting the 15th of February, threat assessments were being provided to the Prime Minister and Ministers as regular part of the IRG proceedings. So there’s no missing note, to the best of my knowledge.

**MS. SHANTONA CHAUDHURY:** Okay. This is not actually a threat assessment that was ever produced. It was an aspirational threat assessment. One that was supposed to be produced, but wasn’t in the end. Is that ---

**MS. JANICE CHARRETTE:** I think we hoped for it, but it was not -- to the best of my knowledge, the best of our records, we don’t have a detailed threat assessment written that was provided to the Prime Minister under separate cover.

**MS. SHANTONA CHAUDHURY:** Okay.

**MS. NATHALIE DROUIN:** Maybe just to add on this,
and you saw Jody Thomas’ request on the 14th regarding that.

The idea was not to have a new threat assessment.

**MS. SHANTONA CHAUDHURY:** Right.

**MS. NATHALIE DROUIN:** The idea was really to collect, in an integrative way, everything we have heard, whether it’s from GAC, whether it’s from Transport, CBSA, all those departments that reported what they were seeing on the ground.

But the idea was, instead of having a lot of different inputs, and often verbally, to have -- to try to have something in written. So that was really the purpose. Not to develop a new assessment.

**MS. SHANTONA CHAUDHURY:** Okay. So it was supposed to be a collation, essentially, of existing information?

**MS. NATHALIE DROUIN:** Exactly.

**MS. SHANTONA CHAUDHURY:** Okay. just moving on then, talks about invoking the legislation, taking a proportional approach with time-limited measures, “these would not displace or replace their authorities,” they wouldn’t “derogate [from the] provinces and territories”.

“Rather, these measures would aim to assist in bringing an end to the illegal activities observed across the country.”

Scrolling down now, Mr. Clerk.

“On February 14[th], [that day,] you convened a First Ministers Meeting to discuss with Premiers and seek their views.
on this scenario and the measures being explored. The Premiers expressed a variety of views - those closest to the situation (e.g., the Premier of Ontario) were completely supportive of invoking the [Emergencies Act] and moving forward with robust measures. A large number of other Premiers expressed concern about the need to act carefully to avoid enflaming the underlying sentiment they considered to lie behind the protest...”

Okay. And just stopping there. So we didn’t go through the First Ministers Meeting in any detail today for reasons of time. We will go through it in more detail next week. But coming out of that meeting, there was a lot of opposition from the Premiers to the idea of invoking the Emergencies Act. The Premier of Ontario was fully supportive, as was recorded here, and I believe the other -- you can correct me if my recollection is faulty, the Premier of Newfoundland expressed support?

MS. JANICE CHARETTE: So I guess there’s two parts, I would say, to this.

First is there was an assurance of confidentiality in the conversation that happened at the First Ministers Meeting. A number of Provincial Premiers and/or political leaders made public statements afterwards as to their position.

So to be honest with you, I can’t remember who
was public and who was not. So I’m just -- I don’t want to go 
too too far in terms of saying who said what around the table.  
It’s fair to say the Premier of Ontario was public. Other  
premiers were public in terms of their opposition. That’s  
pretty clear. But I just -- Newfoundland and Labrador, British  
Columbia, I think I know the answer to that, I just don’t want  
to betray any confidences.  

Maybe Madam Drouin?

**MS. NATHALIE DROUIN:** Yeah, I mean it is in the  
consultation report.

**MS. JANICE CHARETTE:** Yeah.

**MS. NATHALIE DROUIN:** But I put the provinces and  
territories in three baskets. So you have the supporters,  
strongly or maybe, lukewarm, and that’s Newfoundland, that’s  
Ontario, and that’s B.C.

And then you have provinces that, especially the  
one from the Maritimes, who have expressed, you know, concerns.  
And the same concerns as we’ve heard from some of our  
intelligence agencies, that there is a risk that invoking the  
Emergency Act can inflamate [sic] the situation.

And then you have provinces that were very  
against. And those are the prairies and Quebec.

**MS. SHANTONA CHAUDHURY:** Okay. Thank you.  
That’s helpful.

So the only thing I wanted to sort of -- sorry,  
if we could scroll back up, Mr. Clerk? I don’t know if quibble  
with, but raise, is the wording here:

“...those closest to the situation (e.g.,
the Premier of Ontario) were completely supportive."

So if we're talking about support from Ontario, then from Newfoundland and potentially BC, neither Newfoundland nor BC were particularly close to the situation at all. It was really just Ontario that was supportive because they were close?

**MS. JANICE CHARETTE:** Yeah. I think hindsight is 20/20. The prime minister had been leading the First Minister's conversation that morning. I had been participating and others had been participating, and I may not have spent enough time focused on these words myself to make sure they were perfect. There was a lot going on in a short period of time. We were working virtually, and so this is on me if it's not sufficiently clear.

**MS. SHANTONA CHAUDHURY:** Can we just scroll down again to the next page?

**MS. JANICE CHARETTE:** It's true though, the premier of Ontario, when we think about it through the lens of sheer numbers, probably the biggest impact was the combination of what was happening in Windsor and Ottawa, Blue Water, Sarnia, all those ports of entry, slow rolls in and around Pearson, Risk the Rail. Like, that was a very big hotspot. It is also fair to say that Newfoundland and Labrador probably didn’t feel the same way. You're absolutely correct.

**MS. NATHALIE DROUIN:** Just to add thought that BC was facing volatile situation in Surrey, however.

**MS. SHANTONA CHAUDHURY:** Yes, that’s right.

There was the developing Pacific Rim blockade, sorry. Yes,
that’s fair.

Okay. The next -- the sentence I want to point out here is after describing the First Minister's meeting, you advise, Ms. Charette:

"This First Minister's meeting will meet the requirements for consultation with the provinces under the Emergencies Act."

How did you come to that conclusion? What was that based on?

**MS. JANICE CHARETTE:** So I have a -- looking at the Emergency Act, and I had received a range of advice in terms of the conduct of the First Minister's meeting and what the threshold was.

The requirement in the Emergency Act is for consultation, and there had been a consultation with the provincial and territorial leaders through this First Minister's meeting, and that, in my view, met the requirement for consultation.

**MS. SHANTONA CHAUDHURY:** So it was the First Minister's meeting specifically, not any of the engagement that happened before that?

**MS. JANICE CHARETTE:** This sentence does not encompass all of the activity that had been going on, and so read on its face, my advice here was the FMM met the requirement for consultation. It does not reflect the fact that there had been a lot of consultation going on between officials, between ministers, and given to understand between political officials.
I'm not sure it's fair to say though that all of that consultation through all of this was focused on the invocation of the Emergency Act. The First Minister's meeting when the prime minister spoke to the leaders of the provinces and territories and talked to them about the situation, the considerations around the invocation, that for me was the culmination of the consultation with provinces and territories on the invocation of the Act.

MS. SHANTONA CHAUDHURY: That's exactly what I was trying to nail down. That's helpful.

MS. JANICE CHARETTE: Also, it's fair to say, which is not -- and you go on to read here -- that it wasn't the end. The prime minister committed to sending a letter out to first ministers which would set out in writing more clearly the assessment of the underlying risks and the measures to be taken to respond, and he left the door open, both to himself, to his minister of intergovernmental affairs, as well as to his officials or any other minister who wanted to engage, who premiers may have wanted to engage with in terms of input around the evolving situation.

MS. SHANTONA CHAUDHURY: So that was further outreach being done, but that wouldn't affect the conclusion of whether or not the consultation requirement was met?

MS. JANICE CHARETTE: That's right. But it does speak to, I think, recognizing that that culmination of the -- I mean, the decision to move to the First Minister's meeting to consult an invocation had only happened the night before, so nothing that happened before that really was about the
The call was about the invocation of the Act and therefore, if there were questions, I mean, it was not a lot of notice, the topic wasn’t clear, left the door open if there were further views.

**MS. SHANTONA CHAUDHURY:** So then we go to your recommendation. We see PCO recommends you approve declaring a Public Order Emergency under the Emergencies Act.

That one’s self-explanatory.

Okay. We have a lot to unpack in the remainder of this document, so I'm just going to pull out some of the highlights.

On the following page, go down to:

"Earlier today, RCMP had made 11 arrests related to the protest at the border in Coutts, Alberta ---"

**MS. JANICE CHARRETTE:** Where are you? Yeah, I see it now.

**MS. SHANTONA CHAUDHURY:** I'm sorry. It's sort of mid-page there.

**MS. JANICE CHARRETTE:** I see it now, yeah.

**MS. SHANTONA CHAUDHURY:** And then the conclusion of that sentence is:

"--- indicating that there are definitely elements within this movement that have intentions to engage in violence."

So this brings us back to something you had
raised a little bit earlier, which is that the enforcement action in Coutts had happened early that morning and it was revealed to you then that there was this cache of weapons.

And I'm just wondering if you can tell us what effect, if any, that really had on your views that day?

And the second part of it is, what you've put in the invocation memo is that indicates there are definitely elements within this movement that have intentions to engage in violence. And I'm wondering if that -- when you say "this movement", are you looking at this as a sort of a homogenous movement across the country as in there's a relationship between what's going on in Coutts and what's going on in Ottawa and what's going on everywhere else?

MS. JANICE CHARETTE: So maybe I'll try and take that in pieces, and if I miss any, come back to me.

So I think I mentioned earlier that IRG meetings on the -- now I'm getting confused in my dates -- the 10th and the 12th, the RCMP commissioner had mentioned in her situational update when she touched on activities across the country, she mentioned that there was the possibility of there were weapons at Coutts. And she certainly left us with the impression both in the IRGs but as well in the parallel meetings that are going on with deputies that the situation at Coutts was more complex, so why couldn't we solve Coutts, why couldn't we solve Coutts?


It looked like it was getting fixed, then it was not getting fixed; looked like it was getting fixed, then it was not getting fixed; looked like it was getting fixed, not. And so earlier in the day, we had seen in the
media the RCMP having made these arrests, 11 people, and there being weapons in the protest, I can only speak for myself in terms of what my expectations were. The quantity of weapons and ammunition that was discovered by the RCMP in conducting that law enforcement activity was more than I would have expected.

So that, to me, indicated a seriousness and a scale of the illegal activity that was either contemplated at Coutts or people were ready to engage in at Coutts or ready to do at Coutts that was beyond what my prior expectations, based on not a lot of information other than there were weapons.

I think the second part of your question, if I remember correctly, is related to the movement, the comment about a movement.

I think that what we knew at the time, what we suspected at the time was that there was some degree of organization and coordination going on between what I would describe as kind of cells of protest activity going on across the country, but it did not look like a homogeneous, this was one central plan or anything like that.

It did look like there was communication. We could see it happening, even to the extent that we could follow it in the social media and in some of the open source -- open media commentary that was going on. It looked like there were connections between the individuals that were involved, but I wouldn't say that this movement, beyond what's described here in terms of what was happening in Coutts, was one holistic everybody in the country all joined together in one big thing.

**MS. SHANTONA CHAUDHURY:** And so that would then
apply also to the next sentence, which says:

"The movement has moved beyond a peaceful protest and there is significant evidence of illegal activity underway."

**MS. JANICE CHARETTE:** Yeah.

**MS. SHANTONA CHAUDHURY:** So cells, sort of disparate cells as opposed to one organized movement?

**MS. JANICE CHARETTE:** And there did seem to be different objectives or maybe I could use the term motivations. Maybe that’s not the right word, but different objectives. Some people were coming to protest because they were opposed to the public health measures, which governments at many levels had put into place, vaccination mandates, masking mandates, social restrictions.

There were some that were coming to protest because they had more -- they had different objectives. There was talk about overthrowing the government and installing a different government with a governor general and that this new government would pass different rules in terms of public health or other rules.

So there was definitely an anti-public health measures, there was some people who just came because there was a protest and they wanted to join and they wanted to say they were opposed to things the government was doing, but there was this other element, and we couldn't just write it off. We had to take that seriously as well.

**MS. SHANTONA CHAUDHURY:** Okay. We're going to
flip through pretty quickly the next part, so the memo, so this is just summarizing municipal and provincial responses. Keep scrolling down, please, Mr. Clerk, until you see -- actually, keep going. Mentions no involvement of the Canadian Armed Forces. And here we get to the crux of, in a sense, the memo. "Test for declaring a Public Order Emergency." You'll see there, we'll just read it out,

"In order to declare a Public Order Emergency, the [Emergencies Act] requires that there be an emergency that arises from threats to the security of Canada that is so serious as to be a national emergency.

Threats to the security of Canada does not include lawful advocacy, protest or dissent, unless carried out in conjunction with any of the following activities."

And am I right that the following four bullet points are pulled from Section 2 of the CSIS Act?

**MS. JANICE CHARETTE:** I believe that's true.

**MS. SHANTONA CHAUDHURY:** Okay. And then we'll just scroll down a little bit again, so those are outlined there.

**MS. JANICE CHARETTE:** Incorporated by reference from the Emergency Act, which cross-references to the CSIS Act. Those four bullets are, I believe, in Section 2 of the CSIS Act.

**MS. SHANTONA CHAUDHURY:** That's right. So
Section 16, which defines Public Order Emergency, refers to Section 2 of the CSIS Act, threats to the security of Canada has the meaning ---

MS. JANICE CHARETTE: Right.

MS. SHANTONA CHAUDHURY: --- in Section 2 of the CSIS Act. So the next bullet there, a national -- sorry,

"A national emergency is an urgent, temporary and critical situation that seriously endangers the health and safety of Canadians that cannot be effectively dealt with uniquely by the provinces or territories, or that seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada. It must be a situation that cannot be effectively dealt with by any other law of Canada."

So that's essentially just language lifted from the Emergencies Act itself. Scrolling down,

"PCO is of the view that the examples of evidence collected to date support a determination that the two criteria required to declare a public order emergency pursuant to the EA have been met."

Scrolling down again.

"Specifically, PCO is of the view that
while municipal and provincial authorities have taken decisive action in key affected areas, such as law enforcement at the Ambassador Bridge [...], considerable effort was necessary to restore access to the site and will be required to maintain access. The situation across the country remains concerning, volatile and unpredictable. While there is no current evidence of significant implications by extremist groups or international sponsors, PCO notes that the disturbance and public unrest is being felt across the country and beyond Canadian borders, which may provide further momentum to the movement and lead to irremediable harms -- including to social cohesion, national unity and Canada's international reputation. In PCO's view, this fits within the statutory parameters defining threats to the security of Canada, though this conclusion may be vulnerable to challenge."

Can you explain to us what you meant by the last part of that sentence there? So you explain the threat as you
see it, and then you say, "In our view, this fits within the statutory parameters of the Emergencies Act, but this conclusion may be vulnerable to challenge."

MS. JANICE CHARETTE: So the Emergency Act had not been used in the 34 years since it had been promulgated, and so we were using it for the first time in the case of a public order emergency situation across the country. You see the kind of deductive reasoning. I think we go on to explain a bit more of the rationale and the evidence that I relied upon to provide my advice to the Prime Minister. But the conclusion may be vulnerable to challenge, i.e., we could face legal action, judicial review and other challenges by those who don't agree with our interpretation of the statute, and we have since see litigation coming on exactly this matter.

MS. SHANTONA CHAUDHURY: Okay. So it's essentially expressing some ---

MS. JANICE CHARETTE: My view was that it met the tests. Others may not share my view.

MS. SHANTONA CHAUDHURY: Okay. So some uncertainty, let's put it that way, as to whether that ---

MS. JANICE CHARETTE: Not by me.

MS. SHANTONA CHAUDHURY: --- would be a universally accepted ---

MS. JANICE CHARETTE: Not by me.

MS. SHANTONA CHAUDHURY: Not by you, not by you, but the Act had never been invoked before. There was no ---

MS. JANICE CHARETTE: Right.

MS. SHANTONA CHAUDHURY: --- sort of case law
saying this is what this means, so ---

MS. JANICE CHARETTE: That's a good way to put it.

MS. SHANTONA CHAUDHURY: --- some uncertainty.

MS. JANICE CHARETTE: Yeah, that's a good way to put it.

MS. SHANTONA CHAUDHURY: Is that a fair way to put it?

MS. JANICE CHARETTE: Yeah.

MS. SHANTONA CHAUDHURY: Okay.

MS. JANICE CHARETTE: Uncertainty that others will share my view.

MS. SHANTONA CHAUDHURY: Pardon me?

MS. JANICE CHARETTE: There may be uncertainty that others will share that view.

MS. SHANTONA CHAUDHURY: Okay. So your view is firm.

MS. JANICE CHARETTE: Yeah.

MS. SHANTONA CHAUDHURY: There may be some uncertainty as to whether everyone agrees with it.

MS. JANICE CHARETTE: M'hm.

MS. SHANTONA CHAUDHURY: Fair enough.

"In addition, PCO is of the view [--- just continuing ---] that this is a national emergency situation that is urgent, critical, temporary and seriously endangers the health and safety of Canadians that cannot be
effectively dealt with uniquely by the provinces or territories."

So some of the evidence that we've heard before the Commission is that there were tools that provinces could have used. There was an Alberta Critical Infrastructure Act and Emergency Management Act in Alberta that could have allowed for some of the things that ended up happening under the Federal Emergencies Act. For instance, the compelling tow trucks.

Given the -- and as you mentioned, even Commissioner Lucki was expressing that the tools she had available to her had not yet been exhausted. So can you just square that circle for us in the sense of measure of last resort, cannot be dealt with uniquely by provinces or territories, but there are all of these tools available.

MS. JANICE CHARETTE: Right. So we had seen, as you indicated, the Alberta legislation, we had seen the state of emergency locally in Ottawa and Windsor. The province of Ontario had moved forward with emergency legislation of its own. And we had -- if you remember back to the long time ago, the Track 1 work, the Sectoral Deputies were trying to work with their provincial and territorial colleagues to see whether or not if we saw some power that was possible under some provincial legislation, could other provinces or territories pick that up and use that in their jurisdiction.

By the time this memo was written on the 14th of February, the view that I came to was that whether there were still authorities that had not been fully used, that the situation overall was a national emergency, it was urgent, it
was critical. There was the threat of serious violence that put at risk the lives, the health and safety, the security of Canadians, our economic fortunes. And that taken together, that was beyond the capacity of any individual province or territory to deal with. We were seeing this on a national scale and breakouts or incidents from coast to coast to coast, including, you know, cross-border traffic even between I think it was Alberta and one of the territories. This was a situation which had been escalating. I think we were on day 18 of what was happening in Ottawa. This was a scale, this was an escalation, this was a series of volatility. It didn't seem that there was any province or territory that had the power to deal with this uniquely on their own. That there may have been individual agencies that could have dealt with a piece of it. There were individual sites that could have been dealt with through specific tools. There were -- potentially there were individual threats that could have been dealt with by one agency or actor or another. But if you look at the totality of it all, that's what lies behind this advice.

**MS. SHANTONA CHAUDHURY:** Okay. So just asking you back to the statutory parameters for a minute, Ms. Charette. You're very firm in your view that the statutory parameters were met.

**MS. JANICE CHARETTE:** I am.

**MS. SHANTONA CHAUDHURY:** Okay. Are you able to articulate how they were met, in the sense that -- and I'll just put it out. There's a bit of an apparent contradiction with Section 16 referring to Section 2, threat to the security of
Canada. We have evidence saying that Ms. Vigneault on behalf of
CSIS assesses that the protests do not constitute a threat to
the security of Canada under Section 2 of the CSIS Act. So how
do you come to the conclusion then that the statutory parameter
is met?

**MS. JANICE CHARETTE:** So I'm going to give you
the layman's interpretation ---

**MS. SHANTONA CHAUDHURY:** Absolutely.

**MS. JANICE CHARETTE:** --- and my colleague may
have things to add, being more skilled in the dark arts of the
law.

Section 2 of the CSIS Act is about CSIS being
able to exercise its authorities to launch intelligence
gathering activities against a person or group because they
represent a threat to the security of Canada. The decision
maker there is CSIS. They judge the nature of the threat and
they recommend the activity be taken.

Now let's go over to the Emergency Act. The
decision maker in the Emergency Act is not CSIS. There's
nothing in section 16 which says the Governor in Council, who is
the decisionmaker who’s being asked to make the decision, has to
ask CSIS if it’s okay.

The Governor in Council is asked to assess
whether, on reasonable grounds, there is a -- I want to make
sure I’ve got my words right here. That there are reasonable
grounds to think there is an urgent, critical national situation
where the health, safety of Canadians, their lives, their
livelihoods, the national security of the country is at threat
of serious violence. That goes back to the CSIS definition, the threat to the security of Canada.

Look under, I think it is -- this is dangerous -- at 2(c) of the CSIS Act we rely on. It is either serious violence or the threat of serious violence.

And so the Governor in Council is asked to see if they have reasonable grounds to believe that there is all of the other criteria, urgent, critical, national beyond the scope of an individual province or territory to deal with that is of a nature that would be a threat to national security, which is the threat or existence of serious violence.

So the Governor in Council’s asked to make that and, in my view, given the totality of the evidence that we’d seen about the fact that we had protests happening Ottawa, Windsor, Coutts, Emerson, Manitoba. We talked about we had probably a dozen of other ports of entry.

We’d had risks of -- and threats of blockades of railways, of slow rolls around airports disturbing that and other critical infrastructure. We had the nature of activity including we had had reported to us that there were IMVE, Ideologically Motivated Violent Extremists, individuals who were seen amongst the protest activities, that there was the risk that they or lone actors inspired by them could -- there was the threat from them that they could move to serious violence.

We had evidence through both what was being said and in online of incredibly violent rhetoric, of hate speech, antisemitic, anti-gay, transphobia, misogynistic, death threats. Death threats to elected officials, to senior officials, some of
which we didn’t even know at the time. We found out afterwards
were even worse than we had known at the time of this note being
written.

We had the threat of weapons, which we had heard
about before the 14th and then we’d seen at Coutts and the size
of that cache of weapons and ammunition. We’d heard that there
were kids and vulnerable people in the -- in some of the trucks
that perhaps were being used to try and keep law enforcement
away.

All of that and we had a sense that this wasn’t a
single headed hydra. This was a -- there was a sense that there
was organization, there was coordination, there was a degree of
coordination, I think, amongst this set of activities that was
very well financed. And so not only did we have what we had,
but we had the risk of -- and we’d seen this kind of. It would
peter out and then it would escalate and peter out and escalate.
But if you look over the trend, since the beginning of the
protests arriving on that beautiful day on Ottawa on the 28th of
January, we had seen a trend of it getting worse and escalating
and escalating.

Taking together the culmination of all of that,
it was my -- it was my view that we met the test of the
definition in the CSIS Act that was -- that was to be put before
the Governor in Council to make a decision on reasonable grounds
as to whether or not there was a national emergency that met the
threat of -- threat to the security of Canada involving the risk
-- a threat of serious violence to people’s lives, to their
health and safety, to their security.
MS. SHANTONA CHAUDHURY: Mme Drouin, I don’t know if you have anything to add to that from the perspective of, as your colleague put it, the dark arts of the law.

MS. NATHALIE DROUIN: I think the Clerk got it very well, but just to summarize.

It’s not because CSIS concludes that within the convoy, however, we know that within the convoy they had individual of interest for them and they have also seen some IMVE that they were following.

It’s not because they conclude that not -- no other individuals or groups met the trigger that the convoy as a whole doesn’t represent a serious threat to Canada. So I think we really have to make the difference.

They do their assessment to determine under the Act, the purpose of the Act, whether or not some individual or groups represent that.

We did an assessment based on what CSIS was telling us in terms of the presence and all the other examples what Finance was telling us, what CBSA -- sorry for all the acronym, but I think you got used to them.

And so we made the recommendation and the government made its decision based on the cumulative effect, if I may say.

MS. SHANTONA CHAUDHURY: Okay. So I’m going to try and articulate this and correct me if I’m wrong as I’m attempting to wrap my mind around this. But would it be fair to say that we know that there was no specific threat of serious violence identified by CSIS as in there was no bomb plot. There
was nothing -- there was no bomb -- plot to bomb Parliament Hill or there was no specific January 6th insurrection planned. But is the position that you’re articulating essentially that there can be a threat of serious violence without a specific identified threat having been identified?

**MS. JANICE CHARETTE:** The word “threats” -- the word “threat” here, I think, is used in many different ways. There was no specific site. There’s no specific event. There’s no specific actor, as you said, a bomb threat, an event like, God help us, January 6th kind of an event.

There was a series of indicators which, in our view, were the threats of serious violence for all the reasons that I think Mme Drouin and I have tried to explain, individual IMVE extremists who were seen in the crowd, targets, subjects of interest to agencies.

So it’s the combination of all of these things and the escalation of all these things which, taken together, were enough for me in my advice to the Prime Minister relying, as I do, in everything I do, on the inputs from the community of Deputy Ministers, the product of my interactions with my PCO colleagues and almost 40 years of experience now as a public servant, that, together, represented my list.

**MS. NATHALIE DROUIN:** Maybe another way to articulate it or maybe to frame an example, not all potential criminal offences will be followed by CSIS. So let’s say we are in face of potential family violence. This is serious violence, but that doesn’t mean that it is a threshold for CSIS to investigate.
So we were in face of a lot of potential criminal
offences, but that doesn’t mean that one individual or a group
of individuals were giving -- were, you know, meeting the
threshold of CSIS.

MS. SHANTONA CHAUDHURY: Okay.

MS. JANICE CHARETTE: Can I try the inverse of
that?

CSIS does use section 2 of the CSIS Act to
trigger the gathering of intelligence about a person or group of
people that they think are national security risk. We don’t
trigger the Emergency Act every time CSIS triggers section 2 of
the CSIS Act. So there’s a definition in the CSIS Act. It
isn’t necessarily the fact that -- CSIS is not the decisionmaker
in the invocation of the Emergency Act. That’s a separate
process by the Governor in Council which relies on the
definition that has a different construct.

That’s the total layman’s attempt.

MS. SHANTONA CHAUDHURY: Okay. Well, that’s was
a helpful layman’s attempt, certainly.

From there, I just want to bring in another piece
of what was relied on in the sense to invoke the Act. So we’re
skipping ahead now, leaving the invocation memo and going to --
and I’m just going to -- I don’t now that we need to turn it up.

But this eventually results in, once the decision
is made, what we’ve come to know as the section 58 report. So
this is the report to Parliament explaining the justification
for having invoked the Emergencies Act, made the declaration of
a Public Order Emergency.
And I understand that that report was prepared by PCO in conjunction with the Department of Justice and a few others; is that right?

**MS. NATHALIE DROUIN:** It was a collective.

**MS. JANICE CHARETTE:** It was a collective effort.

**MS. SHANTONA CHAUDHURY:** A collective effort.

**MS. JANICE CHARETTE:** Right. There was not a lot of time between -- I think we had seven days on the legislation to actual produce and table this document, and it was tabled two days after the invocation because we were trying to move it as expeditiously as possible. So it was a team product. But ultimately I think it’s fair to say PCO would have been involved as the pen holder.

**MS. SHANTONA CHAUDHURY:** You will be relieved to know I'm not going to any specifics ---

**MS. JANICE CHARETTE:** Thank you.

**MS. SHANTONA CHAUDHURY:** --- unless you want ---

**MS. JANICE CHARETTE:** For correction of our grammar or ---

**MS. SHANTONA CHAUDHURY:** Yeah, no typos. Not picking on typos.

What I do want to raise is that a large parge of that section 58 explanation relies on something other than serious violence. It talks about the threat to Canada’s economic security and I think there are at least three or four points and we can bring it up if you’d like to see it in front of you.

But they talk about the threat to economic --
Canada’s economic security which has arisen as a result of these various border blockades and everything that we’ve been talking about over the last couple of weeks, everything Mr. Sabia was -- and his colleagues were discussing with us yesterday.

So how does that factor in in this sense?

Economic security is again not something that is articulated within the section 2 CSIS Act definition that is the trigger of a public order emergency. So how does that work?

MS. JANICE CHARRETTE: So in my -- to my way of thinking about this, here was the -- what was necessary to meet the threshold. There were other considerations. The term “national interest” for me takes a step back and says, “Okay, so what is in the national interest of the country?”

So safety, security, ability to protect lives. That’s core to national interest. But also what’s core to national interest is economic viability, the ability to maintain an economy, to have jobs, to have businesses operating so that people have a livelihood so they can earn an income to support themselves and their families.

So the economic risk, particularly at a time -- and I think I tried to set the seed for this when I was talking about the fact that we were just starting budget deliberations as this was all happening. I think Mr. Sabia spoke of other relevant considerations related to the United States potential legislation that was being deliberated at the time which had big impacts on Canada and our competitiveness, our ability to continue to attract investment.

So when I think about national interest, our
economic security is actually part of that. And that is about
the ability to maintain and operate secure borders to see to the
free movement of people, goods, and services, across our
borders. We do $2 billion of trade a day between Canada and the
United States, the single most integrated, I think, economy in
the world. And that was being put at risk. You know, foods,
medicines, fuel, supplies, at a time when supply chains were
already pretty fragile as a result of two plus years of --
almost two years of COVID. So we were kind of shaky. And this
was putting that at risk with big border points.

If you look at the Ambassador Bridge, Emerson,
and Coutts, just those three, that adds up to about $500 million
a day and we do about $2 billion a day in trade between the two
countries. So it’s a big number. It’s about a quarter of the
trade that was impacted, just those three sites.

So economic security in terms of being able to
access those things, our ability to be a trusted trading
partner. So as I said, we were an export -- we are -- Canada is
an export dependent economy and we are in the business of trying
to attract investment to be able to open new businesses, expand
businesses here.

There was lots of conversations going on about
trying to attract big company names to locate in Canada. That’s
about jobs; that’s an important part of our national interest is
being able to do that. And investors don’t like uncertainty.
They don’t like volatility. They like the rule of law. They
like stability. They like predictability and this whole
situation was putting that at risk.
And I guess finally -- which is a little less on the economic but I think also reflected in this section 58 piece that was put before Parliament, is -- are Canada’s international reputation -- we are a G-7 country. We are committed to the rule of law. And what was being seen in some other parts of the world were protests. I think we saw them at a minimum in France, in the Netherlands, in New Zealand if I remember my media coverage right, with trucks with Canadian flags on them. The Prime Minister was getting questions from international leaders about just what was going on in Canada.

So the culmination of all of things are about our national interest. And so in pulling together the section 58, it was about a threshold but it was also about the other factors that went into the deliberations around the invocation of the Act.

And if I could, while I’m talking about section 58, just for a minute -- I mean, part of -- because we kind of got out of the invocation memo. Part of what I relied upon in my advice around the -- the advice to invoke the Act, was the nature of the Emergency Act itself, temporarily time limited targeted measures that would supplement provincial and territorial and not displace, that were compliant with the Charter.

So it was not just about invoking the Act. It was what Act was allowing governments to authorize to have happen. So it was about the nature of those measures but also the accountability framework that it built into the Emergency Act that had not been used before, including things like tabling
before Parliament, a justification on why the Act was invoked, an explanation about the consultation with provinces and territories, a requirement for a vote to be held in the House of Commons to approve -- and the Senate. We know the Senate vote didn’t happen because the Act was revoked. But the House of Commons approved the invocation of the Emergency Act. There was a process to establish a joint House Senate committee. There’s this process, a commission of inquiry around what happened, and transparency around what happened.

There’s a very robust accountability framework. So the test was met. Here’s my -- I had a level of comfort in terms of the nature of the measures, as extraordinary as they were, as last resort as they were; and an accountability just to complete the pod.

**MS. SHANTONA CHAUDHURY:** So if I understand correction then, the economic security piece is less a sort of -- less related to the actual threshold in terms of section 2 of the CSIS Act, and more the threshold of -- the aspect of the threshold or the aspect of the Emergencies Act that goes to this is in the national interest. It is in the national interest to invoke the Emergencies Act here because Canada’s economic security has been threatened.

**MS. NATHALIE DROUIN:** I’ll say both, really. I mean, when we talk about the threat to economy, the way we measure economy, you know, is one thing but the impact is on workers, is on jobs, is on day to day lives of people. I didn’t say that at the beginning about my credentials but my background is really on enforcement and white collar crime enforcement.
I can tell you that when people are facing financial issues, this is a lot of stress. And this is violent in terms of stress. So I think our point here was when we were receiving calls from unions, receiving calls from auto plants, receiving calls from trade partners, the impact on the economy was the impact on people.

Like, we talked those days about food security; economic security is also an important component.

**MS. JANICE CHARRETTE:** Well, I think you heard about this from the National Security and Intelligence Advisor yesterday. There’s a legal threshold but there’s also a policy context within which the Emergency Act was existing. So we were looking at a range of factors including trust and confidence in our institutions, institutions like law enforcement, institutions like government to actually be able to resolve the situation.

And we were seeing a level of public unrest in the country where citizens were thinking about taking matters into their own hands. People were doing counter protests. They were going to the Billings Bridge infamous counter protest to try and show that they were not supportive. This is a pretty risky -- this is a volatile risky situation.

So I think there’s a legal threshold with all of the additions that Mme Drouin made, brought our police context around all of this.

**MS. SHANTONA CHAUDHURY:** Is there anything else you’d like to add on that point, or should we leave invocation and leave the threshold and very very briefly -- I am way out of
time. The last area that I would just ask you to address briefly if we have nothing else to say on invocation, is revocation. And I know that there was a lengthy memo you prepared; the flip side of the invocation memo is the revocation memo. In the interest of time I don’t think we have time to go through it in any detail. But can you explain the thinking around when the Emergencies Act was revoked, why you advised when you did that now is the time?

**MS. JANICE CHARETTE:** So the discussion about when was the to revoke the Emergencies Act started relatively quickly after it had been invoked. The threshold was was it necessary to deal with the situation, the totality of the situation facing us?

We started to see the impact. We saw Windsor holding, Coutts was holding. Now, we started to see popups in other parts of the country, but one of the biggest situations we were looking at was the situation in Ottawa. We were going into the fourth weekend.

There were daily IRGs happening, starting on the 15th, thank you for correcting me about the 14th, starting on the 15th, where there was a daily sense of what's happening, what measures are being used? What else -- it wasn't just like the Emergencies Act was invoked and then everything else went out the window. What else can and should we be doing to try to help to address and resolve the situation.

And day-by-day ministers and officials were looking at whether or not the situation that -- the sum total of the situation still was of a size and a criticality that we
needed to continue.

Now, the early days, it's fair to say, we were mostly focussed on implementation of the Act after invocation and who was doing what and how -- what affect it was having. But I would say as we saw the law enforcement activity really starting to take hold in Ottawa on the fourth weekend, the days of the 18th, 19th, more pointy questions were coming back from the Prime Minister and from ministers, "How much longer do we need the Emergency Act?" It had been made -- I think the view with the invocation is no longer than necessary, and if we could get -- move out of is as quickly as possible.

And so we started to work on, okay, so what were the criteria for invocation, what are the criteria for revocation. I believe you had some discussion with Mr. Hutchinson, in particular, about that earlier in the day, maybe with Ms. Bogden as well, but there started to be deliberate conversations at the Incident Response Group around were we in a position to revoke, were we in a position to revoke, and finally, that culminated in a discussion that took place on the 23rd of February at the Incident Response Group in which the Prime Minister asked everyone in attendance were you ready to revoke the Act.

And following that, I -- he had taken his counsel from his ministers and officials. Again, the group production of a note was done. That was provided to the Prime Minister. He chose at that point -- the decision was to proceed to a revocation, and that was advanced on the 23rd.

MS. SHANTONA CHAUDHURY: Okay. So just to close
the loop on that, I'll bring it up very briefly to situate
everyone in what that looked like, the revocation memo.

It's SSM.NSC.CAN.00003227.

Okay. So there we go:

"Overall the situation has evolved
significantly since February 14...and
is no longer considered urgent and
critical, or a threat to the security
of Canada..."

If we just flip down, Mr. Clerk, until page 7.

Unsure if that's right. No, I'm sorry, page 6.

Okay. So there's a section here starting:

"Since the EA was invoked, the
regulations resulted in:..."

And it proceeds to list a number of factors, or a
number of occurrences, let's say, "rapidly assembly" ---

MS. JANICE CHARETTE: Indicators.

MS. SHANTONA CHAUDHURY: Pardon me?

MS. JANICE CHARETTE: Indicators.

MS. SHANTONA CHAUDHURY: Indicators. Okay:

"[R]apid assembly of large police
presence....Signaling to protesters
that trucks...would no longer be
treated as violations of parking
bylaws, but would [actually be treated
as] potentially serious penalties..."

They say there's been:

"A significant decrease in the number
of minors..."

And it goes on. We don't have time to review them in detail. But essentially, there's a link being drawn here between these indicators that have occurred and the invocation of the Act. So since the Act was invoked, regulations resulted, or in any event, these things have happened.

And then if we go on to the next page, that describes the operational status. And so as we see:

"All the [Ports of Entry] are currently open...operating normally. Movement of truck convoys continues to be monitored..."

Just scrolling down a little bit there,

Mr. Clerk:

"...an operational plan [is in place] has been established to maintain security in Ottawa."

Then it says:

"To date, approximately 30 individuals...attempted to enter Canada for the purpose of participating in illegal protests and blockades."

And I think we know now from, it says there, from Mr. Sofsky (ph), two individuals were turned back using the Emergencies Act authorities, the remainder were turned back because they didn't meet entry requirements one way or the other, vaccination requirements that are under the Quarantine
Act.

It then refers to "an unknown number of protesters remaining in Ottawa." It's difficult to assess the potential of that group to engage in illegal protests, but then it refers also to:

"Since the end of the occupation...small numbers..."

And it says here:

"...(20-30) have gathered at the War Museum to protest. So far, these gatherings have been orderly, non-violent and legal."

So there was some lawful protest continuing at least at the War Museum. Going on:

"...freezing of accounts has been assessed as having had a deterrent effect..."

And I'm losing my own place now. Okay, and then we go down a little bit more.

Let's go to page 10.

This all culminates in PCO Comment:

"PCO is of the view that the public emergency order pursuant to the EA...invoked on February 14...is no longer required..."

And so you advised the Prime Minister that the time has come, then, to revoke the Emergencies Act?

MS. JANICE CHARETTE: Correct.
MS. SHANTONA CHAUDHURY: Okay.

MS. JANICE CHARETTE: I did.

MS. SHANTONA CHAUDHURY: That brings us to way past the time that we were supposed to go. But I will ask before I sit down and turn this over is there anything else that, any key points that haven't been raised today that you want to raise?

MS. JANICE CHARETTE: No, I don't think so.

MS. NATHALIE DROUIN: I just wonder if you have covered the fact that we considered trust in the institution as one of our criteria as part of the threat, and what can be the consequences if, you know, a population is really losing confidence in our public institution.

So you can do it or?

So one of the reason why it was an important factor, so first of all, we were seeing citizens, you know, doing some counterprotests, asking the court for an injunction. So when you see the population trying to se rendre justice because they are not comfortable that law enforcement or government will do, that is for us like a beginning of a symptom that something worse can happen.

We know what's going on in countries when the populations do not have confidence in our public institutions, that's brings some energy and a lot of instabilities, so this is why it was an important element for us, the taking into account the erosion in public institutions and making sure that we can address that as soon as possible to avoid the worse, if I may say.
MS. JANICE CHARETTE: Can I go back to revocation for just a moment, then?

MS. SHANTONA CHAUDHURY: Yes.

MS. JANICE CHARETTE: I think when we arrived at the 23rd of February, it wasn't like it was peace and calm across the land, totally, but the assessment, which is represented in this note, is that we had arrived at a point where the Emergency Act was no longer necessary. It was extra extraordinary powers that came with the Emergency Act were no longer necessary, that we could rely on the existing tools, resources and authorities to be able to deal with to the degree that there was any illegal activity going on.

But also, we knew, as the protest was being taken down, the blockade was being taken down, occupation in Ottawa, that some trucks were going to other sites. They were going to Vankleek Hill, amongst other places. And maybe there was other activity going on, but it wasn't of a scale, of an intensity, with the threat of serious violence that we faced at the time of the invocation of the Act.

So it's not like everything was "unicorns and rainbows" is my expression, but probably not appropriate here.

We had not arrived at -- we -- there were still -- there was still a level of activity, including some lawful protest activity, which is reflected in this note, there was still some level of illegality going that we were confident at that point that could be dealt with through -- without the extraordinary measures of the Emergency Act.

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

COMMISSIONER ROULEAU: Okay, well, the schedule has gone out the window, which is probably bad news for our panel. We’re used to staying late. I’m sure you’re also used to working late. But what I’m going to do is take the afternoon for 15 minutes and, given the time, I -- we’ll come back and I’ll be a little more flexible with the questioning in cross-examination because we have a rule here, what goes in direct, goes in cross, so I think we have to be fair. But I will be reasonably only modest, not the degree requested by some.

MR. BRENDAN MILLER: I’m sure, sir, you’re not talking about little old me.

COMMISSIONER ROULEAU: No, no, I wouldn’t want to single anyone out.

So I’ll take the break for the afternoon, 15 minutes, please.

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

--- Upon recessing at 4:13 p.m.

--- Upon resuming at 4:28 p.m.

THE REGISTRAR: The Commission is reconvened. La Commission reprend.

COMMISSIONER ROULEAU: Okay, so we’re ready to proceed? Okay. The Convoy Organizers, please.

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

MR. BRENDAN MILLER: Good afternoon, and soon to be good evening. My name’s Brendan Miller and I am legal counsel to Freedom Corp, which is the entity that represents the
protesters that were in Ottawa in January and February 2022. I have 20 minutes to question you, so that would bring us to 4:48 when I’m done, and hopefully I don’t have to ask for a little more time.

So I’m going to begin with yourself, Assistant Deputy Clerk, Ms. Drouin, and I’d better -- if you’d like to answer in French, I can get one of the things from my friend, but I’ll ask these and, if you’re going to answer in French, please let me know and I will put on the translation equipment because, unfortunately, I am sans bilingual at this time, but I’m working on it.

MS. NATHALIE DROUIN: Thank you.

MR. BRENDAN MILLER: So, Mr. Drouin, prior to becoming the Deputy Clerk of the Privy Council, you were the Deputy Minister of Justice and the Deputy Attorney General of Canada; is that correct?

MS. NATHALIE DROUIN: Correct.

MR. BRENDAN MILLER: And you’re a lawyer?

MS. NATHALIE DROUIN: Yes.

MR. BRENDAN MILLER: And you’ve been a member of the Quebec Bar since 1992?

MS. NATHALIE DROUIN: That’s correct.

MR. BRENDAN MILLER: And in fact, would you agree, you’re an award-winning lawyer?

MS. NATHALIE DROUIN: Well, I won a prize, yes.

MR. BRENDAN MILLER: Yeah.

MS. NATHALIE DROUIN: L’avocat d’entreprise de l’année, yeah.
MR. BRENDAN MILLER: Right. And so I’m not -- I’m not trying to pump your ego but in 2009 you were named the Business Legal Advisor of the Year by La Monde Juridique; is that correct?

MS. NATHALIE DROUIN: That’s correct.

MR. BRENDAN MILLER: And did I pronounce it correctly?

MS. NATHALIE DROUIN: C’est parfait, oui.

MR. BRENDAN MILLER: Okay, good. And in 2012, I understand you were awarded the Lawyer Erasmus, which is hyphenated Ad.E by the Quebec Bar, right?

MS. NATHALIE DROUIN: Yeah, that’s the Advocatus Emeritus.

MR. BRENDAN MILLER: Right. And from 2012 to 2016, you were the Deputy Minister of Justice and Deputy Attorney General for the Government of Quebec?

MS. NATHALIE DROUIN: That’s right.

MR. BRENDAN MILLER: And then from 2016 to 2017, you were the Senior Associate Deputy Minister of Justice for the Government of Canada?

MS. NATHALIE DROUIN: That’s correct.

MR. BRENDAN MILLER: And then, from 2017 to 2021, you were the Deputy Minister of Justice and Deputy Attorney of Canada, so for four years?

MS. NATHALIE DROUIN: That’s correct.

MR. BRENDAN MILLER: And you can agree with me that that position, the Deputy Minister of Justice and Deputy Attorney General of Canada, is the highest-ranking position
within the Department of Justice?

**MS. NATHALIE DROUIN:** Within the Department of Justice, yes.

**MR. BRENDAN MILLER:** Right. You answer to the Attorney General of Canada?

**MS. NATHALIE DROUIN:** I answer -- or I serve the Attorney General. I also responds to the Clerk of the time, and to the prime minister.

**MR. BRENDAN MILLER:** Thank you. And now, while you were in that office, you probably described your role of the Deputy Minister of Justice and Deputy Attorney General of Canada as follows. And I just want to know if you agree with this.

"I’d like to begin by describing my dual role as the Deputy Minister of Justice and Deputy Attorney General of Canada. I’ve been in this position since June 2017. In both these roles, I support the Minister of Justice and Attorney General of Canada in fulfilling his or her responsibilities. My duties include giving legal advice and coordinating the legal advice given by the Department of Justice and supporting the development of legislation." (As read).

**MS. NATHALIE DROUIN:** That’s true. There’s also the part of managing litigations, yeah.

**MR. BRENDAN MILLER:** Right. So in your role as
the Deputy Minister of Justice and Deputy Attorney General of Canada, you advised on how to draft legislation for four years?

**MS. NATHALIE DROUIN:** That’s correct.

**MR. BRENDAN MILLER:** Right. And you know from that former role that when you’re drafting definition in legislation, they’re very important?

**MS. NATHALIE DROUIN:** That’s correct.

**MR. BRENDAN MILLER:** Okay. And would agree with the following statement, which, full disclosure, I took from the drafting policy from DOJ.

"Deliminating definition: A deliminating definition is exhaustive. It is intended to set limits on otherwise ordinary meanings of terms. These definitions normally begin with the word “means”.”

Would you agree with that?

**MS. NATHALIE DROUIN:** I agree with that. I just want to say that there is different drafting procedures, if I may say, or techniques. And for example, when I was head of the Justice Department in Quebec, we had eliminated definition. So just to say that there is different ways of drafting legislations.

**MR. BRENDAN MILLER:** Right. But you can agree with me that in legislative drafting, that where there’s a definition and that definition states “this means” and then is followed by a set of factors or what it includes, you’re aware that that is intended to be exhaustive? That’s Parliament’s
intention? You know that?

MS. NATHALIE DROUIN: I know that. If I may, just for the benefit of this Commission, we also use a lot in federal legislation, the technique of incorporating by reference.

MR. BRENDAN MILLER: Right.

MS. NATHALIE DROUIN: So we do that a lot. When I was a Justice, we did a report on how many times we used that technique, and I must say that it’s, you know, numbers, numbers of times.

We also know that when we put the definition within a legislation, it has to be read in the context of this legislation.

MR. BRENDAN MILLER: M’hm.

MS. NATHALIE DROUIN: So and for the purpose of the legislation that we’re talking about.

So I’m just saying that because meaning can have different meanings at the end, ---

MR. BRENDAN MILLER: M’hm.

MS. NATHALIE DROUIN: --- depending in the context in which you are looking at the words.

MR. BRENDAN MILLER: Right. But you know, and you can agree, that the purpose when you’re drafting is to try and carry out the intent of Parliament?

MS. NATHALIE DROUIN: That’s the objective of drafting, yes.

MR. BRENDAN MILLER: Okay. And you know that section 2 of the CSIS Act, prior to listing what constitutes a
threat to the security of Canada, states “Threats to the
security of Canada means...” and is then followed by the four
threats? Fair? You know that?

MS. NATHALIE DROUIN: Yeah.

MR. BRENDAN MILLER: And you know that under
section 12 of the CSIS Act, that in order for CSIS to open an
investigation, CSIS has to conclude reasonable grounds to
suspend that a person or group is carrying out activities
constituting a threat to the security of Canada, as defined in
section 2?

MS. NATHALIE DROUIN: That’s how the CSIS Act ---

MR. BRENDAN MILLER: Yeah.

MS. NATHALIE DROUIN: --- operates, yeah.

MR. BRENDAN MILLER: All right. And you know,
and we talked about this, that the Emergencies Act, it states
that threats to the security of Canada has the meaning assigned
by section 2 of the Canadian Security Intelligence Service Act;
right? You know that?

MS. NATHALIE DROUIN: That’s in the -- yeah.

MR. BRENDAN MILLER: And you know that under the
doctrine of consistent expression, that where there is an
adoption by reference, it’s to mean the same thing as the
primary legislation? You know that?

MS. NATHALIE DROUIN: I think what I’ve said is
that when we’re incorporating by reference, you’ll remember, I
guess, when you did your bar, you were always talking about
mutatis mutandis; eh?

MR. BRENDAN MILLER: M’hm.
MS. NATHALIE DROUIN: And that was -- the idea was to make sure that we interpret, avec les adaptations nécessaires, the incorporation by reference.

MR. BRENDAN MILLER: Yes.

MS. NATHALIE DROUIN: So the idea here, and as I said before, is really to interpret, within the context, the purpose, also the decision maker that has to look at similar words.

MR. BRENDAN MILLER: Okay. And to your knowledge, from what you know, what do you know about Parliament’s intention for a threat to the security of Canada in the Emergencies Act to mean something different from a threat to the security of Canada as defined in the CSIS Act?

MS. NATHALIE DROUIN: I guess what I’m saying here is when the Legislator adopted the Emergency Act versus when the Legislator adopted CSIS Act, it was for different purposes. The purpose of doing an investigation under the CSIS Act is not the same purpose of triggering or invoking the Emergency Act for public order emergency.

MR. BRENDAN MILLER: And I understand. But you are aware that both the CSIS Act, as well as the Emergencies Act, were passed within just a few years of one another in the 80s?

MS. NATHALIE DROUIN: Well I’m pleased to be corrected. I -- yeah, maybe four years. I thought the CSIS was 1984, ---

MR. BRENDAN MILLER: M’hm.

MS. NATHALIE DROUIN: --- if I’m not ---
MR. BRENDAN MILLER: And you know that ---

MS. NATHALIE DROUIN: If I’m not mistaken.

MR. BRENDAN MILLER: And I take it that you know that one of the reasons that they adopted section 2 of the CSIS Act, Parliament did, was to limit the Executive Branch of Government from declaring public order emergencies? You’re aware of that?

MS. NATHALIE DROUIN: I wouldn’t use “limit”. I think that the Emergency Act was crafted to make sure that there’s a lot of safeguards in terms of how we invoke the role of Parliament to confirm or deny the invocation of the Emergencies Act, the role of the Joint Committee to supervise the implementation of the measures, and the role of an inquiry like this one.

MR. BRENDAN MILLER: Okay.

MS. NATHALIE DROUIN: And if I can add, a very important component is making sure that doing so, I mean invoking the Emergency Act, was compliant with the Charter, which was a new instrument ---

MR. BRENDAN MILLER: Right.

MS. NATHALIE DROUIN: --- following, you know, the previous Act.

MR. BRENDAN MILLER: And in the Emergencies Act, it requires the Governor in Council to have reasonable grounds, you know this, that there is a public order emergency? Is that right?

MS. NATHALIE DROUIN: Sorry, I missed your question.
MR. BRENDAN MILLER: So you know that in the Emergencies Act, it actually states that a public order emergency arises from a threat to the security of Canada that is so serious as to be a national emergency? You know that?

MS. NATHALIE DROUIN: I agree with that.

MR. BRENDAN MILLER: And so you also know that in order to invoke the Act, there has to be reasonable grounds, and that includes a threat to the security of Canada; right?

MS. NATHALIE DROUIN: Right.

MR. BRENDAN MILLER: And that threat the security of Canada is as defined in section 2 of the CSIS Act; right?

MS. NATHALIE DROUIN: Right.

MR. BRENDAN MILLER: Okay. So let’s talk about that. Can you agree with me that there was not reasonable grounds of a threat to the security of Canada as defined in the CSIS Act and adopted by reference to the Emergencies Act?

MS. NATHALIE DROUIN: I don’t agree with that.

MR. BRENDAN MILLER: Okay. So let’s go through those grounds; okay? So ---

MS. NATHALIE DROUIN: I can help. I know your time is ---

MR. BRENDAN MILLER: Yes, and let me ---

MS. NATHALIE DROUIN: It’s really -- what we use is really 2(c).

MR. BRENDAN MILLER: Right. So then we can throw out any other grounds, it’s fair to say, ---

MS. NATHALIE DROUIN: Yeah.

MR. BRENDAN MILLER: --- other than 2(c)?
MS. NATHALIE DROUIN: The main -- like, the real ground was 2(c).

MR. BRENDAN MILLER: All right. So foreign -- or sorry, apologies:

“activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious [and] ideological objective within Canada or a foreign state…”

So that is the ground. And that is the single ground, from your understanding, of why the Emergencies Act was invoked?

MS. NATHALIE DROUIN: That’s the main ground. Some can say that there’s other ones, but that’s the main ground we used.

MR. BRENDAN MILLER: Okay. So let’s talk about threats of acts of serious violence -- and acts of serious violence.

Can you summarize for me the threats of acts of serious violence that the invocation was based upon?

MS. NATHALIE DROUIN: I’ll do that. I think the Clerk will probably add.

So if you just look at what you went through this week, who you heard. So we heard from -- not CSIS but we've heard from some players, for example, that IMVE were present in some of the protests. We've heard also that ex-militaries and

INTERNATIONAL REPORTING INC.
ex-law police agents were present. We heard the presence of firearms. We heard also a threat to our economy, threat to and impacts on workers. We just talked about that before. We heard impacts on our trade relationship and from GAC. We've heard from CBSA that our port of entry was affected, disrupted, and other port of entries, even, you know, after the main were clear.

MR. BRENDAN MILLER: Okay.

MS. NATHALIE DROUIN: So we heard from Transport also that some rails can be affected by blockades.

So we've heard from not only -- I mean, you're going to hear from CSIS Monday -- but -- and you know, when you look at the composition of DMOC, you've heard about that many, many times ---

MR. BRENDAN MILLER: Yes.

MS. NATHALIE DROUIN: --- over the week. Many departments are part of that DM's committee. Why? Because national security is not the result of the assessment of one agency, but the result of, as Janice said ---

MR. BRENDAN MILLER: And I ---

MS. NATHALIE DROUIN: --- before the town ---

MR. BRENDAN MILLER: I don't mean to interrupt. I just -- I only have so much time left.

MS. NATHALIE DROUIN: Sorry about that.

MR. BRENDAN MILLER: Yeah. So I just want to talk to you about first, you had mentioned the IMVEs, right?

MS. NATHALIE DROUIN: Yeah.

MR. BRENDAN MILLER: And you can agree with me
that an IMVE, it's not just somebody who's radical or whatever; there has to be an element of violence?

MS. NATHALIE DROUIN: So a couple of things here. And when you look at (C), you know, we want to talk about that, careful about its threat or serious violence.

MR. BRENDAN MILLER: Okay.

MS. NATHALIE DROUIN: Yes, the "or" can be an end also.

MR. BRENDAN MILLER: It's a threat of or ---

MS. NATHALIE DROUIN: Yes.

MR. BRENDAN MILLER: --- because -- and I understand.

So these IMVEs that the government went on about, first, we've already established that the government wasn't aware of the individuals in Coutts at the time of the invocation that were arrested by the local police department?

MS. NATHALIE DROUIN: I think what we were aware in Coutts was first of all, they were about to do enforcement and then I think it was around the 10th or the 11th of February we heard that they were slowing down enforcement because of the presence of risk of violence and guns. That's the only thing we ---

MR. BRENDAN MILLER: Right.

MS. NATHALIE DROUIN: --- knew at -- you know, at our level because we're not privy to all the operational risk. So that’s what we knew at Coutts.

MR. BRENDAN MILLER: Right. But of course, Commissioner Lucki and her people, they were aware of what was
going on, they just couldn't tell you?

MS. NATHALIE DROUIN: Exact.

MR. BRENDAN MILLER: Right. And you're now aware -- I'm sure you've heard the evidence that they, in fact, as of the February 9th, had two undercover officers embedded with these gentlemen. Are you aware of that?

MS. NATHALIE DROUIN: I was not aware at that time.

MR. BRENDAN MILLER: Right.

MS. NATHALIE DROUIN: You know, when they do undercover operation, this is -- we don’t know those things.

MR. BRENDAN MILLER: Yeah, and these gentlemen that they were going after, they were actually local to the Coutts area. You know that?

MS. NATHALIE DROUIN: I can't say. I didn’t know at that time, no.

MR. BRENDAN MILLER: Can you agree with me that the facts of that was that that issue was dealt with locally by police under provincial mandate via the agreement that Alberta has with the RCMP?

MS. NATHALIE DROUIN: You mean the contractual policing arrangement?

MR. BRENDAN MILLER: Correct. It was carried out under that, right?

MS. NATHALIE DROUIN: Yeah.

MR. BRENDAN MILLER: Yeah. So it was provincially dealt with? You agree it was dealt with well?

MS. NATHALIE DROUIN: So I don't know at the end
when, you know, they put an end to the blockade, who was doing
what, you know, and whether -- you know, I'm sure you have heard
about that, that the police of jurisdiction can ask more
resources from the centre using the section 9.2 of their
arrangement. So I don't know.

**MR. BRENDAN MILLER:** Okay. And so let's move to
Ottawa. Ottawa, IMVEs in Ottawa.

I understand that CSIS advised that they had no
concern with IMVEs in Ottawa, and that's what's in evidence. Is
that correct?

**MS. NATHALIE DROUIN:** Well, this is not how I
portray that. I understood and I've heard that some IMVE and
subject of interest for -- of CSIS were present. What I
understand from their assessment is that they didn’t conclude
that they need or they have to open new investigations.

**MR. BRENDAN MILLER:** Right. And so CSIS did a
threat assessment of the convoy, and we saw it yesterday, and I
---

**MS. NATHALIE DROUIN:** They did.

**MR. BRENDAN MILLER:** I'm going to ---

**MS. NATHALIE DROUIN:** Not of the convoy as a
whole, again, so ---

**MR. BRENDAN MILLER:** Of Ottawa, of Ottawa. And
let me bring that up. And it is the document ending -- or it's
TS.NSC.CAN.001.00000159_REL_0001.

Now -- and we've all reviewed this. I've put it
to folks and I don’t want to have to read it to you. But in
this assessment and also in the statement from Director
Vigneault, they concluded there was no CSIS threat, reasonable suspicion of a CSIS threat in downtown Ottawa. Is that fair?

**MS. NATHALIE DROUIN:** They concluded, looking at who was there, that they didn’t have enough to open investigations on specific individuals or groups.

**MR. BRENDAN MILLER:** Right. And you know that CSIS only needs to have a suspicion, a reasonable suspicion, to open an investigation?

**MS. NATHALIE DROUIN:** Well, I think the test is reasonable grounds, yeah.

**MR. BRENDAN MILLER:** Reasonable grounds to suspect? Reasonable grounds to suspect; that’s what it says. You know that?

**MS. NATHALIE DROUIN:** Yeah.

**MR. BRENDAN MILLER:** And the difference between that and the grounds to invoke a national emergency is that you know under the *Emergencies Act*, it requires reasonable grounds. You know that?

**MS. NATHALIE DROUIN:** That a Public Order Emergency ---

**MR. BRENDAN MILLER:** Right.

**MS. NATHALIE DROUIN:** --- exists.

**MR. BRENDAN MILLER:** And you know, as the former highest-ranking lawyer and legal officer within the Government of Canada, that reasonable grounds to suspect is a lesser threshold than reasonable grounds or referred to as reasonable and probable grounds. You are aware of that?

**MS. NATHALIE DROUIN:** Again, you -- I'm sorry. I
think we are mixing here. Reasonable grounds to suspect what, and this is the purpose of CSIS Act.

MR. BRENDAN MILLER: Right, so ---

MS. NATHALIE DROUIN: So a movement, a movement can represent threat to security to Canada.

MR. BRENDAN MILLER: Right.

MS. NATHALIE DROUIN: A movement, a situation.

MR. BRENDAN MILLER: An activity.

MS. NATHALIE DROUIN: An activity.

MR. BRENDAN MILLER: That’s an activity.

MS. NATHALIE DROUIN: Without having individuals or groups into it that do meet the threshold of CSIS. So I think we really need to make the difference between what the movement represented at that time for Canada versus the composition of the movement, whether or not we had individuals that -- so there's ---

MR. BRENDAN MILLER: Madam, I understand what you're saying, but you're saying that you want to look at the group as a whole? All right. And so I've asked you about Coutts. That was taken care of. I've asked you about Ottawa, all right? You knew that the group, the assessment was that it did not meet that.

Now Windsor. Can you agree with me that there was no section 2 CSIS Act threat with respect to Windsor?

MS. DONNAREE NYGARD: Excuse me. You've mischaracterized the witness' evidence. She didn’t agree with you that CSIS had assessed the group, the entire group in Ottawa.
MR. BRENDAN MILLER: Right. So let me just move over to Windsor. Can you agree with me that you are aware of no section 2 CSIS Act threat with respect to Windsor?

MS. NATHALIE DROUIN: I think I can go again through everything we have heard from all departments, and that the clerk, with my advice in particular, considered to determine whether or not we believe that the threat -- the test under the Emergency Act was met.

MR. BRENDAN MILLER: Let me try and rephrase it this way. What evidence and what information of violence at Windsor were you aware of when the Act was invoked?

MS. NATHALIE DROUIN: I think it could have been a mistake to do assessment site by site while we were facing a national movement and situation.

MR. BRENDAN MILLER: Thank you for answering my questions.

COMMISSIONER ROULEAU: Thank you. Next, I’d like to call on the Province of Saskatchewan, please.

MR. MITCH McADAM: Good afternoon Commissioner I’m trying to get my camera operating. Thank you.

COMMISSIONER ROULEAU: We won’t deduct the time.

MR. MITCH McADAM: Thank you.

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

MR. MITCH McADAM: Good afternoon. I’m Mitch McAdam; I’m one of the lawyers for the Government of Saskatchewan, and I have a few questions this afternoon for you,
Madam Charette.

To start with, I understand that one of your responsibilities is that you are the Secretary to the Cabinet, right?

MS. JANICE CHARETTE: That is correct.

MR. MITCH McADAM: And that one of your responsibilities as the Secretary is to control the flow of paper to Cabinet?

MR. MITCH McADAM: I manage the flow of paper into the Cabinet, that’s right.

MR. MITCH McADAM: Okay. So all of the paper that goes to Cabinet has to go through your office?

MS. JANICE CHARETTE: No, that’s not the case. The -- it goes through the Privy Council Office ---

MR. MITCH McADAM: Okay.

MS. JANICE CHARETTE: --- before it will be put in front of a Cabinet Minister.

MR. MITCH McADAM: Okay.

MS. JANICE CHARETTE: Not my office -- not the Clerk’s office necessarily, the totality of the Privy Council Office. We have a Cabinet Paper’s Unit, that in particular deals with documentation.

MR. MITCH McADAM: Okay. So it has to go through the Privy Council Office?

MS. JANICE CHARETTE: That’s correct, sir.

MR. MITCH McADAM: Yeah. And you’re also responsible, I believe you said this morning, for recording the decisions made by Cabinet?
MS. JANICE CHARETTE: That is correct.

MR. MITCH McADAM: I have a few questions for you about the Cabinet meeting that happened on the evening of February 13th, where the Emergencies Act was considered.

First, can you confirm for me that there were no papers or documents that were provided to Cabinet Ministers in connection with that meeting?

MS. JANICE CHARETTE: That is not correct.

MR. MITCH McADAM: Okay. There was paper provided to them?

MS. JANICE CHARETTE: There was a document made available to Ministers, I believe I referred to it earlier, which had to do with an input, I believe I can say this, I’m making sure I can say this. It was an assessment from the -- from CSIS which related to considerations on invoking the Emergency Act. But there was no -- in the usual course of decision-making by Cabinet, we would -- Ministers would be considering a memorandum to Cabinet, which would frame a decision for them, there was no such memorandum to Cabinet.

MR. MITCH McADAM: Yeah. So ---

MS. JANICE CHARETTE: Does that help?

MR. MITCH McADAM: Yes, it does. So there was no memorandum to Cabinet, and that was an unusual situation.

MS. JANICE CHARETTE: That is correct.

MR. MITCH McADAM: Not the usual course.

MS. JANICE CHARETTE: That is correct.

MR. MITCH McADAM: Thank you.

MS. JANICE CHARETTE: It was an unusual Cabinet,
an extraordinary Cabinet called on the evening of the 13th of February.

MR. MITCH McADAM: Okay. And I understand you attended that Cabinet meeting; correct?

MS. JANICE CHARETTE: I did, sir.

MR. MITCH McADAM: Okay. And I’m not going to ask you about what was -- what the deliberations were at that meeting, but you said a moment ago that one of your responsibilities was to record the decisions made by Cabinet.

And can tell me exactly what the decision was made at Cabinet that evening? I think you said earlier that the decision was to direct the Prime Minister to have a First Ministers meeting, or to have a First Ministers meeting the following day. But I just want to make clear in my mind that I understand exactly what was decided that evening.

MS. JANICE CHARETTE: The decision was that the Prime Minister would convene a meeting with First Ministers to consider the invocation of the Emergency Act, and to brief them on the situation, and consider any other measures necessary to deal with the totality of the situation facing the country.

MR. MITCH McADAM: Okay. Thank you.

Next, I’d like to turn to the events on February the 14th.

MS. JANICE CHARETTE: Sure.

MR. MITCH McADAM: And you would agree with me that the invitation for the First Ministers meeting -- I think we talked about it a little bit earlier today, or you talked about it a little bit earlier today -- it went out on Sunday
evening after the Cabinet meeting; correct?

**MS. JANICE CHARETTE:** Yeah, I -- as I said earlier, Mr. McAdam, I wasn’t totally sure, I can check and be happy to, ---

**MR. MITCH McADAM:** Yeah.

**MS. JANICE CHARETTE:** --- whether it went out Sunday evening or fairly early Monday morning. I think we would’ve endeavoured to try and get it out as soon as possible, after Cabinet, so that would’ve been -- Cabinet was at 8:30, you know, we would’ve been into probably 10 o’clock Ottawa time, which is still pretty early in Saskatchewan.

**MR. MITCH McADAM:** Yeah. And I believe that you indicated earlier today that it was a meeting called on short notice, right?

**MS. JANICE CHARETTE:** Correct.

**MR. MITCH McADAM:** And my understanding, from your testimony earlier today, is that the invitation didn’t indicate what that meeting was all about, did it?

**MS. JANICE CHARETTE:** I believe between Madame Drouin and myself, that was the information that we provided earlier, yes sir.

**MR. MITCH McADAM:** Okay. And you also indicated that at that meeting a number of the Premiers voiced objections to invoking the Act?

**MS. JANICE CHARETTE:** What I said was a number of Premiers shared their responses. I wasn’t in a position to tell you because the deliberations were to be confidential, but we saw subsequently a number of Premiers making public comments.
that they had made at the First Ministers meeting.

Yes, it’s fair to say, I believe Madame Drouin said, there were kind of three groups -- three kind of general groups of Premiers’ reactions, including some that did raise objections.

**MR. MITCH McADAM:** Okay. And I understand that meeting lasted about an hour; is that correct?

**MS. JANICE CHARETTE:** I think that’s -- plus or minus, yes, I think that’s probably correct, sir.

**MR. MITCH McADAM:** Okay. So it would’ve ended about ---

**MS. NATHALIE DROUIN:** If I may -- if I may, sir?

When we develop the FMM, one of the advice that we gave to the Prime Minister was to make sure that the timeline was not the issue, in terms of the duration of the meeting. So the Prime Minster let all Premiers to express themself, and didn’t check the clock, making sure that they will have all the time they needed to make their point.

**MR. MITCH McADAM:** M’hm.

**MS. JANICE CHARETTE:** And then if I could add to that? Because of the fact that there was no -- you know, this was called at the -- at quite the last minute, there was -- part of the meeting was briefing. So the Prime Minister was -- it was suggested to him, and he certainly accepted, that the meeting would go as long as the meeting wanted, depending on the wishes of Premiers -- Premiers and territorial leaders.

**MR. MITCH McADAM:** Clerk, can I ask you to call up document PB.NSC.CAN00008485, please? And Clerk, if you could
scroll to the very end of that document?

You’ll see Madam Charette, this is an email from Jody Thomson, [sic] on February 14th at 11:44 a.m., and she says:

“I need an assessment for Janice about the threat of these blockades....”

And when she’s referring to Janice, that’s you; correct?

**MS. JANICE CHARETTE:** I believe so, yes.

**MR. MITCH McADAM:** And yesterday when she testified, Ms. Thomas indicated that this was something that was needed for the invocation package, and that’s the memorandum that you prepared for the Prime Minister, right?

**MS. JANICE CHARETTE:** I’m -- I don’t know that I caught every moment of her testimony, so whether exactly that’s what she said or not I wouldn’t want to say, but I do believe that she was, like many across the Privy Council Office, working to gather inputs for the invocation note.

**MR. MITCH McADAM:** Okay. And I just want to make sure I have my timeframe correct here. So the First Ministers meeting would’ve ended by 11:15, and then by 11:44 Ms. Thomas is writing asking for this threat assessment.

So am I right that in that half an hour, the Prime Minister would have come to you and said, “Let’s proceed with the invocation package,” and then you contacted Ms. Thomas and asked about the threat assessment?

**MS. JANICE CHARETTE:** No, Mr. McAdam, that would not be an accurate description. I would ---

**MR. MITCH McADAM:** Okay.
MS. JANICE CHARETTE: --- say to you, sir, that part of our job in the Public Service, and people who work for me, is to get ready. And so I can tell you that I turned my mind -- and I was the advisor here -- to the advice to the Prime Minister as to whether or not invoke, not at 11:44. There were a number of people, including Ms. Thomas, and others in the Privy Council Office, who were contributing to this decision note, which came to me for my consideration. And as you saw, I signed off on my advice -- I believe we talked about it earlier -- sometime about 3 o’clock in the afternoon.

So, yes, work was underway, but I had not turned my mind to the conclusion of my advice.

MR. MITCH McADAM: Okay. So had the Prime Minister -- did he come to you after the First Ministers meeting, and before you completed your memorandum, and ask you to go ahead and prepare that memorandum?

MS. JANICE CHARETTE: No, sir.

MR. MITCH McADAM: No. So you were doing this based on your understanding of what he wanted.

MS. JANICE CHARETTE: My understanding of what was required in the situation. That’s my job.

MR. MITCH McADAM: Okay. And you knew that a press conference had been called for 4:30 that afternoon, didn’t you?

MS. JANICE CHARETTE: I knew that there was a possibility of a media availability in the afternoon.

MR. MITCH McADAM: Okay. And I think you indicated that you gave the document to the Prime Minister at
3:41 in the afternoon, and then I think you said this morning that he would sign that document to indicate his approval, but I don’t believe that you testified about when you would have got that document back from him.

**MS. JANICE CHARETTE:** I can’t remember the exact time, Mr. McAdam. I apologize. But it was before the media avail.

**MR. MITCH McADAM:** So between 3:41 and 4:30?

**MS. JANICE CHARETTE:** Okay, that’s fair. I don’t know exactly what time the media avail started. There may have been a scheduling -- it may have been a notice that there was going to be an availability. But I don’t know actually what time it started. I’m sure the records would indicate that. But they don’t always run 100 percent on time.

**MR. MITCH McADAM:** Okay. And at the media availability it was announced that the *Emergencies Act* had been involved?

**MS. JANICE CHARETTE:** Was being invoked.

**MR. MITCH McADAM:** Was being invoked.

**MS. JANICE CHARETTE:** Correct.

**MR. MITCH McADAM:** And so what does “was being invoked” mean? When exactly did it come into force?

**MS. JANICE CHARETTE:** When the Governor-in-Council approved the proclamation ---

**MR. MITCH McADAM:** And so that wasn’t until ---

**MS. JANICE CHARETTE:** --- which was ---

**MR. MITCH McADAM:** --- the next day?

**MS. JANICE CHARETTE:** No, no, no. It was on the
14\textsuperscript{th}. And you'll see that in the Canada Gazette, the 14\textsuperscript{th} of February.

MR. MITCH McADAM: Okay. And so did -- was there another Cabinet meeting on the 14\textsuperscript{th} for Cabinet to consider this?

MS. JANICE CHARETTE: No, sir.

MR. MITCH McADAM: So Cabinet was never advised of the outcome of the meeting with the First Ministers?

MS. JANICE CHARETTE: There was not a loop back to Cabinet in an official Cabinet meeting.

MR. MITCH McADAM: Okay.

MS. JANICE CHARETTE: But -- do you want to say something, sir?

MR. MITCH McADAM: Yeah, I'm confused because I think you said earlier today that under the Emergencies Act it's the Governor-in-Council that invokes the Act.

MS. JANICE CHARETTE: Yeah.

MR. MITCH McADAM: So if the Cabinet didn't meet again, how did the Act get invoked? Was the power to do so delegated to the Prime Minister? Or just how did that happen?

MS. JANICE CHARETTE: Yeah. The decision in terms of invocation was left with the -- was left \textit{ad referendum} to the decision of the Prime Minister following his consultation with the leaders of the provinces and territories amongst other deliberations that he might undertake.

MR. MITCH McADAM: Okay. Commissioner, I have a couple of questions about the memorandum that was prepared for the Prime Minister that afternoon. So I wonder if I might have your indulgence to take a few extra minutes to ask those
questions?

COMMISSIONER ROULEAU: Sure, go ahead, a couple
of minutes but don’t abuse.

MR. MITCH McADAM: Thank you.

Clerk, could you please call up Document
SSM.NSC.CAN00003224 and that’s the memorandum to Cabinet.

And you’ll be glad to know I’m not going to go
through in detail and talk about the test for declaring a public
order emergency. But if the clerk ---

MS. JANICE CHARETTE: I don’t know, I was kind of
looking forward to that again.

COMMISSIONER ROULEAU: Are you conceding it?

MR. MITCH McADAM: No, no, not at all. But I’ll
leave those arguments for another time.

MS. JANICE CHARETTE: Mr. McAdam, can I just
correct you? This is not a memorandum to Cabinet. This is a
decision note to the Prime Minister, just to be clear, sir.

MR. MITCH McADAM: Thank you for the correction.

Clerk, if you could go to page 8 of that document
and part way through, just a little bit farther, that’s good.

It says this a couple of times in the document.

I’ll read these words at the top. It says:

“In addition, PCO is of the view that this is a national
emergency situation that is urgent, critical, temporary, and
seriously endangers the health and safety of Canadians, and
cannot be effectively dealt with uniquely by the provinces or
territories."

And I wondered what you meant by the word
“uniquely” in that sentence. And I know that you had indicated earlier today that there was some concern that provinces were not fully using the powers and authorities that they had. And is that what you were getting at with that word “uniquely”?

MS. JANICE CHARETTE: I wouldn’t say that there was a concern that provinces and territories were not using all of the authorities available to them. I think it was an observation going back earlier in the deliberations around whether or not there was still some scope to work with provinces and territories using their existing authorities to do more to deal with the protest, separate, aside.

In terms of the language here, I believe -- again, my layman’s interpretation -- is that the -- what we’re trying to get at in the invocation of the Emergency Act is that the powers in the Emergency Act are put in place to deal with the situation which is a threat of serious violence, all of those other criteria that you see there, that can’t be dealt with by any province or territory acting individually, uniquely, perhaps properly worded.

MS. NATHALIE DROUIN: I can maybe add, if you allow me, that the proposed measures here were not trumping any provincial or territorial jurisdiction so why we were adding measures and authorities, we were not displacing provincial jurisdictions. So they were able as also law enforcement to continue to exercise their respective authorities.

But we came to the view that separately they were not able to deal with the national situation.

MR. MITCH McADAM: Okay. So I’m still a bit
confused about the word “uniquely” and I just want to clarify. Were you suggesting that the provinces could effectively deal with the situation but there’s something unique about what was happening in February that justified invoking the Emergencies Act?

**MS. JANICE CHARETTE:** No. I think -- sorry, Mr. McAdam, I don’t believe that was the intention of this language. It was meant to say that the provinces and territories could not deal with the situation on their own, and that is why the Governor-in-Council would invoke the Emergency Act to deal with the situation which provides extraordinary powers which supplement those powers and authorities of provinces and territories to deal with the situation which we, as you see here, we think, met the test of a national emergency.

**MR. MITCH McADAM:** Okay. And one final matter. Clerk, if I could get you to go back to page 4 of that document near the top.

And on that page you indicate that the First Ministers meeting will meet the requirements for consultation with the provinces under the Emergencies Act. So I take it it wasn’t your position that it was necessary to get the consent of the provinces before invoking the Act, was it?

**MS. JANICE CHARETTE:** I do not believe that that is the requirement in the Emergency Act.

**MR. MITCH McADAM:** And it wasn’t even necessary to get the support of the majority of the provinces, was it?

**MS. JANICE CHARETTE:** That is not, I believe, the requirement in the Emergency Act.
MR. MITCH McADAM: And so really, in order to
fulfill that consultation requirement in the Emergencies Act,
all you needed to do was meet with the provinces. It didn’t
really matter what their views are or what they had to say about
the matter, did it?

MS. JANICE CHARETTE: I don’t believe that is a
fair representation, Mr. McAdam. I think it’s fair to say that
there was a First Ministers meeting in which the Prime Minister
and his ministers -- there are a number of them who were in
attendance -- set out the situation, set out the proposed course
of action, listened and asked questions of provincial and
territorial leaders about whether they had plans, intentions,
ideas, suggestions, proposals, about other things that could be
done to address the situation. So it’s not -- I think you’re
mischaracterizing it, sir.

MR. MITCH McADAM: But you agree that there was a
lot of opposition from -- I believe you said earlier or perhaps
it was Ms. Drouin -- the prairie provinces, the Maritimes, there
was a lot of concerns being raised, right?

MS. JANICE CHARETTE: I believe Mme Drouin said
the prairie provinces and the Province of Quebec, sir.

MR. MITCH McADAM: And the Government of Canada
decided to go ahead anyway, correct?

MS. JANICE CHARETTE: The Governor-in-Council,
the Government of Canada chose to invoke the Act. That is
correct.

MR. MITCH McADAM: Thank you.

COMMISSIONER ROULEAU: I think you’re now out of
MR. MITCH McADAM: That’s a perfect place to end, Commissioner. Thank you very much. Those are all my questions.

COMMISSIONER ROULEAU: Okay. Next I’d like to call on the CCF, please.

--- CROSS-EXAMINATION BY MR. SUJIT CHOUDHRY:

MR. SUJIT CHOUDHRY: Ms. Charette, Ms. Drouin, my name is Sujit Choudhry. I’m counsel for the CCF. I know it’s been a long day so I just have a few questions for you.

COMMISSIONER ROULEAU: The Canadian Constitution Foundation.

MR. SUJIT CHOUDHRY: Yes, that’s for the record.

MS. JANICE CHARETTE: Thank you, sir.

MR. SUJIT CHOUDHRY: Sorry. So, Ms. Charette, you said in your testimony today that one of your roles is to service as the secretary to cabinet.

MS. JANICE CHARETTE: That is correct.

MR. SUJIT CHOUDHRY: And that in that role, you set -- or you participate in the setting of agendas for cabinet meetings. You said you determine attendance, and that attendance includes, as we’ve seen in the cabinet’s minutes put into evidence, not just cabinet ministers but many senior officials.

MS. JANICE CHARETTE: I oversee that process.

MR. SUJIT CHOUDHRY: You oversee that process.

MS. JANICE CHARETTE: I don’t personally, necessarily, arrange every single meeting, every single agenda. I have a team that works with me on these things. But yes, you
are correct to say agendas and attendance. The agenda, I would say, just -- I should clarify in case I wasn’t clear, Mr. Choudhry, that the agendas are proposed to the chair and approved by the chair, so we then issue the agenda —-

MR. SUJIT CHOUDHRY: Of course.

MS. JANICE CHARETTE: --- to ministers, who then arrive with agenda.

MR. SUJIT CHOUDHRY: Understood. And you attend those meetings yourself as secretary to the cabinet and, as you said, you have a responsibility to ensure that if cabinet is to deliberate or make a decision, that it has all the correct information before it?

MS. JANICE CHARETTE: That is correct, sir.

MR. SUJIT CHOUDHRY: And you also said that they are -- unlike cabinet committee meetings, you said they’re run in a very structured fashion where the prime minister chairs and officials speak if they’re called upon?

MS. JANICE CHARETTE: That is what I said, sir.

MR. SUJIT CHOUDHRY: Okay. So I’d like to take you to the cabinet meeting of February 13th. So I take it that given the importance of that meeting, you were centrally involved in setting the agenda?

MS. JANICE CHARETTE: I was advising the prime minister on the setting ---

MR. SUJIT CHOUDHRY: Yeah.

MS. JANICE CHARETTE: --- of the agenda for that extraordinary cabinet meeting. It was not a regularly scheduled cabinet meeting.
CHARRETTE / DROUIN
Cr-Ex(Choudhry)

M. SUJIT CHOU DHRY: And you also, then, were centrally involved in determining the attendance at that meeting? And in particular, you were involved in ensuring that Commissioner Lucki, Deputy Minister Stewart, and Me Vigneault were at that meeting?

MS. JANICE CHARETTE: I would say that, given the topic, I would have expected those deputies to be invited to support their -- and the agency heads to support their minister. I can’t -- I’m just trying to remember whether I actually looked at the attendance list, but I would have expected and I would asked that they be in attendance, yes, sir.

MR. SUJIT CHOU DHRY: And so -- and the invitation would have come from the Privy Council Office; correct?

MS. JANICE CHARETTE: That is correct.

MR. SUJIT CHOU DHRY: If not from you directly, then certainly by your ministry?

MS. JANICE CHARETTE: I have a team that organizes cabinet meeting, that’s correct.

MR. SUJIT CHOU DHRY: And so we’ve had testimony -- sorry, did you want to ---

MS. JANICE CHARETTE: Excuse me just for a second. We’re going to ---

MR. SUJIT CHOU DHRY: Please, please.

MS. JANICE CHARETTE: Oh, yeah, my colleague, Madam Drouin, is just correcting me that because of the fact we were dealing with virtual meetings as opposed to -- it’s a technicality but, you know, I’ve got to be clear -- important -- that because we were dealing with the virtual meeting as opposed

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to an in-person meeting, it is possible that the invitation may have come through a different channel than our normal Cabinet Papers Unit that sends out invitations and organizes meetings. It may have come through a virtual meeting organizer which we euphemistically refer to as “the Maple Leaf”.

**MR. SUJIT CHOUDHRY:** And is the Maple Leaf lodged institutionally in the Privy Council Office? For cabinet meeting, I would think so.

**MS. JANICE CHARETTE:** I believe it’s between the Privy Council Office and the Prime Minister’s Office.

**MR. SUJIT CHOUDHRY:** Okay, fair enough, but at the centre?

**MS. JANICE CHARETTE:** Yes, sir.

**MR. SUJIT CHOUDHRY:** At the centre, okay. And so we’ve evidence put to us this week -- put to the Commission as follows. And have you read the CSIS Interview Panel Interview Summary?

**MS. JANICE CHARETTE:** I have not ---

**MR. SUJIT CHOUDHRY:** And so ---

**MS. JANICE CHARETTE:** --- had a chance to do ---

**MR. SUJIT CHOUDHRY:** Well, with your permission - - or with the Commissioner’s permission, I should say, I’d like to put on the screen, if we could, Witness -- WTS, many zeros, 60.

**COMMISSIONER ROULEAU:** This is the CSIS ---

**MR. SUJIT CHOUDHRY:** This is the CSIS -- it’s Me Vigneault’s evidence, and it’s been referred to many times this week.
MS. JANICE CHARETTE: In the interview summary as opposed to his in-camera evidence.

COMMISSIONER ROULEAU: Yeah, it’s -- I take it there’s no objection?

MR. SUJIT CHOU DHRY: Yeah.

COMMISSIONER ROULEAU: Okay.

MS. DONNAREE NYGARD: No objection.

COMMISSIONER ROULEAU: Okay, go ahead.

MR. SUJIT CHOU DHRY: So if we could pull it up, please.

COMMISSIONER ROULEAU: And this is -- just so it’s -- it’s the public version?

MR. SUJIT CHOU DHRY: Yeah, this is the unclassified version.

COMMISSIONER ROULEAU: Unclassified version.

MR. SUJIT CHOU DHRY: Yes. And so if we could just go to page 8 and could scroll down to “Recommendation to Cabinet”. Okay, let’s stop there, please. Thank you, Mr. Clerk. So just if you could -- I’m just going to read this into the record, and if you could read along with me, please.

MS. JANICE CHARETTE: M’hm.

MR. SUJIT CHOU DHRY: It’s:

"Me Vigneault learned that the Emergencies Act referenced the threat definitions set out in Section 2 of the CSIS Act once the federal government began to seriously consider invoking the EA between February 10th and 13th."
He requested that the Service prepare a threat assessment on the risks associated with the invocation of the *Emergencies Act*. He felt an obligation to clearly convey the Service’s position that there did not exist a threat to the security of Canada as defined in the Service’s legal mandate." (As read).

And then, further on, in the bottom paragraph -- so pardon me, yes, the paragraph that begins, "Me Vigneault discussed...", he said he:

"...discussed the threat assessment at the IRG on February 13th." (As read).

And then he says the document was also available for distribution for the cabinet meeting but he does not know if it was distributed by the PCO. So can you please answer, was this threat assessment distributed to the cabinet, yes or no?

**MS. JANICE CHARETTE:** I believe I’ve said earlier that it was.

**MR. SUJIT CHOUDHRY:** It was. And -- but -- and this was the only threat assessment provided to the cabinet or the prime minister prior to the decision to invoke the *Emergencies Act*?

**MS. JANICE CHARETTE:** Can I just take you to the paragraph preceding that, Mr. Choudhry?

**MR. SUJIT CHOUDHRY:** Yes.

**MS. JANICE CHARETTE:** The threat assessment was
with respect to the invocation of the Emergency Act legislation. And I believe that I have given testimony already that indicates that the invocation of the Emergency Act, as in many things, is a balancing act between “Are you acting too early, too late, doing too much, too little?” and the threat assessment prepared by the Service, which was discussed at the IRG, as Mr. Vigneault indicates, and which was available to ministers, was assessing what the risk was of the invocation of the emergency legislation.

And the CSIS assessment was that there was a risk, that the invocation of the Emergency Act risked further enflaming IMV rhetoric and individuals holding -- and you can read the rest, “holding acceleration as to anti-government views”. As we had -- we came to see the next day -- or am I getting this right? No, I’m going to stop there.

MR. SUJIT CHOUDHRY: So -- but, Ms. Charette, was the Service’s assessment that the required -- that there was no threat to national security, was that shared with the cabinet?

MS. JANICE CHARETTE: That was the nature of the threat assessment prepared by the Service, as indicated by Mr. Vigneault in this statement.

MR. SUJIT CHOUDHRY: Well ---

MS. JANICE CHARETTE: The threat assessment prepared by the Service was

"The invocation of emergency legislation risked further enflaming the rhetoric and individuals holding acceleration as to anti-government...."
(As read).

MR. SUJIT CHOUDHRY: Well, Ms. ---

MS. NATHALIE DROUIN: If I may add ---

MR. SUJIT CHOUDHRY: Yes.

MS. NATHALIE DROUIN: --- what I said earlier is that we knew that CSIS’ assessment for the purpose of the application of CSIS Act ---

MR. SUJIT CHOUDHRY: Right.

MS. NATHALIE DROUIN: --- was done, and that CSIS concluded that, for the purpose of their Act, the level of threat was not met.

MR. SUJIT CHOUDHRY: And was that view shared with the cabinet, yes or no?

MS. NATHALIE DROUIN: I mean I can say that I knew. I think it was shared in previous IRGs but that was not news for us when we gave the advice.

MR. SUJIT CHOUDHRY: But -- I’m sorry, just a simple question. Was that assessment shared with the cabinet, yes or no?

MS. JANICE CHARETTE: With the full cabinet as opposed to the ---

MR. SUJIT CHOUDHRY: Yes, at the February 13th meeting, was that assessment shared with the cabinet, yes or no?

MS. JANICE CHARETTE: The fact that CSIS didn’t feel that there was a national security -- that there was a threat to Canada ---

MR. SUJIT CHOUDHRY: Yes.

MS. JANICE CHARETTE: --- required to invoke the
CSIS powers and authorities.

MR. SUJIT CHOUDHRY: Was that shared with the cabinet, yes or no, or do you not know?

MS. JANICE CHARETTE: I’m just testing my memory, sir, to make sure I’m giving you the very best information. I believe the -- Mr. Vigneault did not speak at the cabinet.

MS. NATHALIE DROUIN: I mean, and here, as I said, we knew that it was shared in previous IRG and, you know, some of the Cabinet members were not members of the IRG. So I don’t know if that element of CSIS was clearly said during full Cabinet, but for sure some Ministers and the Prime Minister was aware of that.

MR. SUJIT CHOUDHRY: But you’re not saying that -- you don’t know if that view was shared with the full Cabinet at its meeting on February 13th?

MS. NATHALIE DROUIN: I cannot confirm that.

What I can confirm though, ---

MR. SUJIT CHOUDHRY: Yes.

MS. NATHALIE DROUIN: --- is that the threat, as we defined, both the Clerk and myself earlier here this afternoon, in terms of the threat coming from, you know, all the elements there, and I won’t go back again, but from Transport, GAC, and others, that was discussed.

MR. SUJIT CHOUDHRY: Sure.

MS. JANICE CHARETTE: And can I go on to add one thing, which is in the discussion at Cabinet, I’m going to be careful here, in the deliberations of Cabinet, in terms of the considerations related to the invoking of the Act, it’s fair to
say that there was a discussion about the nature of the threat
environment, the legal threshold, the tests for invoking, and
the evidence that the thresholds had been met.

MR. SUJIT CHOUDHRY: But you don’t know if Mr. Vigneault’s assessment was shared with the Cabinet?

MS. NATHALIE DROUIN: So just one thing.

MR. SUJIT CHOUDHRY: Yeah.

MS. NATHALIE DROUIN: Mr. Vigneault’s assessment on the fact that invoking the Emergency Act ---

MR. SUJIT CHOUDHRY: Sure.

MS. NATHALIE DROUIN: --- can inflame the situation, that was shared. And we’ve heard that also from Provinces.

MR. SUJIT CHOUDHRY: And I’m not asking you about that.

MS. NATHALIE DROUIN: Yeah.

MR. SUJIT CHOUDHRY: I’m asking about what he stated in the previous paragraph of his evidence. Do we know if his views ---

MS. NATHALIE DROUIN: So I think we answered it. We cannot confirm that. I think I share with the best of my knowledge that I’m sure that some Ministers were aware of that. Key Ministers involved in the management of the convoy, the members of the IRG, that the PM, Prime Minister, sorry, was aware, but I cannot confirm whether or not it was discussed --- like, you know, that CSIS reports to the Public Safety Minister. What he said, we cannot disclose. And to be honest, I really don’t know. So I cannot confirm that.
MR. SUJIT CHOUDHRY: And so have you had a chance to review Deputy Minister Stewart’s testimony from this week?

MS. NATHALIE DROUIN: Well I’ve listened ---

MS. JANICE CHARETTE: To part of it.

MS. NATHALIE DROUIN: --- to part of it, yeah.

MR. SUJIT CHOUDHRY: So I’d put to you that under cross-examination this week, Deputy Minister Stewart testified on Monday that CSIS was not asked to provide this assessment to Cabinet. Do you have any reason to disagree with Deputy Minister Stewart’s testimony?

MS. JANICE CHARETTE: I believe I said, Mr. Choudhry, that Mr. Vigneault did not speak at the Cabinet meeting, ---

MR. SUJIT CHOUDHRY: Thank you.

MS. JANICE CHARETTE: --- and therefore he was not -- he did not speak -- he did not read that into the record himself.

MR. SUJIT CHOUDHRY: So I’d now like to turn to the memo, Ms. Charette, that you wrote to the Prime Minister.

COMMISSIONER ROULEAU: You’re going to have to make it very quick.

MR. SUJIT CHOUDHRY: Sure.

COMMISSIONER ROULEAU: You’re way over time already. And I’m generous, but there are limits.

MR. SUJIT CHOUDHRY: There are limits. I know, Commission.

So in the memo, in which you recommended to the Prime Minister that the Emergencies Act be triggered, you were
aware of Mr. Vigneault’s view, but nonetheless, you determined
that there was a threat to national security; correct?

MS. JANICE CHARETTE: We can go ---

MR. SUJIT CHOUHDRY: Yeah.

MS. JANICE CHARETTE: I’m happy to take you
through my logic again, if you’d like. I was aware that Mr.
Vigneault felt that there was a threshold for CSIS ---

MR. SUJIT CHOUHDRY: Right.

MS. JANICE CHARETTE: --- to launch an
investigation under the CSIS Act was not met.

MR. SUJIT CHOUHDRY: And you relied on the
National Security Intelligence Advisor view, integrated, as she
put it in her testimony yesterday, information from across the
Federal Government to arrive at her view that there was a threat
to national security under the Emergencies Act?

MS. JANICE CHARETTE: She was one of the advisors
that I relied on, sir. She was not the only advisor I relied
on.

MR. SUJIT CHOUHDRY: So I would like to put this
point to you, ---

MS. JANICE CHARETTE: Sure.

MR. SUJIT CHOUHDRY: --- that in a constitutional
democracy, to prevent the abuse of executive powers by an
elected government, it is imperative that the views of a
professional non-partisan and expert security services be front
and center and that they not just be a factor, but that they be
at the core of whether a government decides to invoke emergency
powers?
And what you’ve said today is that you’re not sure if Mr. Vigneault’s views are before the full Cabinet, they weren’t set -- you’ve distinguished the legal relevance of his views, and you’re suggesting that what the Security Secretariat ---

COMMISSIONER ROULEAU: Are you getting to a question or making a presentation?

MR. SUJIT CHOU DHRY: Are you suggesting that what the CSIS says isn’t at the core of what makes it reasonable to determine if a public order emergency exists?

MS. JANICE CHARETTE: What makes it reasonable to determine? I don’t understand what your question is.

MR. SUJIT CHOU DHRY: I apologize.

MS. NATHALIE DROUIN: I think ---

MR. SUJIT CHOU DHRY: Yeah, please.

MS. NATHALIE DROUIN: I’m sorry if you didn’t have the opportunity to -- you know, the cross-examination that I had with Mr. Miller, but I think that we talked about the difference between who was the decision maker under the Emergency Act versus who is the decision maker under the CSIS Act. And the purpose of those two acts were different and what we were looking at was different.

I think that what you said when you talked about Madam Thomas is that she was integrated views, but views were coming from Minister of Transport. Views were coming from Public Safety. We’ve -- I mean, I can go on and on, as I said before. Like, we saw threats from port of entry, we saw threats in terms of presence of guns. We saw kids, you know, being used
as shields. We saw, you know, harassment on the streets. Like, the threats that we were collecting -- we saw impacts on our trades. Like, the threats we were assessing in order to determine was not only coming from CSIS. CSIS is a very important thing and CSIS did -- or made a decision under the Act to determine whether or not they were able to open new investigation.

But you will hear from CSIS about the views of the director, and you should ask him that question. What was the views of the director in terms of the risk of the convoy, even if he didn’t, you know, open new investigations? As he had to look at, you know, the situation also.

So I think we really have to make a difference here between the role of the director in managing his Acts, versus the role of the director in terms of the input and the information he can provide to us.

MR. SUJIT CHOUDHRY: Commissioner, I think I’m way past my time, so I’ll wrap up. Thank you.

COMMISSIONER ROULEAU: Okay. Thank you.

Next is the Democracy Fund and JCCF.

--- CROSS-EXAMINATION BY MR. ALAN HONNER:

MR. ALAN HONNER: Good evening. My name is Alan Honner and I am a lawyer of the Democracy Fund. I’m just going to put on my timer to make sure I don’t go too long here.

My friend from the CCF was just asking you about a threat assessment from CSIS. And I think prior to that, he put a statement to you from CSIS, and it is still up here. And I’ll just ask the clerk to leave it up.
And it says here:

“He requested that the Service prepare a threat assessment on the risks associated with the invocation of the Emergencies Act. He felt an obligation to clearly convey the Service’s position that there did not exist a threat to the security of Canada.” (As read)

If I can ask the Clerk to please pull up TS.NSC.CAN.001.00000172_Rel.001?

I believe my friend Mr. Miller brought this up earlier today.

Just while we're waiting for that document, Ms. Drouin, you would agree with me -- okay. Well, let's -- can we just make it a little bit bigger, please, and can we scroll down a little bit?

And so in the first paragraph here that’s unredacted, we see a reference to the Emergency Act and how it might galvanize broader anti-government narratives.

Can we scroll down a little bit more?

And we see again that it has the potential to similarly radicalize Canadians.

**MS. JANICE CHARETTE:** Where? I'm sorry. I'm a bit behind here.

**MR. ALAN HONNER:** In the last paragraph that’s above us right now, we see that the declaration of an emergency by the Province of Ontario under the Emergency Management and Civil Protections Act has resulted in a significant increase in
violent rhetoric towards the premier of Ontario and other senior elected officials.

And if we go down a little bit more -- and what we don’t see in this threat assessment is the statement by the CSIS director in which he says that there is no threat to the security of Canada. We don’t see that anywhere in this document; is that right?

MS. JANICE CHARETTE: I haven't read the full document, so I'd have to go back to the top, but I'll ---

MR. ALAN HONNER: Okay. But I'm going to put it to you that we don’t see that because it's redacted.

UNIDENTIFIED SPEAKER: I'm going to object to that question. It's an ---

MR. ALAN HONNER: Fine. I'll move on.

And this statement was never put by you to the Cabinet?

MS. JANICE CHARETTE: I did not address the Cabinet at this meeting.

MR. ALAN HONNER: Okay, thank you.

Ms. Drouin, you would agree with me that CSIS does not investigate family violence because family violence does not constitute a threat to the security of Canada, agreed?

MS. NATHALIE DROUIN: I guess you are referring to my previous response where I ---

MR. ALAN HONNER: Yes.

MS. NATHALIE DROUIN: --- wanted to make the difference that potential criminal offences can bring serious violence without triggering the role of CSIS.
MR. ALAN HONNER: That's fine. I'm not asking for an explanation. I'm just asking you if you agree with that statement?

MS. NATHALIE DROUIN: Sorry, can you repeat?

MR. ALAN HONNER: The statement is ---

MS. NATHALIE DROUIN: And I wanted to give you the context.

MR. ALAN HONNER: --- CSIS does not investigate family violence because family violence does not constitute a threat to the security of Canada; do you agree?

MS. NATHALIE DROUIN: I agree.

MR. ALAN HONNER: Okay. Ms. Charette, you made the point -- and just tell me if I'm repeating it correctly -- I think you made the point that a CSIS investigation under section 2 does not always trigger the invocation of the Emergencies Act. Am I repeating that correctly?

MS. JANICE CHARETTE: I believe that’s what I said.

MR. ALAN HONNER: Okay. And you would agree with me ---

MS. JANICE CHARETTE: Has not ever, given that the Emergencies Act had not been invoked until February the 14th ---

MR. ALAN HONNER: Sure.

MS. JANICE CHARETTE: --- 2022.

MR. ALAN HONNER: Sure. And I think you'll agree with me that there are different types of emergencies under the Emergencies Act, but let's just stick with the Public Order
Emergency.

For that type of emergency to exist, there have to be threats to the security of Canada but the emergency also has to be so serious as to constitute a national emergency; do you agree?

**MS. JANICE CHARETTE:** Yes.

**MR. ALAN HONNER:** And it's possible that there would be threats to the security of Canada that don't rise to the level of a national emergency?

**MS. JANICE CHARETTE:** Yes, I would. That's also true.

**MR. ALAN HONNER:** And that would explain why the governor of council doesn't invoke the Emergencies Act every time there are threats to the security of Canada?

Okay. Thank you very much.

In your memo to the prime minister -- I won't pull it up -- but on page 11 -- this is the memorandum dated February 14th ---

**MS. JANICE CHARETTE:** On invocation then, sir?

**MR. ALAN HONNER:** Yeah, I think that the title is "Memo to Canada", but whatever it's called, at paragraph 11, you say, when you're discussing communications, that:

"The government could lean on like-minded messaging from external stakeholders and partners to support the need of the measures at this time."

What were you referring to? Who are these partners? Who are these stakeholders?
MS. JANICE CHARETTE: Would you -- I'm sorry, can I ask for you to pull it up?

MR. ALAN HONNER: Yes, absolutely.

MS. JANICE CHARETTE: Thank you very much.

COMMISSIONER ROULEAU: What is it you want? The ---

MS. JANICE CHARETTE: The invocation memo, page 11, I believe.

MR. ALAN HONNER: The memo, I believe it is SSM.NSC.CAN00003224.

COMMISSIONER ROULEAU: That's correct.

MR. ALAN HONNER: And if we can go to page 11, please?

MS. JANICE CHARETTE: Apologies, Mr. Honner. Just ---

MR. ALAN HONNER: No, please don't apologize.

MS. JANICE CHARETTE: Thank you.

MR. ALAN HONNER: Okay. So right at the bottom here, for public communications:

"Further, public communications should emphasize the fair and proportionate action taken by government."

And then the last sentence:

"The government could also lean on like-minded messaging from external stakeholders and partners to support the need for the measures at this time."
Who are those partners? Who are those stakeholders?

**MS. JANICE CHARETTE:** I think it's fair to say that we have heard from organizations like the -- some of the business people in Ottawa, as an example. We have heard from -- I'm sorry, just give me a minute here to just get my thoughts clear about this.

**MR. ALAN HONNER:** Is it a reference to the RCMP?

**MS. JANICE CHARETTE:** No, sir.

**MR. ALAN HONNER:** Is it a reference to newspapers?

**MS. JANICE CHARETTE:** External stakeholders and partners would not include a government organization, and if it meant the media, that would have been said as the media. No. These would be external organizations.

I believe we had had an ongoing conversation led by my colleague in the Department of Transport and the Minister of Transport with the trucking association, as an example.

**MR. ALAN HONNER:** Okay.

**MS. JANICE CHARETTE:** We had business associations across the country that were calling for the -- calling on the importance of keeping those ports of entry open. So I think there were a number of stakeholders who were interested in a peaceful resolution of what had become a serious national emergency.

**MR. ALAN HONNER:** Understood, thank you.

One last question. There was a threat assessment referred to in this memo to the prime minister, and my friend
from the Government of Saskatchewan brought up an email from
Jody Thomas, and that email says:

"I need an assessment for Janice about
the threat of these blockades, the
characters involved, the weapons, the
motivation."

You recall that, of course? It was just up
before you.

**MS. JANICE CHARETTE:** I do, sir.

**MR. ALAN HONNER:** Okay. And I'll ask the clerk
to please pull up PB.NSC.CAN.00003462_REL0001.

And just while we're waiting for the document to
come up, I can tell you that it came up in the examination of
Commissioner Brenda Lucki and it's correspondence from Mike
MacDonald to Adriana Poloz, and Mike MacDonald is from the PCO;
is that right?

**MS. JANICE CHARETTE:** Yes, he is.

**MR. ALAN HONNER:** Okay. And it looks like
Adriana Poloz is from the RCMP. And then from Commissioner
Lucki's exam, I think we concluded that Jody Thomas' request for
a threat assessment was passed down to Ms. Poloz. And if we
scroll down a little bit here -- a little bit more, please --
just a little bit more -- oh, I'm sorry, just up a little bit.
Pardon me. Right there.

If we look at this email, we see that she
identifies three groups, and the first group is a group called
the Three Percenters, the second is called Diagalon -- if you
scroll down a little bit -- and the last one is called Canadians
First.

**MS. JANICE CHARETTE:** Canada First.

**MR. ALAN HONNER:** And I put it to you that these are the only IMVE groups that were identified by the RCMP.

**MS. JANICE CHARETTE:** Those are the three groups that are in this email that Ms. Poloz sent to the Privy Council office.

**MR. ALAN HONNER:** Did the RCMP identify any other IMVE groups to you?

**MS. JANICE CHARETTE:** I believe yes.

**MR. ALAN HONNER:** Okay. But can you tell us who they are?

**MS. JANICE CHARETTE:** Maybe I'll do it the inverse way which is, to be clear, as I said, this is an email between someone in the RCMP and someone in the Privy Council office.

This information was not contained in the memorandum that went to the prime minister, the decision note.

I'm not sure that I turned my mind to the details of who the IMVE extremists were other than to be reported by the RCMP and other security agencies, but there were known IMVE -- I think they used the word "targets", subjects of interest involved in the protests.

**MR. ALAN HONNER:** I'm sorry, can you -- I just didn’t hear that last part.

**MS. JANICE CHARETTE:** Okay.

**MR. ALAN HONNER:** Can -- just the last sentence, please.
MS. JANICE CHARETTE: That I believe that I was
told that there were IMVE extremists by the RCMP and other
security agencies, but I can't -- I'm not -- the specific
identification of those, I can't give you a comprehensive list.

MR. ALAN HONNER: Okay. And I'm out of time
here, so let me just ask you one last question here. And you
would agree with me that in your memo to the Prime Minister,
dated February 14th, you told him "There is no current evidence
of significant implications by extremist groups or international
sponsors"?

MS. JANICE CHARETTE: I'll take your word for
that. Can I suggest as well, as I said, this is an input. The
official record that I would commend to you in terms of the
evidence upon which the Government based the decision to invoke
the Emergency Act, as contained in the section 58 justification,
which was tabled before the House of Commons, and I think that's
the most reliable place to find the evidence that the Government
used to rely on to invoke.

MR. ALAN HONNER: But the memo contains your
advice to the Prime Minister.

MS. JANICE CHARETTE: That is correct, and this
is not in my memo, sir. Thank you.

COMMISSIONER ROULEAU: Okay.

Next, is the CCLA, please.

--- CROSS-EXAMINATION BY MS. EWA KRAJEWSKA:

MS. EWA KRAJEWSKA: Good evening, Clerk Surette
and Madam Drouin. My name is Ewa Krajewska, and I am counsel
for the Canadian Civil Liberties Association.
So I know we have spent a lot of time on the CSIS part of the thresholds to invoke the Emergencies Act, but with respect to section 3 of the Emergencies Act itself, there is two categories, 3(a) or 3(b). And 3(a) is that there -- that it's -- there is a:

"...national emergency [that] is an urgent and critical...of a temporary nature that...seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with..."

And I understand that that is the part the Government relied upon to invoke the Emergencies Act; correct?

**MS. NATHALIE DROUIN:** Agreed.

**MS. EWAA KRAJEWSKA:** And those two parts, capacity and authority, I read those as authority, meaning legal authority, and legislative tools that were available to the Government. Would that be a fair reading of that? Is that how you understood that? Yes?

**MS. NATHALIE DROUIN:** Yes.

**MS. EWAA KRAJEWSKA:** And capacity, to me the word capacity connotes an issue of resources; correct?

**MS. NATHALIE DROUIN:** Operations, I agree.

**MS. EWAA KRAJEWSKA:** Operational capacity.

And Madam Surette and Madam Drouin, from your witness statement, I understand that leading up to February 9th and February 14th you both expressed frustration, or maybe not
frustration, but frustration with the inability of the local
police officers in both Ottawa and Windsor of being able to
execute on their Operational Plans. Do you recall stating that
in your witness statements?

MS. NATHALIE DROUIN: Sorry, I don't think have
used "frustration".

MS. EWA KRAJEWSKA: No, sorry. I will read you
the part that you said. You said, "She", which I think refers
to you, Madam Drouin, "She recalled losing hope that local
police forces in Ottawa and Windsor were capable of executing on
their Operational Plans." Is that fair?

MS. NATHALIE DROUIN: I think that -- I don't
recall talking about losing hope here. I think that what I have
said at the beginning of this is we were facing a situation
where all of the indicators were towards federal symbols, and
that we were being asked to do something, and yet we didn't have
jurisdiction to do a lot of things.

So we were asking ourselves, and of course, we
were getting worried, if I may use that word, especially on
Week 2 and Week 3, whether or not we were going to see an
outcome or a result or that the situation would be resolved.
But I don't think that we lost, you know, I don't think that I
have said that we lost hope. We were worried, we were really
worried, and we came to the conclusion that maybe the actual
resources, tools, and authorities that provinces were having
were not being the successes we were looking for, or being used
and being inefficient.

MS. EWA KRAJEWSKA: Okay. And if I can take you
to your witness statement, just so that you can recall, because I want to take you to another passage.

This is WTS00000074.

MS. NATHALIE DROUIN: Oh. Okay. Yeah.

MS. EWA KRAJEWSKA: I think Commissioner Lucki -- it says that:

"Commissioner Lucki grew frustrated with the lack of action by local police agencies."

And then it states...

If you can go page 11, please, Mr. Registrar.

Thank you:

"This frustration was shared by Ms. Drouin and Ms. [Surette] who felt that existing authorities, such as municipal bylaws for instance, were simply not being used to clear the protests in Ottawa."

MS. NATHALIE DROUIN: I understand the context.

Yeah.

MS. EWA KRAJEWSKA: Yes. And then -- but at the same time, you appreciated that there was need to respect police independence and not -- and that neither the Public Service nor the politicians could direct police officers directly; correct?

MS. NATHALIE DROUIN: Correct.

MS. EWA KRAJEWSKA: Correct. And I put that to you in the context that later on, coming up to the IRG meeting of February 13th, you were taken to this earlier, I think the
evidence is that by February 13th, the RCMP, the OPS, and the OPP had signed off on a plan to remove the demonstrators from Ottawa, but I think the evidence we heard from Commissioner Lucki is that she did not state -- express that directly to the IRG on February 13th. And I think, Madam Surette, you confirmed this today, that that is not something that you heard at the IRG meeting on February 13th; correct?

**MS. JANICE CHARRETTE:** I believe we heard there was a plan to deal with the protests in Ottawa. I would not characterise it the way you just did, which is to clear entirely.

There was, as always, and I think is implicit in the paragraph that I'm trying to read very quickly, and I think we've talked about this, there were authorities, there were bylaws that were not being fully enforced. That was the decision of law enforcement, local law enforcement, as to whether or not they thought they had the resources to do that safely without impairing officer safety.

We saw, for example, that they were trying to enforce restrictions on the movement of fuel in and around the convoy in Ottawa, and we saw cases where police officers who were trying to enforce that were being harassed and intimidated and threatened. We saw protesters filling those cans with water as opposed to gas. So there was lots going on.

So when it came to the plan, the plan was about how to, as I understand it, the various iterations of the plan were about two parts of this: One was about how do you try and
get the numbers down to the core, and then -- so that whatever
law enforcement resources were going to have to be used in terms
of actual enforcement, you could kind of get the size of the
problem down.

And the plan, as I believe we had -- had been
explained to us was about two phase, but the details of the plan
to clear the occupation in Ottawa was not available to us on the
13th of February.

**MS. EWA KRAJEWSKA:** Right. The details of the
plan were not available to you, but I think I also understood
that you may not have known that the RCMP and the OPP had signed
off on a plan that they had confidence in could remove the
protesters in Ottawa as of February 13th; correct?

**MS. JANICE CHARETTE:** We had heard, as I said
many times, about plans that didn't get turned into action.

**MS. EWA KRAJEWSKA:** Right. So you had -- so --
exactly. So you had, over the week leading up to February 13th,
you had been briefed on various plans that you also did not
actually see come to fruition. So even if you were told about a
plan on February 13th, at that point part of you felt like that
may -- as you said earlier today, that was one factor, but maybe
not a determinative factor in terms of whether to invoke the EA
or not, just based on what had been happening for that week.

**MS. JANICE CHARETTE:** I don't mean to sound
dissmissive, and so I worry that what I just said sounds
dissmissive of the very serious efforts of law enforcement at the
local level, with the OPP and the RCMP to deal with the various
situations. I think they were working as best they could in
extraordinary difficult situation to deal with the occupation in Ottawa. And I do believe they gave serious effort to trying to figure out how best to do that.

We had heard about this a number of times. The details of any kind of tactical plan would never have been shared with us. I would say that there was no single plan at any single site that would have necessarily changed my advice to the Prime Minister about the totality of the circumstances which led to the invocation of the Emergency Act.

MS. EWA KRAJEWSKA: And I’m not sure, I think you mentioned earlier that -- I think Commissioner Lucki confirmed this, the IRG was a platform where people were at liberty to speak up, they were not -- they did not need to feel called upon before they could share their views with the other members of the IRG? And that’s fair?

MS. JANICE CHARETTE: I believe that is an accurate statement, yes.

MS. EWA KRAJEWSKA: And Madam Charette, you mentioned earlier in your testimony that you appreciate that there were aspects of the demonstration that were lawful and that there were aspects of the demonstrations that were unlawful, and you were careful to make that distinction?

MS. JANICE CHARETTE: I think I would -- yes. And I would also say that there were individuals involved who were there for the purpose of peaceful protest. And there were individuals who were a part of the protest who had other motivations, some of which I believe to have been, as I said earlier, around a policy motive, like getting rid of mandates,
or a political objective, like overthrowing the government, replacing them with a new form of government.

**MS. EWA KRAJEWSKA:** But once the Emergency Act was invoked and there were restrictions placed on public assembly, ---

**MS. JANICE CHARETTE:** M’hm.

**MS. EWA KRAJEWSKA:** --- including geographical restrictions, that demonstration, by definition, became unlawful. Would you agree with that?

**MS. JANICE CHARETTE:** I would agree with that.

**MS. EWA KRAJEWSKA:** And therefore the ability for those protestors or demonstrators to voice their political views against mandates or other public policy options became much more limited or would have to have been provided in a different locale?

**MS. JANICE CHARETTE:** I think that’s part of the reason, and I -- we didn’t have a chance to look in detail at that communications section, but an important part of the roll out and the implementation of the Emergency Act was to make sure that those who were involved in what was becoming covered by the Emergency Act knew and knew to go home. They had heard from Ministers and the Prime Minister, they’d heard from the Premier, it was time to go home. And it was clear then that it was important to make clear to people who were participating what the consequences were of staying.

**MS. EWA KRAJEWSKA:** And so there was not consideration given to giving them a space to continue to protest at the seat of Parliament in Ottawa?
MS. JANICE CHARETTE: There was -- there were -- there’s lots of other places to go and protest in Ottawa during the duration of the occupation, while the Emergency Act was being invoked. And we saw people who came back at the end who were protesting at the -- as the Act was being revoked. But while the Act was in place, and in the area that was designated, this was an illegal activity and there were consequences. So they were subject to the discretionary decisions by law enforcement about how to proceed with the implementation of those powers and authorities.

MS. EWKA KRAJEWSKA: And can I -- oh, sorry.

MS. NATHALIE DROUIN: If I may add also?

MS. EWKA KRAJEWSKA: Sorry, yes.

MS. NATHALIE DROUIN: This is why when we invoked the Emergency Act and the measures we adopted under the Emergency Act have to be time limited, and this is why we invested a lot of time to monitor the situation to make sure that we don’t keep the Emergency Act if it’s not necessary. So that is how, you know, we balanced, a little bit, the impact of the Emergency Act.

MS. EWKA KRAJEWSKA: Right. Let me -- I have two more questions. One is a bit technical, and I hope you can educate me on this, Madam Charette. Your decision memo to the Prime Minister, does that end up forming part of the record of what goes before the Governor in Council? Does that form part of that record?

MS. JANICE CHARETTE: No, it does not.

MS. EWKA KRAJEWSKA: It does not. So that is only
-- that is a document that only goes to the Prime Minister? It does not go to Cabinet and it does not form part of the record before the Governor in Council?

**MS. JANICE CHARETTE:** That is correct.

**MS. EWA KRAJEWSKA:** And the last ---

**MS. JANICE CHARETTE:** The documents before the Governor in Council are different documents. It was the proposed proclamation and subsequent regulations.

The last part is with respect to the definition of the *CSIS Act*. And you were taken to this. And I know that you’ve disagreed with counsel that who is the decision maker, versus CSIS, versus the Governor in Council. But I think you agree that it’s the definition in the *CSIS Act* that applies? It's not a different definition; correct?

**MS. NATHALIE DROUIN:** It’s the same wording that has to be interpreted within the respective acts. Here we were talking about the *Emergency Act*.

**MS. JANICE CHARETTE:** In front of a decision maker.

**MS. EWA KRAJEWSKA:** By a different decision maker. Yes. Thank you.

And you both mentioned the safe guards that exist within the Act once the *Emergency Act* is invoked, including the Parliamentary process, this Commission, the fact that it has to be time limited. But I think you’d also agree that there are ex-anti thresholds, there are safeguards in the Act that the thresholds that need to be met that are also very important in order to ensure that we only invoke the *Emergencies Act* in
exceptional circumstances? You’d agree with that as well?

MS. NATHALIE DROUIN: I agree with you. And I’ll also add that the measures that government adopt have to be Charter compliant.

MS. EWA KRAJEWSKA: Yes.

MS. JANICE CHARETTE: Which is an important safeguard in terms of the actions that are available to be taken by ---

MS. EWA KRAJEWSKA: Thank you very much.

Thank you, Commissioner.

COMMISSIONER ROULEAU: Okay. Thank you.

Next I’ll call on the City of Ottawa.

--- CROSS-EXAMINATION BY MS. ALYSSA TOMKINS:

MS. ALYSSA TOMKINS: Good afternoon, almost evening. My name is Alyssa Tomkins. I’m one of the lawyers representing the City of Ottawa. I just have one quick question for you today, and it’s to the Clerk.

If our Clerk could bring up document SSM. ---

MS. JANICE CHARETTE: I knew we were going to get in trouble with that at some point.

MS. ALYSSA TOMKINS: We’ve had a lot of Commissioners until this point, so now we’re getting multiple clerks.

So SSM.CAN.00008508. So if we can just scroll down to the bottom of page 2 just so the witness can see what we’re talking about?

So there’s an email from Rob Stewart and it’s attaching the engagement proposal, I’m sure you’re familiar
with.

And if we scroll up, we see Ms. Thomas forwards it to you. And then if we keep scrolling, we see an email from you to Katie Telford. And it says:

“I would like to green light this today if possible...”

So is that -- were you wanting to -- my question is just were you wanting to greenlight it?

**MS. JANICE CHARETTE:** I wanted the proposal around engagement ---

**MS. ALYSSA TOMKINS:** Yeah.

**MS. JANICE CHARETTE:** --- to be considered by the Incident Response Group of Ministers.

**MS. ALYSSA TOMKINS:** Okay. So wait, you were neutral as to the engagement proposal yourself?

**MS. JANICE CHARETTE:** No, I have a point of view.

However, -- I probably did have a point of view at this point of time. This is about the decision to put the engagement proposal before Ministers and the Prime Minister at the Incident Response Group, which happened on the 12th of February.

**MS. ALYSSA TOMKINS:** Okay. No, that’s the clarification I was looking for, so thank you very much, Clerk, and those are my questions.

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

Next is the Ottawa Coalition.

--- **CROSS-EXAMINATION BY MS. CHRISTINE JOHNSON:**

**MS. CHRISTINE JOHNSON:** Good evening. My name is Christine Johnson and I’m one of the counsel for the Ottawa
Coalition of Residents and Businesses.

I have some questions for you both, and you can answer whoever feels able to answer, with regards specifically to your assessment of the threat posed by the situation in Ottawa.

So I’d like to start off by noting that yesterday we heard Jody Thomas discuss the process of determining the distinction between lawful and unlawful protests and the difficulty, sometimes, in determining when peaceful protests become violent protests.

And with regards to determining whether the protest activity involves the threat or use of serious violence, Ms. Thomas stated that:

“The only measure can’t be violent of a nature of January 6th.” (As read)

And I understood her statement to mean that it’s not only violence that rises to the level of an insurrection. And I would take it from your testimony today that you would agree with that statement?

**MS. JANICE CHARETTE:** Do you want to start? No. So can I -- I want to say two things, if I could, Ms. Johnson. The first is that in the note -- the Decision Note that I sent to the prime minister, I did not do a specific assessment of the threat in Ottawa. What I was looking at was the national picture.

As for your question about violence, I think was the -- oh, was that the second part of your question, sorry?

**MS. CHRISTINE JOHNSON:** M’hm, yes.
MS. JANICE CHARETTE: I think violence has a lot of different meanings and there’s -- I think violence that -- you know, a punch in the face is violence. And it could also be violent when you feel threatened or intimidated, when your ability to go about your daily life is being thwarted, your ability to get to a medical appointment, your ability to access 911 services, your ability to have an ambulance come to your house if in fact you’re in need of medical assistance, if your job is threatened because the supplies don’t get to your factory and your shift doesn’t go in. There’s a number of different manifestations of violence short of the kind of, you know, spectacular -- and I think violence that might have been implicit in something like, I think, the events on January the 6th, which I think I can tell you, as a proud Canadian, I hope I never see here.

MS. CHRISTINE JOHNSON: M’hm. Thank you for that answer. And it feeds into my next question which was, is it correct that, to your knowledge, neither the Emergencies Act nor the CSIS Act defines the term “serious violence” ---

MS. JANICE CHARETTE: I ---

MS. CHRISTINE JOHNSON: --- and in fact -- sorry, I was just continue to say it’s in fact open to interpretation, as you suggest?

MS. JANICE CHARETTE: I believe that to be the case. But I think you have to read the two words together. I certainly, when I put my mind to this, thought about a test of “serious violence”.

MS. CHRISTINE JOHNSON: Right. And you’ve
testified today that you believed that the definition of “a
threat of serious of violence” or “act of serious violence”
under Section 2(c) of the CSIS Act, that definition was met and
justified in invocation of the Emergencies Act; is that fair?

   MS. JANICE CHARETTE: That was my testimony, yes,

   Ms. Johnson.

   MS. CHRISTINE JOHNSON: Thank you. And you gave
some examples to my friend, Mr. Miller -- and this is for Ms.
Drouin. You gave some examples to my friend, Mr. Miller, of the
types of things that you consider in looking at -- you know,
from all of the inputs you were receiving of what was going on
at the ground, the types of serious violence that occurred, and
you gave examples of threat to the economy, impact on trade,
impacts on workers, disruption at ports of entry, as well as,
you know, the on-the-ground harassment, intimidation, these
sorts of things, assaultive behaviour. So is it fair to say
that your understanding and interpretation of “serious violence”
included more that just physical violence but also economic and
psychological violence?

   MS. NATHALIE DROUIN: I agree.

   MS. CHRISTINE JOHNSON: Okay. And just -- if I
may have just a couple of minutes, Commissioner, just to ask
specifically about the situation in Ottawa and how certain
things factored into your decision making. We’ve heard
testimony from both residents and law enforcement about people
in Ottawa who experienced harassing and assaultive behaviour.
We’ve heard that not all of this was reported to police and, in
some circumstances when it was reported to police, it wasn’t
always followed up on, in part because sometimes the nature of these circumstances were difficult to pinpoint perpetrators and follow-up investigate. Was this something that factored into your consideration of the serious violence that was occurring?

**MS. JANICE CHARETTE:** I would say that the total picture, in terms of what was happening in Ottawa, including but certainly not specifically the fact law enforcement resources were extraordinarily taxed to be able to deal with both the occupation as well as the regular, if I could call it that way, policing requirements in Ottawa was a sign of the magnitude of the threat and how the threat had escalated through the peace. And I think that -- both the kind of substance of that as well as the dynamic and the escalation were factors in my consideration.

**MS. CHRISTINE JOHNSON:** And would you consider the fact that residents of Ottawa were subjected to the display of hateful symbols and messages -- we’ve seen flags -- would you accept that people experiencing that kind of conduct, especially and in particular minority communities, would consider that sort of conduct a form of violence towards them?

**MS. JANICE CHARETTE:** They may well, yes.

**MS. CHRISTINE JOHNSON:** And would you consider that a form of violence?

**MS. JANICE CHARETTE:** If I was the subject of it, I may well feel that way, but ---

**MS. CHRISTINE JOHNSON:** And with ---

**MS. JANICE CHARETTE:** The groups that you’re describing, Ms. Johnson, I think it’s fair to say, are -- have
some form of vulnerability. And so if -- you know, if you’re 2SLGBTQI+ individual and you are subjected to a threat against your choice of your sexual preference, your sexuality, you may find that quite intimidating. And similarly, misogyny, antisemitism, and so on. So some form of identity being threatened, or intimidated, or criticized, I think can be quite jarring.

**MS. CHRISTINE JOHNSON:** And was there consideration, again, in your understanding, of whether there was serious violence involved in these protests -- what about the situation of swarms of maskless protesters entering into stores and restaurant, you know, posing serious risk, potentially, of illness to employees, business owners, other patrons, would that be a form of violence that you consider?

**MS. JANICE CHARETTE:** I think, in my earlier explanation, I indicated kind of public unrest, including the kinds of behaviour you describe, with or without the Public Health dimension, would be a manifestation of a situation which would be part of that broad threat and risk environment.

**COMMISSIONER ROULEAU:** You’re well over your time, so if you could wrap up, please.

**MS. CHRISTINE JOHNSON:** I’ll leave it there. That’s fine, Commissioner. Thank you very much, Panel, for answering my questions.

**COMMISSIONER ROULEAU:** Okay, thank you. Next is the OPP.

--- CROSS-EXAMINATION BY MS. JINAN KUBURSI:

**MS. JINAN KUBURSI:** Good afternoon. Thank you,
Commissioner. And good afternoon to you both. My name is Jinan Kubursi and I’m one of the counsel for the OPP.

So I have just a few minutes with you today, so I’d like to ask you just a few short questions and briefly deal about your understanding of what was happening in that weekend leading up to the arrival of the convoy in Ottawa. So if you cast your mind back to that time period -- and we have seen some of the documentation but I’d just like to ask you, did you have any awareness at that point that there were some indications that this convoy of truckers which was going to number potentially in the hundreds in terms of vehicles heading towards Ottawa -- were you aware of that basic fact at that point?

MS. JANICE CHARETTE: So, Ms. Kubursi, you’re speaking about the weak beginning the 24th of January, the Monday, is that what you’re referring to?

MS. JINAN KUBURSI: That’s right. That’s right.

MS. JANICE CHARETTE: So I think -- I think -- I can’t exactly remember what day. I believe the 24th or 25th, we heard for the first time in a team meeting that there were reports that there were -- there was at least a significant number of protesters coming to Ottawa. I can’t remember whether there were other sites at the time that were mentioned or not, but certainly Ottawa sticks in my mind. And the exact details of that, I’ll tell you, I didn’t retain.

We -- there were -- those events were being monitored by folks -- other folks in the Privy Council Office. You may recall earlier I said that there was a cabinet retreat underway and I would -- a lot of my attention was focused on
supporting the cabinet retreat. But I had others in the organization, in the Privy Council Office, who were monitoring that and conducting daily briefings with minister’s offices and meetings between the PCO and PMO which led into the ministers, and so on and so forth. So that was the beginning, for sure.

**MS. JINAN KUBURSI:** Right. And understandably, you had other matters that you were dealing with, of course. So can I take it, as you’re saying, you had some awareness and you have some recollection of hearing that there were going to be a large number of truckers, you know, perhaps not a specific ---

**MS. JANICE CHARETTE:** Vehicles.

**MS. JINAN KUBURSI:** Vehicles. Thank you for that correction -- of vehicles including -- it would include some trucks -- were on their way to Ottawa, and did you have any awareness at that time that there was some indication that some members of this protest group, if I call it that, were intending to stay in Ottawa until their demands with respect to vaccine requirements were met?

**MS. JANICE CHARETTE:** I would say that I did not know how long they were planning to stay or what they wanted to achieve before they were prepared to leave. I would think -- and I have said this earlier -- that a protest was coming to Ottawa. We had a lot of protests. They said they were coming for the weekend. Sunday night arrived; they had not left. This -- we were now into a very different situation.

**MS. JINAN KUBURSI:** Right. But would you agree with me that early information that there was at least a group indicating a commitment to staying in Ottawa until certain
demands were met, and early indications that some vehicles
including heavy machinery with the trucks that were on the way
to Ottawa would all be indications that would be at least
informative for you and your colleagues in terms of what you
might expect?

MS. JANICE CHARETTE: Yes.

MS. JINAN KUBURSI: Yes? Okay.
And so we've heard ---

MS. JANICE CHARETTE: I now know -- sorry, may I
add something?

MS. JINAN KUBURSI: Yes, please.

MS. JANICE CHARETTE: I think what we have heard
through the work of this Commission of Inquiry is that there
were reports, there was more information available that was
being shared with law enforcement that we have found out after
the fact, and I think the Hendon Reports is an example of the
kind of information that was being shared, but that wasn’t my
focus at the time.

MS. JINAN KUBURSI: Right, not your focus and not
within your awareness because you're not direct recipients of
these reports. They are shared within the law enforcement
community. But you'd agree that through your appropriate
information channels, including the National Security and
Intelligence Advisor, communicating with the RCMP, it's of
course, helpful to ensure that the communication channels are
working effectively so that you have early information that can
assist you in your role and then ultimately, you know, decision
making?
Ms. Janice Charette: I think it's absolutely true that the more, better information we have about what's happening or what's going to happen will inform our actions every single time. The fact that there may have been information known by some people but not all is, I think what's known in the business as an intelligence gap, and we've taken a lot of steps to correct that in terms of the international dimension of our work, following up on the events of 9/11 to make sure that the information is shared, that there's an ability assess and to integrate threat assessment. And I think the National Security Intelligence Advisor may have talked about some of that.

I think earlier I talked about there may have been gaps in what we knew or didn't know in terms of OSINT, open source information, social media information, and there may have been domestic sources of intelligence that maybe we need to do a better job of pulling together and looking across.


Commissioner Rouleau: Counsel, you're out of time, actually, over time, so you're going to have to wrap up.

Ms. Jinan Kubursi: Okay. I have one remaining question or two, Commissioner, if you might allow me, in a different area.

And ---

Commissioner Rouleau: I'll allow one, so pick the best one.

Ms. Jinan Kubursi: I'll try, Commissioner.

Thank you.
Your witness summary and some of what we've heard from both of you in your evidence acknowledges certain jurisdictional challenges, if I can put it that way, in that a Public Order Event that is being considered as potentially a Public Order Emergency is one that occurs, you know, in an area that doesn’t engage federal jurisdiction in the sense that it's a situation that the federal government can apply its resources to resolve.

And sorry for the long introduction, but would you find it helpful in this -- such a situation if it were ever to present again, but to have -- would it be helpful for you to have a more direct line of communication to certain law enforcement leaders, perhaps, with respect to options, tools, status of the police situation generally, to assist you in being as fully informed as possible?

**MS. NATHALIE DROUIN:** I do believe that, you know, a better coordination, an appropriate flow of information is always helpful, that’s for sure.

And also, when it comes to Ottawa, for example, you are probably aware that we are working on the future of Wellington, what we call the future of Wellington, to make sure that we understand and we have a better protocol on who does what when, when it comes to the Parliamentary precinct, for example.

So yes, I think that this situation that we went through in February will give rise to a lot of lessons learned and I think this is one of the purposes of this Commission.

**MS. JANICE CHARRETTE:** I would add to that. I
think a more comprehensive look at our critical infrastructure in the country and what the respective responsibilities are of each level of government authorities and so on, and the -- how information is shared so that that could inform, for example, tabletop exercises or other scenario exercises so that if we have an issue like what happened in Windsor, for instance, we wouldn't have to spend so much time trying to figure out who's got responsibility for the bridge, for the plaza, for the road to the plaza, for highway off ramps, and all of that. It would be -- they would have a kind of a plan in a box that would have been exercised with respect to particularly critical infrastructure in the country, so just to add to Madam Drouin's observation around the Parliamentary precinct in Ottawa and Wellington Street.

**MS. JINAN KUBURSI:** Okay. Thank you both very much. Thank you, Commissioner.

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

Next is counsel for Former Chief Sloly.

**MR. NIKOLAS De STEFANO:** Thank you, Mr. Commissioner. It's Nikolas De Stefano for former Chief Sloly. We have no questions.

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

**MS. JENNIFER KING:** Good evening. My name is Jennifer King. I am one of the legal counsel to the City of Windsor and in returning my friend's offer of time from earlier today, I'm going to cede my time to Windsor Police Services.
Thank you.

COMMISSIONER ROULEAU: A very equitable arrangement.

So the Windsor Police Service please.

--- CROSS-EXAMINATION BY MR. THOMAS McRAE:

MR. THOMAS McRAE: Thank you, Mr. Commissioner.

My name is Tom McRae. I am counsel to the Windsor Police Service.

Yesterday we heard evidence from Mr. Sabia, the Deputy Minister of Finance, to the effect that a peaceful resolution to the Ambassador Bridge blockade was better than a non-peaceful resolution to that blockade. Do you agree with that proposition?

MS. JANICE CHARETTE: Yes, I do.

MR. THOMAS McRAE: Okay. Madam Drouin?

MS. NATHALIE DROUIN: I do.

MR. THOMAS McRAE: Thank you.

Do you both agree that a peaceful resolution that respects Charter protected rights such as the right to protest would be preferable to one that does not?

MS. NATHALIE DROUIN: Agree.

MS. JANICE CHARETTE: Yes.

MR. THOMAS McRAE: Thank you. Can I ask Mr. Clerk to turn up the witness statement? It's 6074. And while the clerk's doing that, can I ask you, do you know when the Windsor Ambassador Bridge blockade started?

MS. JANICE CHARETTE: Well, I think there were blockades that started in the week of -- I'll just get my dates
here right -- excuse me for a moment, Mr. McRae.

MR. THOMAS McRAE: Take your time, take your time.

MS. JANICE CHARETTE: I think we were seeing kind of on and off in and around the 5th, 6th. There was kind of slowdowns, slow rolls, up, down, and then the kind of the crescendo, if you want to call it that happened around the 9th, 8th, 9th, 10th.

MR. THOMAS McRAE: I think it was the 7th. I think it was the 7th, actually, when a truck just stopped in the middle of the road there.

MS. JANICE CHARETTE: There you go.

MR. THOMAS McRAE: If I can take you please to the top of page 7 of witness statement 74? Sorry, I guess I got it wrong. Oh, I'm sorry, it's the top of page 8. My apologies. And this has the time frame of this, and maybe you can scroll a bit just to give the witnesses the proper context. I apologize for that. There’s a heading at the top. It’s about the invocation of the Emergencies Act. If you could go back to the top of page 8?

Now if -- and this is really a question for Madam Drouin, because as I read this statement, Ms. Drouin recalled that:

“PCO considered options as varied as shutting down cell towers, shutting down gas stations, and even deploying federal employees with commercial licenses to remove trucks entrenched in Ottawa.” (As
This is the part I want to focus on.

“She recalled losing hope that local police forces in Ottawa and Windsor were capable of executing their operational plans as time went on and no concrete police actions materialized.” (As read)

Madam Drouin, when is it that you lost that hope?

**MS. NATHALIE DROUIN:** First of all, I think that we saw a crescendo in terms of the movements all across Canada. And when we were approaching what I think the Clerk will call the third weekend, so the week of February 9 until the 13, I think this is where, and I think we talked about that a lot, we were hearing about “We have a plan.” And then the plan was not being executed. And that was true for the different sites across Canada. And I guess this is where we started to wonder whether or not provinces’ law enforcement agencies, were enough equipped to face the situation.

**MR. THOMAS McRAE:** I’m sorry, just so I’m clear, you understood during the week of February 7th that Windsor had a plan and it had not executed on it?

**MS. NATHALIE DROUIN:** So what I’m saying is that -- and I’m not putting a date for Windsor.

**MR. THOMAS McRAE:** Okay.

**MS. NATHALIE DROUIN:** What I’m saying is that during the week past February, you know, 6th until the following week, we were hearing very often in our update from law enforcement agencies that “We have a plan.” To the extent that
-- it was like something that every day we were hearing, "We
have a plan. We’re working on a plan." But yet we were not
seeing any action on that plan.

So I think this is what I mean by I was losing

hope.

MR. THOMAS McRAE: M’hm.

MS. JANICE CHARETTE: Perhaps I can add ---

MR. THOMAS McRAE: M’hm.

MS. JANICE CHARETTE: --- just contextually.

Would it be helpful, Mr. McRae?

MR. THOMAS McRAE: Sure.

MS. JANICE CHARETTE: As we went into that week,
the 7th, 8th, 9th, I think you’ve heard earlier in our testimony,
on the 9th, for example, that I attended a meeting with the
Deputy Ministers involved in kind of national security and
intelligence, having heard a growing degree of frustration and
concern on the part of Ministers with the situation, to make
sure that we were looking at all available instruments, all
available resources, all available tools, every crazy -- shut
down cell towers, as an example, find public servants who could
drive tow trucks. Anything to try to help to resolve the
situation, because the situation facing law enforcement in
Ottawa and in Windsor were complex and challenging.

Windsor in particular, we had a lot of concern
about, as you know. Our colleagues from the Canadian Border
Services Agency directly involved working with the police of
local jurisdiction on the ground.

But what could we do to help? That was the focus
here. Police alone, without more help, were they going to be able to deal with the size and the intensity of the challenge? I think that’s what our focus was in our attempt to try to bring all of the resources and the might of the Federal Government that we could to try to help.

MR. THOMAS McRAE: We’ve heard evidence that the OPP came promptly upon a request for help, the RCMP from London came promptly on a request from help, police forces from Waterloo and Hamilton also came promptly on a request for help. Were you aware of that at the time around February 9th?

MS. JANICE CHARETTE: I’d say, Mr. McRae, that I was watching these events kind of unfolding on the television screen.

MR. THOMAS McRAE: Okay.

MS. NATHALIE DROUIN: Maybe just to add, and I’m sure we’re now saying I think you would agree that where we saw, you know, a positive outcome in Windsor, we also heard that it will require a lot of resources to keep it open. So it was also time intensive in terms of making sure that the passage will stay open.

MS. JANICE CHARETTE: And I think, if I could add, that we saw the complement of law enforcement and the assets and capability that were deployed to deal with the occupation, the blockage at Windsor. I know that some of those measures were left in place even after the Emergency Act was invoked. And the -- to try to make sure that the Windsor Port of Entry, the Ambassador Bridge, was remained open.

It was also a concern, as I believe we have found
out subsequently, about how much resources this could be drawing away from the potential to deal with the situation in Ottawa.

So resources are not finite, as I’m sure anybody who runs any organization understands. So.

MR. THOMAS McRAE: If I can turn back to the witness statement? Madam Drouin, you clarify at the bottom of that paragraph:

“She clarified that neither she nor the Clerk [that’s you, Ms. Charette,] have reviewed police plans because law enforcement agencies operate independently of government.” (As read)

Wouldn’t you agree that that is appropriate that law enforcement agencies operate independently of government?

MS. NATHALIE DROUIN: Absolutely.

MR. THOMAS McRAE: Thank you. If I can take you, please, quickly, to a document that I think the Commission Counsel took you to? It’s Canada, I think, 00003256. It is an email, I think, that you received, email that’s dated the 14th, I think you received -- someone received it on the 13th, the evening before the invocation of the Emergencies Act. It’s from Brenda Lucki.

In this email, as I understand it when it was taken to you, and I think it was you, Ms. Charette, it mentioned, if you scroll down a bit, where she talks about -- this is from Brenda Lucki. She talks about arrests. Could you please keep going? This said:

“… I am of the view that we have [...

INTERNATIONAL REPORTING INC.
exhausted all available tools…”

And I believe that context, Ms. Charette, you suggested that there hadn’t been enough arrests yet? Or any arrests? Was my recollection of your evidence correct?

MS. JANICE CHARETTE: I do not believe that would be correct, ---

MR. THOMAS McRAE: Okay.

MS. JANICE CHARETTE: --- because we had seen a lot of law enforcement happening in Windsor.

MR. THOMAS McRAE: Okay.

MS. JANICE CHARETTE: And so -- but there -- as I said, this was about not just a single site, not just a single threat, not just a single event.

MR. THOMAS McRAE: All right. And in fact, is it your recollection that Windsor was cleared up on February 13th and the bridge was reopened just after midnight on the 14th?

MS. JANICE CHARETTE: I believe that is correct. And I also know that Federal Ministers were focused on what it was going to take to keep that trade -- that absolutely critical trade corridor open, sir.

MR. THOMAS McRAE: Thank you. We heard from -- and this is my second last question. We heard from the Deputy Minister, Mr. Sabia yesterday, and in questions from my friend, Mr. Aylward for Canada, who asked just how quickly had they to act, what timescale did Mr. Sabia have in mind, was it an issue of days or weeks, or what was the time frame.

Mr. Sabia’s evidence, and this is in the transcript, but I don’t know how to call it up, but it’s the one
that’s publicly available, was that our -- they varied the length by where they were in the country, but:

“These disruptions had already gone on for a reasonable period of time, reasonably lengthy period of time, so our objective here was we were thinking about this in a, you know, period of several days or a week, or a bit more than a week.” (As read)

So do you agree with Mr. Sabia, at least as I read his evidence, that a week to resolve a protest is a reasonable period of time?

**MS. JANICE CHARETTE:** I don’t think I can really answer that question, Mr. McRae? How big of a protest? What kind of a protest? Where is the protest? I think that’s ---

**MR. THOMAS McRAE:** Oh, I -- let’s focus on the Ambassador Bridge blockade. Do you think a week ---

**MS. JANICE CHARETTE:** Okay.

**MR. THOMAS McRAE:** --- to resolve the Ambassador Bridge blockade was a reasonable period of time?

**MS. JANICE CHARETTE:** I think it depends who you are. If you are a manufacturer operating a large car assembly plant in southern Ontario, depending on just in time delivery of critical supplies to run that plant and keep your production line going, I don’t think a week is necessarily going to be fast enough. If you were worried about the transport of food, or fuels, or medicine, which are coming across that critical supply point, I think you may have a different measurement, sir.
MR. THOMAS McRAE: If you’re keeping in mind ---

MS. NATHALIE DROUIN: If I can ---

MR. THOMAS McRAE: Oh, please continue.

MS. NATHALIE DROUIN: If I can add; after Windsor bridge was clear, we had also threat about other port of entries, and I think -- I don’t want to put words in Deputy Minister Sabia’s mouth, but he was also looking at the whole situation, making sure that, you know, not other supply chain will be affected. So the timely resolution that Michael Sabia, from what I understood yesterday or the day before -- it was yesterday morning; yesterday was a long day for you, I know, I know -- was really like a global resolution.

MR. THOMAS McRAE: If -- and Ms. Charette, I guess this is focused at you. I’ll rephrase the question: If you’re looking for a peaceful resolution that respects people’s charter rights, do you think or do you agree with how I read Mr. Sabia’s evidence, that one week is too brief a scope of period for that to happen in?

MS. JANICE CHARETTE: I’m sure everybody would have liked to have it happen faster, but I think in terms of making sure that -- I think issues of officer safety, and so on, were taken into consideration, that a peaceful resolution is really the most important criteria, and if takes a week, it takes a week, sir.

MR. THOMAS McRAE: Thank you. I’m just tying up something you said earlier, and then I’ll be done.

There is evidence before this Commission that, for example, if there’s a car crash on the Ambassador Bridge, it
is the Windsor Police who respond. Did you know that?

MS. JANICE CHARETTE: I did not know that.

MR. THOMAS McRAE: Okay. Those are my questions.

Thank you very much for your time and have a good evening.

MS. JANICE CHARETTE: Thank you.

MS. NATHALIE DROUIN: Thank you.

COMMISSIONER ROULEAU: Okay, thank you.

Next, I’ll call on the Province of Alberta, please.

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

MS. STEPHANIE BOWES: Good evening. My name is Stephanie Bowes; I’m counsel for the Province of Alberta.

Ms. Charette, I believe that your evidence today was that you learned about the arrests in Coutts sometime on the morning of February 14th; is that correct?

MS. JANICE CHARETTE: That is what I said, ma’am.

MS. STEPHANIE BOWES: Okay. And this Commission has heard evidence that the arrests and the discovery of cache of weapons by the RCMP was a trigger for the protesters involved in the Coutts blockade to indicate a desire to leave the protest and that their intent to do was communicated to the RCMP that day. Did either you or Madam Drouin learn that the protesters indicated an intent to leave the protest site?

MS. NATHALIE DROUIN: Well, I was not aware of that. No, that’s not true. I have heard about potential breakthrough in Coutts. And when it comes to your previous question, we were aware of potential presence of firearms in
Coutts, but prior to the enforcement action, we didn’t know about the cache.

**MS. STEPHANIE BOWES:** Okay. But in terms of a breakthrough in Coutts, at least with respect to the protesters clearing the site and no longer blockading the port of entry, when did you learn about that?

**MS. NATHALIE DROUIN:** So what I can -- so what I do recall during the FMM meeting, is Alberta being afraid that invoking the Emergency Act can put, you know, potential breakthrough in danger in Coutts. So we were aware that it was imminent.

**MS. STEPHANIE BOWES:** Okay, thank you.

Now, in your decision document for the Prime Minister -- which, for the record is SSM.NSC.CAN.00003224. We’ve looked at it a number of times today; I don’t intend to bring it back up, but was invoking the Emergencies Act the only option presented to the Prime Minister in that document?

**MS. JANICE CHARETTE:** It was the decision that was sought in this document.

**MS. STEPHANIE BOWES:** Okay.

**MS. NATHALIE DROUIN:** But just to be clear, and I think that if you look at the many IRG trackers, many, many other options have been looked at, and the Prime Minister was present during the conversations when we looked at the different options.

**MS. STEPHANIE BOWES:** All right.

**MS. JANICE CHARETTE:** So fair to say, then, this was a decision note by the specific decision that was being
sought, and there were other activities underway with the Prime Minister’s full knowledge.

**MS. STEPHANIE BOWES:** Okay. So at that time, the only option was Emergencies Act, yes or no.

**MS. JANICE CHARETTE:** No, ma’am, that was not what I said.

**MS. STEPHANIE BOWES:** No, I ---

**MS. JANICE CHARETTE:** The option in the notes ---

**MS. STEPHANIE BOWES:** Yes, that’s what I -- and I’ll clarify; that’s what I mean, in the decision document.

**MS. JANICE CHARETTE:** The Prime Minister can decide to invoke; he can decide not to invoke; he can decide to ask for more information; he could call for a meeting. I mean, he has a number of options available to him. To invoke, not to invoke would be two very obvious ones, to be fair, Ms. Bowes, but the Prime Minister can write us back and say, “No,” or call and say, “There are alternative courses I’d like to pursue.”

**MS. STEPHANIE BOWES:** And did any of that happen?

**MS. JANICE CHARETTE:** We got an affirmative decision to invoke the Emergency Act and to proceed with the implementation.

**MS. STEPHANIE BOWES:** All right, thank you. And Madam Drouin, I believe your evidence today was that Canada first started thinking about the Emergencies Act in the context of these protests after the DMOC on February 9th; is that correct?

**MS. NATHALIE DROUIN:** That’s what I said, yeah.

**MS. STEPHANIE BOWES:** Okay. And then the two-
track process where the Emergencies Act was identified as track 2 was started on February 12th? No?

**MS. NATHALIE DROUIN:** Well, I think we also talk about, you know, the predecessor of the two-tracks document, which was a document developed by Jacque Bogden, I think the following night.

So we started the two tracks at the beginning, I think. We were talking about Plan E -- Plan A and Plan B, but -- so it was -- you know, I think it was before the one on the 12th, maybe more the one on the 10th that we first had developed the Track 1 and Track 2 document.

**MS. JANICE CHARRETTE:** We were ---

**MS. STEPHANIE BOWES:** All right.

**MS. JANICE CHARRETTE:** May I add? We were doing our homework on the 9th to feed into deliberations which became the Incident Response Group on the 10th, and then that homework came back on the 12th with work that had been done after the IRG on the 10th, through the 11th, and back into Ministers on the 12th.

**MS. STEPHANIE BOWES:** All right. And there’s nothing in the Emergencies Act that prevented the Government of Canada from beginning consultation with the First Ministers on February 9th; correct?

**MS. NATHALIE DROUIN:** So on February 9, the -- not the decision but the path of using the Emergency Act was not sufficiently developed to consult. Like, it was one of the things, one of the options we were working on, but we were not in a position at that time, because it was not serious enough as
an option to start the consultation.

I’d like also to add something. I receive a question earlier this afternoon about, you know, another consultation we did on the Emergency Act in relation with COVID. And the situation was quite different.

Remember that we also discussed today that the moment we talk about the Emergency Act, that can trigger some reactions, and that was the CSIS assessment on the risk of triggering or invoking the Emergency Act. So we were quite aware that the moment that we talk publicly about the Emergency Act, the timeline to take a decision is very short. It can be a go or no go, but you cannot wait.

You cannot put that in the domain without taking a decision. And what we were afraid happened very rapidly. The moment we hang off the call on the FMM, it was already out there that we were thinking about the Emergency Act.

So this is why, you know, we were very concerned and -- concerned that talking about the Emergency Act will request a very rapid decision; a no or a yes but a rapid decision.

**MS. STEPHANIE BOWES:** Okay. So there was a concern there, but certainly no limit on the ability of the Government of Canada to start a consultation process?

**MS. NATHALIE DROUIN:** I think what I’ve said is that -- you know, contrary to the virus, you can talk about publicly that you are thinking about using the Emergency Act. You can develop, you know, language. You can put in writing proposals to provinces, receive their comment, and that will not
change how the virus behaves.

If you engage in a more lengthy process when it comes to protests, that can change how the protest will evolve and how protesters will behave. So this is why we were concerned that the time limit to take -- to make a decision was very very short, the moment it was public and out there that we were considering invoking the Emergency Act.

MS. STEPHANIE BOWES: And then you would agree that that concern which limited the amount of time that you felt could be given to the First Ministers before they were consulted, meant that the First Ministers weren’t able to prepare for that meeting and have briefing from within their public service, from the experts who understand the legislation, the powers, that exist in the province, the resources that exist in the province, and what the police have jurisdiction in the province might need if the Emergencies Act were going to be invoked.

MS. NATHALIE DROUIN: I think this is why, you know, after the FMM we -- well, first of all, all the conversations, all the FPT engagement, prior to the formal consultation on the 14th really supported and feed also our decision and our assessment on whether or not a single province can deal with the situation.

But this is why after the FMM we maintained open channels with provinces. We offered a briefing and you know, we were also, if I may say, comfortable with the fact that the Emergency Act was time limited, that we were not displacing any provincial jurisdiction, that any law enforcement was not also
displaced. They were able to continue to exercise their
authorities. So we also find comfort with that and also, as I
said, we maintained the channel open and we were also offering
possibility, for example, to amend the two measures that we were
proposing.

MS. STEPHANIE BOWES: All right. Thank you.
Those are my only questions tonight.

COMMISSIONER ROULEAU: Okay. Next I’d like to
call on the National Police Federation.

UNKNOWN SPEAKER: Commissioner, they’ve ceded
their time.

COMMISSIONER ROULEAU: They’ve ceded their time
to -- do we know who to?

UNKNOWN SPEAKER: Just at large so we can get out
of here five minutes earlier.

COMMISSIONER ROULEAU: Okay. So we can ---

MS. JANICE CHARETTE: Thank you.

COMMISSIONER ROULEAU: Okay. Well then, the
Government of Canada doesn't get it. And they are next.

MS. DONNAREE NYGARD: You’ll be happy to know,
Commissioner, on a Friday evening that I have no questions for
these witnesses.

COMMISSIONER ROULEAU: Okay. Any re-examination?

MS. SHANTONA CHAUDHURY: No re-examination,
Commissioner.

COMMISSIONER ROULEAU: Okay. Well, I just have a
few short questions. And if you would tolerate this with me.

And forgive me while I try and find them.
In your drafting of a proposal and the timing for the decision by the Prime Minister, did you consider the appropriateness or desirability of scheduling a debate in Parliament, not a vote, just a debate to consult, because this, the Emergencies Act is a delegation from the Legislative to the Executive. Was that considered and discarded or was that not considered -- and any comments you may have on that.

MS. JANICE CHARETTE: Thank you, Mr. Commissioner. I believe I mentioned earlier that there had been a debate in the House of Commons on February the 7th which would have been, I think, in the form of a take note debate, on the situation overall. It wasn’t specifically based on the Emergency Act.

I think as with respect to the role of Parliament in -- and consideration of the role of Parliament, in the invocation note I think I indicated to the Prime Minister the broad outlines of the role of Parliament but I haven’t gone into detail. And there was subsequent advice that was provided to him around that.

I think it does come back to the point that Mme Drouin was making. The sequence of events from the IRG on the afternoon of the 13th, into Cabinet the night of the 13th, into the FMM the next day, the Prime Minister’s times and space for final deliberations, mine -- to give him my advice sounds like a long time. It wasn’t a lot of time at this point. And it was also -- we were anxious that that news getting out there, that information getting out there would have had an effect, a cause and effect on the nature of what was happening. And it was
already a volatile situation.

And so there was to be a debate in the House of Commons. There was to be a vote in the House of Commons. And I would say that we thought that that was the Parliamentary process to be followed in this case.

I was going to say something else.

I believe the Prime Minister had a consultation with the leaders of the Opposition -- in addition, I believe Mr. Thomas, their National Security and Intelligence Advisor referred to this -- on the evening of the 10th, so after the first IRG meeting. I believe the Prime Minister had a conversation with the leaders of the Official Opposition including Ms. May at the time, to talk to them about the situation.

So there was a Parliamentary debate on the 7th.

There was that telephone call consultation, not on the EA again, sir, to be clear, but on the general situation. And then we were into the invocation process.

COMMISSIONER ROULEAU: Okay. I’m going to ask you this couple of questions just with respect to the national scope of the order, and I think you’ve addressed it -- I’ll call it one dimension that it was a national issue.

But was part of that consideration the use of federal powers such as the Bank Act which are -- because of the economic measures, I guess the Deputy Minister Sabia said money is fun to his -- were those considerations on whether you would do national or limited?

MS. JANICE CHARETTE: I’ll try and answer your question. If I don’t get it right, perhaps you can correct me,
But when we thought about both the nature of the situation we were facing was national in terms of how it was manifesting in different parts of the country. But also, the people who were participating -- let’s say the truckers in Ottawa, for example. They didn’t just come from Ontario. They came from right across the country.

And so to be able to use a deterrence measure to try and encourage people to go home, a deterrence measure -- and that was probably what lay behind the use of the emergency economic measures. We were trying to get people to go home. And the freezing of the assets was a pretty important powerful incentive to go home.

Those truckers weren’t all from Ontario. They were from across the country so the use of a national tool, national legislation, allowed us to make sure that we were capturing not just, you know, the people who might have been from the particular site that we were dealing with.

Mme. Drouin, do you want to add ---

**MS. NATHALIE DROUIN:** That’s perfect. I just want to add that I don’t know if it was during the FMM or the following briefing that I did with provincial and territories, when I was asked, you know, why don’t we use the Emergency Act for only one province or two provinces, my answer was what the clerk said, i.e., the movement of protesters and the risk of having popups all across Canada, but also exactly what you said, that in order for the economic measures to be effective they have to apply Canada-wide.
And I think I have said that also during my interview.

**MS. JANICE CHARETTE:** The financial institutions, for instance, that would be involved across the country.

**COMMISSIONER ROULEAU:** Which gets me to an answer you gave, Mme. Drouin, and I’m just going to press it a bit. You said the declaration did not displace provincial jurisdictions, I think you said.

**MS. NATHALIE DROUIN:** Yeah.

**COMMISSIONER ROULEAU:** That’s not quite correct. Some of the provincial powers were interfered with. I’m not -- I don’t mean that negatively but that’s one of the aspects of this declaration, is it does override the provincial in certain respects.

**MS. NATHALIE DROUIN:** So with the measure we have adopted, we -- our views was that nothing was displaced. Like, the provinces could continue to exercise their authorities. For example, what we did for financial institutions or the power with FINTRAC, this is already federal jurisdiction, and we have already authorities ---

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

**MS. NATHALIE DROUIN:** --- to do that. So we haven’t -- and I think it’s -- sorry to interrupt you.

**COMMISSIONER ROULEAU:** No, I just wanted to direct -- for example, your dealing with Caisse Populaire, that’s -- and you’re directing Caisse Populaire; that’s provincial jurisdiction. You overrode the way federal police officers would -- could become peace officers in the province.
So there were -- I don’t know. I mean I’m ---

MS. NATHALIE DROUIN: I ---

COMMISSIONER ROULEAU: I’m not giving you legal advice. I’m ---

MS. NATHALIE DROUIN: Yes, but I would ---

COMMISSIONER ROULEAU: I’m raising those points and saying ---

MS. NATHALIE DROUIN: I would submit, for example, that Desjardins est déjà assujetti à FINTRAC.

COMMISSIONER ROULEAU: Yeah, but not the freezing of the accounts.

MS. NATHALIE DROUIN: Mais on peut avoir des -- par exemple, on peut avoir des autorités ou des régulateurs fédéraux ---

COMMISSIONER ROULEAU: M’hm.

MS. NATHALIE DROUIN: --- qui donnent des ordonnances à des institutions financières comme les caisses populaires, donc c’est possible pour une entité fédérale de soumettre à certains ordonnances ou à certains règlements les -- c’est possible pour Desjardins et d’autres coopératives financières d’être soumis ou sujet à des ordonnances fédérales.

COMMISSIONER ROULEAU: Oui, mais la question c’est, comment vous rendez la et si vous déplacer. Puis, l’autre exemple tu as donner c’est les GRC avais doit de devenir sans passer par le processus provincial pour devenir la paix. Puis je ne sais pas. Je demande la question. C’est juste pour comprendre la portée de l’ordonnance au niveau du partage de pouvoir.
MS. NATHALIE DROUIN: Peut-être c’est une question de mot, puis je pense que nos avocats will have the opportunity to submit — to submit factums, but I think when I say “displaced” it means that what were offering was in addition of what provinces and law enforcement agencies can do. Like, this is what I mean by “not displacing”. It was supplementing —

COMMISSIONER ROULEAU: M’hm. So I totally understand —

MS. NATHALIE DROUIN: --- and introducing ---

COMMISSIONER ROULEAU: Yeah, I understand the intention, and maybe it’s a quibble, but I was — just wanted to raise it because it’s — I think the issue of federal/provincial is simply what I have — wanted to raise with you.

MS. JANICE CHARETTE: Commissioner, could I take up the matter of the RCMP ---

COMMISSIONER ROULEAU: Yes.

MS. JANICE CHARETTE: --- point. And no doubt our fantastic legal advisors will correct me if I’m wrong in their eventual information they’ll file before you, but I believe what we were trying to achieve there was a facilitation ---

COMMISSIONER ROULEAU: Sure.

MS. JANICE CHARETTE: --- tool that was available to be taken up, not something that was being force on. So it was discretionary as opposed to obligatory, if that’s — so — maybe — I’m not trying to quibble either. I’m trying to ---

COMMISSIONER ROULEAU: No, no, I ---
MS. JANICE CHARETTE: --- maybe help you understand.

COMMISSIONER ROULEAU: I’m just raising these things ---

MS. JANICE CHARETTE: Yeah.

COMMISSIONER ROULEAU: --- because obviously that’s part of the exercise.

MS. JANICE CHARETTE: Of course.

COMMISSIONER ROULEAU: And it’s an odd process, to say the least.

Those are all the questions I had, other than to thank you very much for taking the time, especially on a Friday, and to allow us to have extended it beyond what was planned. So thank you very much and we’ll adjourn until 9:30 on Monday morning.

THE REGISTRAR: The Commission is adjourned. La Commission est adjournée.

--- Upon adjourning at 6:57 p.m.
CERTIFICATION

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